



**Contra  
Costa  
County**

To: Board of Supervisors  
From: John Kopchik, Director, Conservation & Development Department  
Date: May 1, 2018

Subject: Hearing on the Urban Farm Animals Ordinance, Urban Farm Animal Exclusion (-UE) Combining District Ordinance, and UE Combining District Rezoning Ord.

### **RECOMMENDATION(S):**

1. OPEN the public hearing on Ordinance No. 2018-06, Ordinance No. 2018-11, and Ordinance No. 2018-12 RECEIVE testimony, and CLOSE the public hearing;
2. DETERMINE that adoption of Ordinance No. 2018-06, Ordinance No. 2018-11, and Ordinance No. 2018-12 is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15061(b)(3) ("General Rule" exemption);
3. ADOPT Ordinance No. 2018-06, regulating the raising and keeping of farm animals in residential zoning districts and the keeping of roosters in agricultural zoning districts;
4. ADOPT Ordinance No. 2018-11, establishing an Urban Farm Animal Exclusion (-UE) Combining District to exclude the raising and keeping of farm animals in specified residential district;
5. ADOPT Ordinance No. 2018-12, applying the Urban Farm Animal Exclusion (-UE) Combining District to specified residential districts in Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen; and
6. DIRECT the Department of Conservation and Development to file a CEQA Notice of Exemption with the County Clerk.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **05/01/2018** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

### **VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: May 1, 2018

David Twa, County Administrator and Clerk of the Board of Supervisors

By: Jami Napier, Deputy

Contact: Stan Muraoka,  
925-674-7781

cc:

## FISCAL IMPACT:

The cost of preparing this ordinance has been funded by the Department of Conservation and Development.

## BACKGROUND:

On September 16, 2014, the Board of Supervisors directed the Department of Conservation and Development to study the raising and keeping of small farm animals for non-commercial purposes on small residential lots in unincorporated areas of the County. On May 9, 2017, the Board directed the Department to prepare a countywide amendment of the County Ordinance Code to allow the raising and keeping of certain farm animals including chickens, goats, and honeybees for non-commercial purposes within residential land use districts (the Urban Farm Animals Ordinance). Subsequently, on June 6, 2017, the Board directed the Department to include regulations on the keeping of roosters in agricultural districts in the Urban Farm Animals Ordinance.

On February 6, 2018, the Board directed the Department to include nucleus honeybee hives in the Urban Farm Animals Ordinance, and exclude specific areas of District III, including Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen, from the application of the Urban Farm Animals Ordinance.

## Current Status

The keeping of small farm animals, including fowl, rabbits, and other grain-fed rodents, and up to two head of livestock is allowed on any lot in the R-20, R-40, R-65, and R-100 Single-Family Residential Districts. The County Ordinance Code also regulates animal structures and livestock enclosures. Honeybees are not permitted on any residentially zoned lot. On agriculturally- zoned property, all farm animals are permitted with no restriction on the size of the lot or the number of animals.

## Proposed Ordinances

A. Ordinance No. 2018-06 Urban Farm Animals Ordinance: The Urban Farm Animals Ordinance would add Chapter 82-50 to the County Ordinance Code to establish regulations for the raising and keeping of farm animals, including fowl, rabbits, grain-fed rodents, honeybees, and livestock, on a lot in any single-family residential (R- ) district or two-family residential (D-1) district, or a single-family residential lot in a planned unit (P-1) district. The Urban Farm Animals Ordinance would also add Article 84-38.14 to the County Ordinance Code to regulate rooster keeping in agricultural zoning districts.

The following summarizes the regulations contained in the Urban Farm Animals Ordinance related to urban farm animal raising and keeping:

1. The minimum area of a lot on which fowl (except for hens), rabbits, or grain-fed rodents may be raised or kept is 20,000 square feet.

2. The maximum number of domesticated female chickens (hens) allowed on a single lot is one hen per 1,000 square feet of lot area.
3. No more than an aggregate total of 20 fowl (including hens), rabbits, and grain-fed rodents may be kept on a single lot.
4. The minimum area of a lot on which an apiary (honeybees) may be kept is 6,000 square feet.
5. The maximum number of beehives allowed on a single lot is determined by lot area, as follows:

Lot Area	Maximum Number of Beehives
6,000 square feet or more, but less than 20,000 square feet	4
20,000 square feet or more, but less than 40,000 square feet	6
40,000 square feet or more	8

6. For each beehive kept on a lot one nucleus hive may also be kept on the lot. A nucleus hive is defined as a small beehive of a few thousand bees with a queen, created from a larger hive, and typically kept in a small box or container.

