

CITY OF CUPERTINO



AGENDA

**Televised Regular Meeting Open Session (6:45 PM) and Non-Televised
Closed Session (10:00 PM)**

Tuesday, April 16, 2024

6:45 PM

10350 Torre Avenue and via Teleconference and 10300 Torre Avenue

City Council

SHEILA MOHAN, MAYOR

J.R. FRUEN, VICE MAYOR

LIANG CHAO, COUNCILMEMBER

KITTY MOORE, COUNCILMEMBER

HUNG WEI, COUNCILMEMBER

IN PERSON AND TELECONFERENCE MEETING

For more information:

(408) 777-3200 | www.cupertino.gov

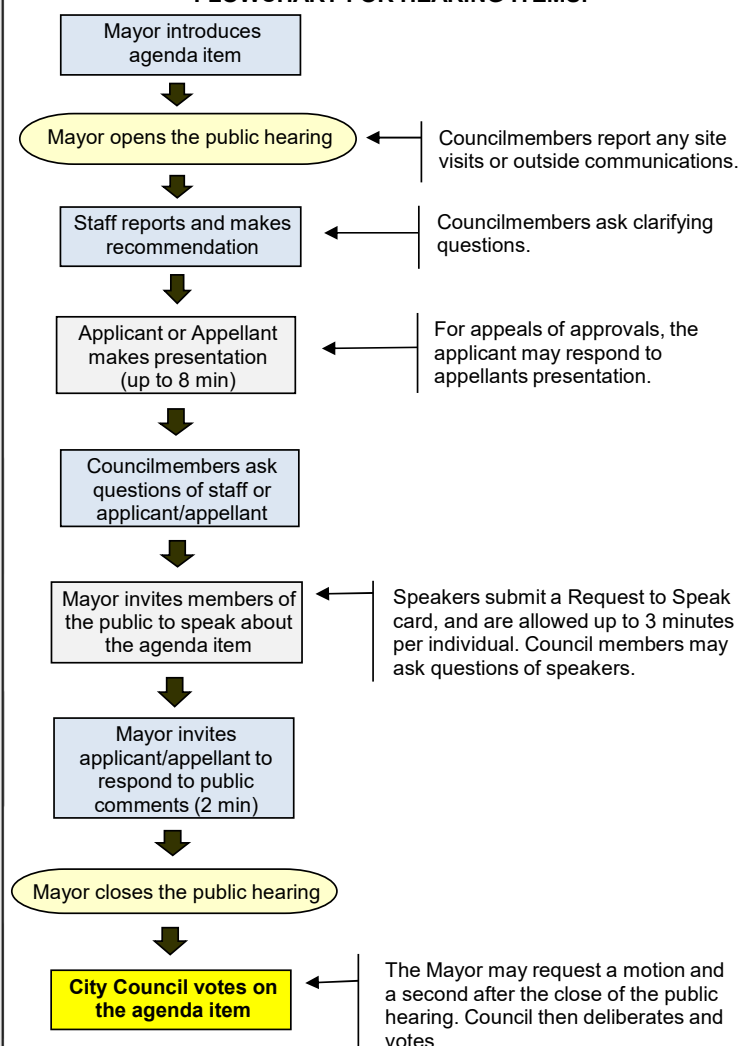
CONDUCT OF BUSINESS

The Mayor is the presiding officer of the City Council. Any member of the public may speak on any item on the agenda for up to three minutes. All statements and questions must be addressed to the Mayor.

City Council hearings serve as a venue for the discussion of sometimes divergent points of view. Please respect the opinions of others and refrain from cheering or clapping. That may delay the meeting or intimidate other persons wishing to express alternate views. Actions that disrupt the meeting will result in a warning, followed by removal if disruption continues.

Oral public comments will be accepted during the meeting. Comments may be made during "oral communications" for matters not on the agenda, and during the public comment period for each agenda item. Identifying yourself is voluntary and not required to attend the meeting or provide comments.

FLOWCHART FOR HEARING ITEMS:



PUBLIC HEARINGS

The City Council is required by law to hold public hearings on certain matters prior to making its decision. Notice to interested parties is given by legal advertisement in the local newspaper of general circulation at least 10 calendar days preceding the hearing date. Applications requiring public hearings include change of zoning, variances, use permits, and tentative maps.

