

ORDINANCE NO. 26-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING MUNICIPAL CODE CHAPTERS 1.10, 2.20, 2.24, 2.48, 2.88, 3.12, AND
3.38

The City Council of the City of Cupertino finds that:

1. The City Code of the City of Cupertino requires periodic updates in order to improve City operations and bring the Code up to date with current law and policy.
2. This Ordinance makes minor revisions to the Cupertino Municipal Code to reflect changes in law, provide clarification to the community, and provide for improved customer service and administration of City business.

**NOW, THEREFORE, THE CITY COUNCIL OF THE OF CITY OF CUPERTINO
DOES ORDAIN AS FOLLOWS:**

SECTION 1. Adoption.

The Cupertino Municipal Code is hereby amended as set forth in Attachment A.

SECTION 2: Severability and Continuity.

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of such portion, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated. To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Cupertino Municipal Code, these provisions shall be construed as continuations of those provisions and not as an amendment to or readoption of the earlier provisions.

SECTION 3: California Environmental Quality Act.

This Ordinance is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the proposed action would have no effect on the environment. The foregoing determination is made by the City Council in its independent judgment.

SECTION 4: Effective Date.

This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

SECTION 5: Publication.

The City Clerk shall give notice of adoption of this Ordinance as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be prepared by the City Clerk and published in lieu of publication of the entire text. The City Clerk shall post in the office of the City Clerk a certified copy of the full text of the Ordinance listing the names of the City Council members voting for and against the ordinance.

INTRODUCED at a regular meeting of the Cupertino City Council on May, 5, 2026 and **ENACTED** at a regular meeting of the Cupertino City Council on _____, 2026 by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p> _____ Kitty Moore, Mayor City of Cupertino	 _____ Date
<p>ATTEST:</p> _____ Lauren Sapudar, City Clerk	 _____ Date
<p>APPROVED AS TO FORM:</p> _____ Floy Andrews, Interim City Attorney Aleshire & Wynder, LLP	 _____ Date

Attachment A –

Amendments to Municipal Code Chapters 1.10, 2.20, 2.24, 2.48, 2.88, 3.12, and 3.38

1. Amendments to Chapter 1.10: Administrative Citations, Fines, and Penalties

1.10.020 Definitions.

For purpose of this chapter, the following definitions shall apply:

1. "Administrative Citation Fines" means a penalty to be paid in conjunction with issuance of an administrative citation for a violation of the municipal code.
2. "Administrative Penalty" means a penalty, separate from the administrative citation fine, assessed by the City Council for a violation of the municipal code.
3. "Business day" means a day on which the main operations of the City of Cupertino are open for business and does not mean any day on which only specialized functions are in operation, such as divisions of the city or its agents that operate on a 24/7 schedule.
4. "Enforcement officer" means any city employee or employee of a contracting agency or any agent of the city with the authority to enforce any provision of this municipal code, including, but not limited to, the City Manager, City Attorney, Director of Finance of ~~Administrative Services~~, Director of Community Development, Director of Parks and Recreation, Director of Public Works and any Sheriff, Animal Control Officer or Code Enforcement Officer.
5. "Hearing Officer" means any person designated by the City Manager to hear appeals of administrative citations. The Hearing Officer shall not be any enforcement officer or supervisor. The employment, performance evaluation, compensation and benefits of the Hearing Officer shall not be directly or indirectly conditioned upon the amount of administrative citation penalties upheld by the Hearing Officer.
6. "Responsible person" means any person who is in immediate control of the premises or activity which constitutes a violation of this municipal code and/or applicable statute, rule, code or regulation, the business owner, the property owner, and any person engaging in prohibited conduct.

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2. Amendments to Chapter 2.20: City Clerk

2.20.020 Recordkeeping–Financial Status of City.

The duties now and hereafter imposed upon the City Clerk by State statute for the maintenance of accounting records readily reflecting the financial condition of the City are hereby transferred to the Director ~~of Finance of Administrative Services~~, which office has been established by City ordinance and with the powers and duties thereof as defined by said ordinance.

3. Amendments to Chapter 2.24: City Treasurer

2.24.020 Payment Procedure.

The Treasurer shall pay out all moneys owed by the City including obligations incurred by improvement bonds thereof on certification of the Director ~~of Finance of Administrative Services~~ that such are due and owing. All payments, transfers or withdrawals of City moneys shall be by checks signed by the Mayor and Treasurer. In the event that the Mayor or Treasurer ~~is are not longer~~ available, then the Vice-Mayor and/or the Treasurer's designee are authorized to sign in their place. A facsimile signature may be used.