7. The minimum area of a lot on which livestock may be raised or kept is 40,000 square feet. The lot must be contiguous.

8. The maximum number of livestock on a single lot is two head of livestock per 40,000 square feet of lot area.

The Urban Farm Animals Ordinance includes specific location and design requirements for animal structures, such as minimum distances from the front, side, and rear property lines, height limits, and honeybee flyway barriers.

The Urban Farm Animals Ordinance would also revise the County Ordinance Code to allow the keeping of up to two roosters on lots of five or more acres in any agricultural district, unless expressly exempted from the limitation (e.g., commercial poultry ranches registered with the California Department of Food and Agriculture and which primarily produce eggs or meat for commercial sale). The Urban Farm Animals Ordinance would also authorize the Animal Services Director to enforce the rooster keeping regulations in Title 8 of the County Ordinance Code.

B. Ordinance No. 2018-11 Urban Farm Animal Exclusion (-UE) Combining District Ordinance: The Urban Farm Animal Exclusion (-UE) Combining District Ordinance was prepared at the direction of the Board to exclude specific areas of District III from the application of the Urban Farm Animals Ordinance. The Urban Farm Animal Exclusion (-UE) Combining District Ordinance would add Chapter 84-79 to the County Ordinance Code to establish the UE Combining District. The UE Combining District would apply to single-family residential (R-) districts, single-family residential areas in planned unit (P-1) districts, and two-family residential (D-1) districts, in the communities of Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen.

Keeping or maintaining apiaries would be prohibited in a UE Combining District. Urban farm animal raising and keeping would be prohibited in a UE Combining District, where the underlying zoning district is a R-6, R-7, R-10, R-12, or R-15 single-family residential district, or a single-family residential area in a P-1 planned unit district, or a D-1

two-family residential district. The establishment and application of the UE Combining District will leave the communities of Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen subject to the existing zoning regulations despite adoption of the Urban Farm Animals Ordinance.

C. Ordinance No. 2018-12 UE Combining District Rezoning Ordinance: The UE Combining District Rezoning Ordinance would apply the Urban Farm Animal Exclusion (-UE) Combining District to single-family residential (R-) districts, single-family residential areas in planned unit (P-1) districts, and two-family residential (D-1) districts in the communities of Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen. Rezoning maps showing the UE Combining District are included in rezoning Ordinance No. 2018-12 (attached). The UE Combining District is an overlay that applies zoning regulations in addition to those imposed by the underlying zoning designation. In the Urban Farm Animal Exclusion (-UE) Combining District, uses otherwise permitted under the Urban Farm Animals Ordinance are prohibited.

### County Planning Commission Hearing

The County Planning Commission held a public hearing on the revised draft Urban Farm Animals Ordinance, the draft Urban Farm Animal Exclusion (-UE) Combining District, and Rezoning RZ18-3241 on March 14, 2018. The Commission received oral testimony from one person, who commented on the proliferation of hobbyist beekeeping in the Bay Area and the problems created by bee excrement in areas with large numbers of honeybees. As explained in the staff report considered by the Planning Commission, the proposed Urban Farm Animals Ordinance addresses the impact of bees in urban neighborhoods in Contra Costa County and potential problems that may be created by bee excrement, by requiring a minimum lot area to keep honeybees, apiary registration and identification pursuant to the California Food and Agricultural Code, and a fresh water source at all times, along with setting a maximum height for beehive structures, minimum distances from property lines, and requiring flyway barriers for distances of less than 25 feet from any property line. At the conclusion of testimony on March 14, 2018, the County Planning Commission voted to recommend that the Board approve the proposed ordinances and rezoning.

### Consistency with General Plan

A. The Urban Farm Animals Ordinance implements General Plan goals and policies such as the following:

- Land Use Goal 3-A: To coordinate land use with circulation, development of other infrastructure facilities, and protection of agriculture and open space, and to allow growth and the maintenance of the County's quality of life. In such an environment, all residential, commercial, industrial, recreational and agricultural activities may take place in safety, harmony, and to mutual advantage.