COUNCIL MEETINGS

The City Council regularly meets the first and third Tuesdays of each month. These meetings are held at 6:45 p.m. Closed sessions, when needed, are normally held at 6:00 p.m. Closed sessions cover items such as personnel, litigation, or the sale, purchase, or lease of property. The law requires certain actions taken in closed session to be reported in open session.

Urgent business, holidays, or election days may trigger special or adjourned meetings. These meetings will be noticed beforehand.

AGENDAS, MINUTES, AND PACKETS AVAILABLE ON THE WEB

Agendas, minutes, and packets for current and prior City Council and Planning Commission meetings are available at www.cupertino.org, or you can purchase the items on CD.

CITY COUNCIL DECISION IS FINAL

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to [www.http://www.cupertino.org/index.aspx?page=125](http://www.cupertino.org/index.aspx?page=125) for a reconsideration petition form.

IN-PERSON AND TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION

Members of the public wishing to observe the meeting may do so in one of the following ways:

- 1) Attend in person at Cupertino Community Hall, 10350 Torre Avenue.
- 2) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.
- 3) The meeting will also be streamed live on and online at www.Cupertino.org/youtube and www.Cupertino.org/webcast

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

- 1) Appear in person for Open Session in Cupertino Community Hall or for Closed Session in City Hall, Conference Room C. Members of the public may provide oral public comments pertaining to the agenda after Roll Call and prior to the beginning of Closed Session.

Members of the public may provide oral public comments during the Open Session as follows:

Oral public comments will be accepted during the meeting. Comments may be made during “oral communications” for matters not on the agenda, and during the public comment period for each agenda item.

Members of the audience who address the City Council must come to the lectern/microphone, and are requested to complete a Speaker Card and identify themselves. Completion of Speaker Cards and identifying yourself is voluntary and not required to attend the meeting or provide comments.

- 2) E-mail comments for Open Session or Closed Session by 4:00 p.m. on Tuesday, April 16 to the Council at citycouncil@cupertino.org. These e-mail comments will also be forwarded to Councilmembers by the City Clerk’s office before the meeting and posted to the City’s website after the meeting. Members of the public that wish to share a document must email cityclerk@cupertino.org prior to the meeting.

3) Open Session Teleconferencing Instructions

To address the City Council, click on the link below to register in advance and access the meeting:

Online

Register in advance for this webinar:

https://cityofcupertino.zoom.us/webinar/register/WN_vVBSPMfGSoG0XzRzgm34xA

Phone

Dial: 669-900-6833 and enter Webinar ID: 952 2788 0747 (Type *9 to raise hand to speak, *6 to unmute yourself). Unregistered participants will be called on by the last four digits of their phone number.

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

162.255.36.11 (US East)

Meeting ID: 952 2788 0747

SIP: 95227880747@zoomcrc.com

After registering, you will receive a confirmation email containing information about joining the webinar.

Please read the following instructions carefully:

- 1. You can directly download the teleconference software or connect to the meeting in your internet browser. If you are using your browser, make sure you are using a current and up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers, including Internet Explorer.**
- 2. You will be asked to enter an email address and a name, followed by an email with instructions on how to connect to the meeting. Your email address will not be disclosed to the public. If you wish to make an oral public comment but do not wish to provide your name, you may enter "Cupertino Resident" or similar designation.**
- 3. When the Mayor calls for the item on which you wish to speak, click on "raise hand," or, if you are calling in, press *9. Speakers will be notified shortly before they are called to speak.**
- 4. When called, please limit your remarks to the time allotted and the specific agenda topic.**
- 5. Members of the public that wish to share a document must email cityclerk@cupertino.org prior to the meeting. These documents will be posted to the City's website after the meeting.**

CALL TO ORDER - 6:45 PM**10350 Torre Avenue, Community Hall and via Teleconference****PLEDGE OF ALLEGIANCE****ROLL CALL****CLOSED SESSION REPORT****CEREMONIAL ITEMS**

1. Subject: Recognition of National Volunteer Week, April 21-27, 2024
Recommended Action: Recognize April 21-27, 2024 as National Volunteer Week

POSTPONEMENTS AND ORDERS OF THE DAY

2. Subject: Fiscal Year 2024-25 Fee Schedule
Recommended Action: Continue the item to May 7, 2024

ORAL COMMUNICATIONS

This portion of the meeting is reserved for persons wishing to address the Council on any matter within the jurisdiction of the Council and not on the agenda for discussion, including informational items. The total time for Oral Communications will ordinarily be limited to one hour. Individual speakers are limited to three (3) minutes. As necessary, the Chair may further limit the time allowed to individual speakers, or reschedule remaining comments to the end of the meeting on a first come first heard basis, with priority given to students. In most cases, State law will prohibit the Council from discussing or making any decisions with respect to a matter not listed on the agenda. A councilmember may, however, briefly respond to statements made or questions posed by speakers. A councilmember may also ask a question for clarification, provide a reference for factual information, request staff to report back concerning a matter, or request that an item be added to a future City Council agenda in response to public comment.