4. Amendments to Chapter 2.48: Departmental Organization

2.48.020 Departments and Divisions.

The following departments are established:

A. Department ~~of Finance. of Administrative Services.~~

1. This department shall consist of the following divisions:

- a. ~~Accounting Division. This division shall be responsible for the day-to-day processing of fiscal records, maintenance of the City's general ledger, preparation of financial statements, coordination of the annual audit, and ensuring compliance with applicable accounting standards and reporting requirements.~~
- b. ~~Budget Division. This division shall be responsible for the preparation and administration of the annual operating and capital budgets, long-range financial planning, monitoring of~~

revenues and expenditures, and the preparation of financial analyses and reports.

c. Purchasing Division. This division shall be responsible for the administration and oversight of the City's procurement processes, including the development and implementation of purchasing policies and procedures, coordination of formal solicitations, ensuring compliance with applicable laws and regulations, while also supporting grant management. This hybrid approach requires purchasing activities to be carried out by departments, with the Purchasing Division providing guidance, review, and oversight to promote consistency, efficiency, and accountability.

a. ~~Finance Division. This division shall be responsible for the day-to-day processing of fiscal records, the preparation of financial statements and the annual operating budget, the compilation of fiscal data from which a capital improvements budget may be constructed, and the preparation of other statistical and fiscal analysis.~~

b. ~~Human Resources Division. This division shall be responsible for code enforcement, personnel, disaster preparedness, risk management and special projects.~~

2. The Director of Finance of ~~Administrative Services~~ shall be head of this department, ~~the Finance Manager~~ being responsible for all divisions within the Department. ~~activities within the Finance Accounting Division, and the Personnel Officer being responsible for activities within the Human Resources Division.~~

3. The Director of Finance of ~~Administrative Services~~ also shall be appointed Treasurer and also shall act as ex officio Assessor and shall assess and collect all City taxes save and except for those collected by State and County officers for the City.

5. Amendments to Chapter 2.88: Audit Committee

2.88.110 City Staff Assistance.

The Audit Committee shall have available to it such assistance of City staff as may be required to perform its functions, the staff assignments and administrative procedures to be under the general direction and supervision of the Director of Finance. ~~of Administrative Services.~~

6. Amendments to Chapter 3.12: Transient Occupancy Tax

3.12.020 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

- A. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit;
- B. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for short-term occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof;
- C. "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes;
- D. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified

herein may be considered. "Transient" includes persons who book accommodations through internet-based/social hosting platforms;

- E. "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever;
- F. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both;
- G. "Tax Administrator" means the City's Director of Finance of Administrative Services or designee.
- H. "Hosting platform" means a person, legal entity or an association of individuals that provide a means, which may or may not be internet- based, through which a short-term rental is offered to the public, in exchange for a fee or other compensation. A hosting platform generally has the following attributes: allows a host to advertise a short- term rental, and provides a means to arrange and enter into agreements to occupy short-term rentals, whether payment of rent is made directly to the host or through the hosting platform.

7. Amendments to Chapter 3.38: Clean Water and Storm Protection Fee

3.38.020 Definitions.

- A. "City" means and includes all territory lying within the municipal boundaries of the City of Cupertino as presently existing plus all territory which may be added thereto during the effect term of the ordinance codified herein.

- B. "Condominium" means a parcel that is an individually-owned single residential unit attached to an undivided or joint ownership of the remaining portion of the property. The "Condominium 1" category refers to a condominium complex where each residential unit has no other units above or below it. The "Condominium 2+" refers to a condominium complex where residential units are built above or below other residential units.
- C. "Director of Public Works" means the Director of Public Works and his/her duly authorized agents and representatives.
- D. "Fee Report" means the report prepared by SCI Consulting Group dated February 2019 which was approved by the City Council on March 5, 2019 in Section 2 of Resolution No. 19-022. The Fee Report sets forth the rate structure and methodology of apportionment of the fee to various categories of parcels and shall be the basis for the Clean Water and Storm Protection Fee.
- ~~E. "Director of Administrative Services" means the Director of Administrative Services of the City of Cupertino and his/her duly authorized agents and representatives.~~
- F. "Impervious Area" means any part of any parcel that has been modified by the action of any person in a manner which reduces the land's natural ability to absorb and hold storm and surface water. This includes, but is not limited to, activities such as: grading of property, the creation of any hard surface area which either prevents or retards the entry of water into the soil mantle, or the hardening of an existing surface which causes water to flow at an increased rate. Common impervious areas include, but are not limited to, roof tops, walk-ways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, or any cleared, graded, paved, graveled, or compacted surface or paved earthen materials used for vehicular travel, or areas covered with surfaces which similarly impede the natural infiltration of surface water into soil mantle. Impervious area can be expressed as a percentage of a parcel's total size.
- G. "Maintenance and operation" means the administration, operation, maintenance and repair of any facility in the City's storm drain system, including, but not limited to:

1. Items ordinarily recognized as capital items (e.g., acquisition of interests in land) when reasonably necessary to support operations;
 2. Street sweeping, catch basin cleaning, and capture and removal of trash from the storm drain system;
 3. Replacement of portions of existing facilities damaged or destroyed as a result of accident or natural disasters or found to be of inadequate size or condition;
 4. Damages or settlements paid in the course of, or because of, threatened or actual legal actions related to the City's storm drain system or non-point source program;
 5. Regional monitoring, permit fees, public education and awareness programs regarding the City's storm drain system and the City's nonpoint source program;
 6. Management of the City's non-point source program including, but not limited to, BMP manuals, public outreach, printed materials, City staff and legal costs related thereto.
- H. "Multi-Family Residential" means parcels improved or used for a residence for five or more families living independently of each other and doing their own cooking and which is not separately assessed by the county tax assessor for each such family dwelling. This term is synonymous with "apartment."
- I. "Open Space" means land that is substantially in a natural condition and includes agricultural or other lands that demonstrate storm water absorption equal to or greater than natural conditions.
- J. "Parcel" means a unit of land which is designated by the tax assessor of Santa Clara County for property tax purposes.
- K. "Rate Category" means a group of parcels that are of similar imperviousness characteristics and are charged the same rate. Single-Family Residential Parcels are categorized by size; Non-Single-Family Parcels are categorized by impervious percentage ranges.
- L. "Single-Family Residential" means parcels, other than multi-family parcels, improved or used solely as a residence for one, two, three or four families living separately in separate dwelling units.
- M. "Storm drainage system" means any pipe, conduit, or sewer of the City designed or used for the collection, conveyance and management of storm and surface waters and drainage including unpolluted cooling water and

unpolluted industrial process water but excluding any community sanitary sewer system.

- N. "Vacant (developed)" means a parcel which has been altered from its natural condition through grading or compaction activity or in another manner which reduces the land's natural ability to absorb and hold storm and surface water without any structure existing upon it.

3.38.150 Fiscal accountability.

- A. The City shall retain an independent auditor to conduct an annual audit of the Clean Water and Storm Protection Fee and environmental management/clean creeks fund as part of its comprehensive annual financial report. The auditor shall include an accounting of the revenue received from the fee and expenditures thereof in the audited financial statements. The auditor's report shall be presented to the City Council and made available to the public. The Director of ~~Finance of Administrative Services~~ or the Director of Public Works shall prepare and present to the City Council an annual report in conjunction with the annual audit that reviews the status and performance of the programs, services and projects funded wholly or partially with proceeds of the Clean Water and Storm Protection Fee.
- B. The specific purpose of the Clean Water and Storm Protection fee established pursuant to this chapter is to derive fee revenue, which shall only be used for the acquisition, construction, reconstruction, maintenance, and operation of the storm drainage system of the City or related green infrastructure or other activities required by the City's NPDES permits, to repay principal and interest on any bonds which may hereafter be issued for said purposes, to repay loans or advances which may hereafter be made for said purposes, and for any other purpose set forth in Section 3.38.160.
- C. The Clean Water and Storm Protection fee is imposed pursuant to Articles XIII C and D of the California Constitution, Government Code Sections 38900 - 38901 and 53755 - 53756, and Health and Safety Code Section 5471 - 5473.11.
- D. Proceeds from the Clean Water and Storm Protection fee will be deposited in the "environmental management/clean creeks fund" created by Section 3.36.170 of Chapter 3.36 of the Municipal Code (Storm Drainage Service

Charge) as the “storm drainage service charge fund” and subsequently renamed, and may be comingled with the revenues of the City’s storm drainage service charge because they are authorized to be used for the same purposes.