- Land Use Goal 3-C: To encourage aesthetically and functionally compatible development which reinforces the physical character and desired images of the County.

The Urban Farm Animals Ordinance would not adversely affect the physical character and quality of life in single-family and two-family residential districts. The Urban Farm Animals Ordinance would assist in the implementation of land use goals and policies for single-family and two-family residential areas by providing for the raising and keeping of urban farm animals on single-family and two-family residential lots, but would not otherwise affect the single-family and two-family residential areas.

The Urban Farm Animals Ordinance would facilitate the maintenance of the physical character and quality of life in agricultural districts. The limitation on the number of roosters on lots in agricultural districts and regulations for rooster keeping on such lots would allow Animal Services staff to control rooster fighting in the County, but would not affect agricultural activities.

B. County Code Section 26-2.1806(1): *The change proposed will substantially comply with the General Plan.* The Urban Farm Animal Exclusion (-UE) Combining District Ordinance and the UE Combining District Rezoning Ordinance would exclude specific areas of District III from the application of the Urban Farm Animals Ordinance. Under the rezoning, keeping or maintaining an apiary would not be allowed in any residential area of Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen, and farm animal raising and keeping would not be allowed in the R-6, R-7, R-10, R-12, and R-15 single-family residential districts, or in a P-1 planned unit district for which single-family residential uses are approved, or in a D-1 two-family residential district in these residential areas. However, the areas to be rezoned would remain subject to and consistent with existing General Plan goals and policies, and thereby, would substantially comply with the General Plan.

C. Growth Management Performance Standards. The Urban Farm Animals Ordinance, Urban Farm Animal Exclusion (-UE) Combining District Ordinance, and UE Combining District Rezoning Ordinance would also be consistent with the Growth Management Performance Standards. The Urban Farm Animals Ordinance would allow for the raising and keeping of farm animals on residential parcels and restrict the number of roosters on agricultural parcels, but it would not alter the underlying use of the parcels, or substantially increase the intensity of use of the parcels, or increase the number of persons on the parcels. Thus, the Urban Farm Animals Ordinance would not create any significant impact on traffic, water, sewage, fire protection, public protection, parks and recreation or flood control and drainage. The Urban Farm Animal Exclusion (-UE) Combining District Ordinance and the UE Combining District Rezoning Ordinance would exclude specified properties from the application of the Urban Farm Animals Ordinance, and therefore, no change would occur on the subject properties and there would be no effect on traffic, water, sewage, fire protection, public protection, parks and recreation, or flood control and drainage.

## Consistency with Zoning

A. The Urban Farm Animals Ordinance would expand allowable uses on lots in single-family residential districts (R-6, R-7, R-10, R-12, R-15, R-20, R-40, R-65, and R-100 Districts), on single-family residential lots in a planned unit (P-1) district, and on lots in a two-family residential (D-1) district. The Urban Farm Animals Ordinance would also establish standards for animal structures and livestock enclosures. The proposed Ordinance would not conflict in any manner with applicable zoning regulations.

The Urban Farm Animals Ordinance would reduce the number of code enforcement actions for unpermitted uses by making the raising and keeping of urban farm animals a permitted use. The zoning aspects of these uses (e.g., number of animals, animal structure setbacks) would be regulated by the provisions of the Urban Farm Animals Ordinance and Title 8 of the County Code. Animal noise and animal odors would continue to be addressed by existing regulations in Title 4 of the County Code.

With respect to rooster keeping, the limitation on the number of roosters that can be kept on a lot in an agricultural district would allow for the control of rooster fighting, but would not otherwise affect agricultural activities.

B. County Code Section 26-2.1806(2): *The uses authorized or proposed in the land use district is compatible within the district and with uses authorized in adjacent districts.* The Urban Farm Animal Exclusion (-UE) Combining District Ordinance and UE Combining District Rezoning Ordinance would exclude specific areas of District III from the application of the Urban Farm Animals Ordinance. The rezoned areas would remain subject to the existing regulations of the underlying zoning district, and therefore, would remain consistent with existing zoning regulations. Further, the residential areas of Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen are adjacent to large areas in agricultural zoning districts. Application of the UE Combining District to these residential areas would maintain the current relationship of the residential areas to the adjacent agricultural areas. Thus, the authorized uses in areas to be rezoned and the regulation of these uses would remain compatible with the uses and regulations of the underlying zoning district and the uses and regulations of adjacent zoning districts.