CONSENT CALENDAR (Items 3-10)

Items appearing on the Consent Calendar are considered routine City business and may be approved by one motion. Typical items may include meeting minutes, awards of contracts, the ratification of accounts payable, and second readings of ordinances. Any member of the Council may request to have an item removed from the Consent Calendar based on the rules set forth in the City Council Procedures Manual. Members of the public may provide input on one or more consent calendar items when the Mayor asks for public comments on the Consent Calendar.

3. Subject: Approval of April 3, 2024 City Council minutes
Recommended Action: Approve the April 3, 2024 City Council minutes

[A - Draft Minutes](#)

4. Subject: Ratifying Accounts Payable for the periods ending March 1, 2024; March 8, 2024; March 15, 2024; March 22, 2024; and March 29, 2024
Recommended Action: A. Adopt Resolution No. 24-031 ratifying Accounts Payable for the Period ending March 1, 2024;
B. Adopt Resolution No. 24-032 ratifying Accounts Payable for the Period ending March 8, 2024;
C. Adopt Resolution No. 24-033 ratifying Accounts Payable for the Period ending March 15, 2024;
D. Adopt Resolution No. 24-034 ratifying Accounts Payable for the Period ending March 22, 2024; and
E. Adopt Resolution No. 24-035 ratifying Accounts Payable for the Period ending March 29, 2024

[Staff report](#)[A – Draft Resolution 3.1.24](#)[B – Weekly AP Payment Register for the Period Ending 3.1.24](#)[C – Draft Resolution 3.8.24](#)[D – Weekly AP Payment Register for the Period Ending 3.8.24](#)[E – Draft Resolution 3.15.24](#)[F – Weekly AP Payment Register for the Period Ending 3.15.24](#)[G – Draft Resolution 3.22.24](#)[H – Weekly AP Payment Register for the Period Ending 3.22.24](#)[I – Draft Resolution 3.29.24](#)[J – Weekly AP Payment Register for the Period Ending 3.29.24](#)

5. Subject: Adoption of Ordinance No. 24-2257, Regulating the Sale of Tobacco Products
Recommended Action: Conduct the second reading and enact Ordinance No. 24-2257, entitled “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CHAPTER 5.50 OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) TO REGULATE THE SALE OF TOBACCO PRODUCTS”

[Staff Report](#)[A – Draft Ordinance No. 24-2257 \(Amending Municipal Code Chapter 5.50\)](#)

6. Subject: Adoption of Ordinance No. 24-2258, Amendment to a Development Agreement for the Cupertino Village Boutique Hotel Project from five to eight years and associated environmental review. (Application No(s): DA-2023-002; Applicant(s): KIMCO (Sunil Plaha); Location: 10801 and 10805 N. Wolfe Rd.; APN: 316 45 017, 316 05 056)

Recommended Action: Conduct the second reading and enact Ordinance No. 24-2258: “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO APPROVING AN AMENDMENT TO A DEVELOPMENT AGREEMENT FOR THE CUPERTINO VILLAGE BOUTIQUE HOTEL”

[Staff Report](#)

[A – Draft Ordinance No. 24-2258](#)

7. Subject: Adoption of Ordinance No. 24-2259, Amendment to a Development Agreement for the De Anza Hotel Project from five to eight years and associated environmental review. (Application No(s): DA-2023-003; Applicant(s): De Anza Properties (John Vidovich); Location: 10931 N De Anza Blvd.; APN: 326-10-061)

Recommended Action: Conduct the second reading and enact Ordinance No. 24-2259: "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO APPROVING AN AMENDMENT TO A DEVELOPMENT AGREEMENT FOR THE DE ANZA HOTEL PROJECT"

[Staff Report](#)

[A – Draft Ordinance No. 24-2259](#)

8. Subject: Award a construction contract for the De Anza Boulevard Buffered Bike Lanes Project (Project) in the amount of \$529,680 and approve a budget modification in the amount of \$5,533.