C. County Code Section 26-2.1806(3): *Community need has been demonstrated for the use proposed, but this does not require demonstration of future financial success.* A distinguishing characteristic of District III is that the unincorporated residential communities in the District, including Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen, are relatively small communities adjacent to large areas of agricultural land, where farm animal raising and keeping is a prevalent land use activity. Accordingly, the residential communities are distinctly urban locations in a predominantly agricultural setting. Application of the Urban Farm Animals Ordinance in the residential areas of Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen would weaken existing distinctions between urban and rural areas by allowing farm animal raising and keeping in the urban areas in a manner similar to the adjacent rural areas. Thus, there is a

community need for the rezoning, because the proposed rezoning of these residential areas to the UE Combining District would maintain the existing separation of urban and rural activities and the distinct urban character of the communities.

### California Environmental Quality Act

Adoption of the Urban Farm Animals Ordinance, Urban Farm Animal Exclusion (-UE) Combining District Ordinance, and UE Combining District Rezoning Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3). The Urban Farm Animals Ordinance would authorize only minor alterations to land and new construction or conversion of small structures. The Urban Farm Animal Exclusion (-UE) Combining District Ordinance and UE Combining District Rezoning Ordinance would not result in any change to existing land use regulations and would result in no physical change. Therefore, it can be seen with certainty that there is no possibility that the project could have a significant effect on the environment.

### Conclusion and Recommendation

The Urban Farm Animals Ordinance allows for the raising and keeping of urban farm animals on single-family and two-family residential lots and regulates the keeping of roosters on agricultural lots, in a manner consistent with the overall physical character and quality of life in the County. The Urban Farm Animals Ordinance would provide clear parameters for the raising and keeping of urban farm animals and for rooster keeping, to ensure the health, safety, and general welfare of the community. The Urban Farm Animal Exclusion (-UE) Combining District Ordinance and the UE Combining District Rezoning Ordinance would exclude certain areas of District III, including residential areas of Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen, from the application of the Urban Farm Animals Ordinance, and would maintain the existing separation of urban and rural activities and the distinct urban character of these communities. Staff recommends that the Board of Supervisors adopt Ordinance No. 2018-06, Ordinance No. 2018-11, and Ordinance No. 2018-12

### CONSEQUENCE OF NEGATIVE ACTION:

The County will continue to allow the keeping of urban farm animals, but not including honeybees, on lots in the R-20, R-40, R-65, and R-100 Single-Family Residential Districts. Property owners in the R-6, R-7, R-10, R-12, R-15, D-1, and P-1 districts will not be allowed to keep urban farm animals. The keeping of honeybees would not be permitted on any residentially-zoned lot. The number of roosters allowed on an agriculturally-zoned property would not be restricted.

### CLERK'S ADDENDUM



*Mike Vigo, Mt. Diablo Beekeepers Association; Paula McCauley, 4-H; Norman Lott, Mt. Diablo Beekeepers Association; Jan pinkerton Spieth, Mt. Diablo Beekeepers Association.*

*CLOSED the public hearing; DETERMINED that adoption of Ordinance No. 2018-06, Ordinance No. 2018-11, and Ordinance No. 2018-12 is exempt from the California Environmental Quality Act (CEQA); ADOPTED Ordinance No. 2018-06, regulating the raising and keeping of farm animals in residential zoning districts and the keeping of roosters in agricultural zoning districts; ADOPTED Ordinance No. 2018-11, establishing an Urban Farm Animal Exclusion (-UE) Combining District to exclude the raising and keeping of farm animals in specified residential district; ADOPTED Ordinance No. 2018-12, applying the Urban Farm Animal Exclusion (-UE) Combining District to specified residential districts in Bethel Island, Byron, Diablo, Discovery Bay, and Knightsen; and DIRECTED the Department of Conservation and Development to file a CEQA Notice of Exemption with the County Clerk.*

#### ATTACHMENTS

Ordinance No. 2018-06

Ordinance No. 2018-11

Ordinance No. 2018-12