Recommended Action: 1. Award a construction contract for the De Anza Boulevard Buffered Bike Lanes Project (Budget Unit 420-99-262) in the amount of \$529,680 to Chrisp Company;

2. Authorize the City Manager to execute the contract when all conditions have been met; and

3. Adopt Resolution No. 24-036 approving budget modification #2324-237, approving an appropriation of \$5,533 in the Capital Improvement Fund (420) and a transfer of \$5,533 from the Capital Reserve Fund (429) to the project (budget unit 420-99-262 900-905) for a total authorized project expenditure of \$529,680.

[Staff Report](#)

[A - Draft Contract](#)

[B - Draft Resolution](#)

9. Subject: Approve a fifth amendment with Moore Iacofano Goltsman, Inc. (MIG) to provide additional design and project management services for the Lawrence-Mitty Park and Trail Project for a total not-to-exceed amount of \$955,403 and extend the contract date to December 31, 2027.

Recommended Action: Authorize the City Manager to execute a fifth amendment (Agreement #402, P.O 2022-0325) with MIG to extend the contract term end date to December 31, 2027, and to provide additional design and project management services on the Lawrence-Mitty Park and Trail Project, for a revised total and additional service amount of \$661,619, increasing the maximum compensation amount to \$955,403.

[Staff Report](#)

[A - Draft Contract](#)

10. Subject: Fiscal Year (FY) 2024-25 recommended funding allocations for the Community Development Block Grant (CDBG) Program and Below Market Rate Affordable Housing Fund (BMR AHF)
Recommended Action: Authorize the City Manager to execute the FY 2024-25 Housing & Human Services Grant Programs funding agreements.
[Staff Report](#)
[A - FY 2024-25 NOFA RFP](#)
[B - Housing Commission Resolution 17-02 \(CDBG Contingency Plan\)](#)
[C - FY 2024-25 CDBG & BMR AHF Funding Application Summary](#)
[D - FY 2023-24 CDBG, BMR AHF, and HSG Public Service Funding Allocations](#)

PUBLIC HEARINGS - None

Effective January 1, 2023, Government Code Section 65103.5 (SB 1214) limits the distribution of copyrighted material associated with the review of development projects. Members of the public wishing to view plans that cannot otherwise be distributed under SB 1214 may make an appointment with the Planning Division to view them at City Hall by sending an email to planning@cupertino.org. Plans will also be made available digitally during the hearing to consider the proposal.

ACTION CALENDAR

11. Subject: Potential service-level reductions for the FY 2024-25 Proposed and Final Budgets
Recommended Action: Provide confirmation on potential service-level reductions for the FY 2024-25 Proposed and Final Budgets
Presenters: Kristina Alfaro, Director of Administrative Services and Thomas Leung, Budget Manager
[Staff report](#)
[A – Public Works Sidewalk and Trees Follow-up](#)

STUDY SESSION

12. Subject: Study Session and staff presentation on the 6th Cycle Housing Element Update
Recommended Action: Receive the staff presentation on the 6th Cycle Housing Element Update
Presenter: Luke Connolly, Assistant Director of Community Development

ITEMS REMOVED FROM THE CONSENT CALENDAR

CITY MANAGER REPORT

ORAL COMMUNICATIONS - CONTINUED

COUNCILMEMBER REPORTS**13. Subject: Councilmember Reports**[A - Councilmember Report, Chao](#)[B - Councilmember Report, Fruen](#)[C - Councilmember Report, Mohan](#)[D - Councilmember Report, Moore](#)[E - Councilmember Report, Wei](#)**FUTURE AGENDA ITEMS****RECESS****ROLL CALL - 10:00 PM****10300 Torre Avenue, City Hall Conference Room C****CLOSED SESSION**

- 14. Subject:** Conference with legal counsel - existing litigation pursuant to Government Code § 54956.9 (Lewis & Tibbits, Inc. v. City of Cupertino, Santa Clara County Superior Court Case No. 23CV423990)

OPEN SESSION REPORT REGARDING CLOSED SESSION**ADJOURNMENT**

Lobbyist Registration and Reporting Requirements: Individuals who influence or attempt to influence legislative or administrative action may be required by the City of Cupertino's lobbying ordinance (Cupertino Municipal Code Chapter 2.100) to register and report lobbying activity. Persons whose communications regarding any legislative or administrative are solely limited to appearing at or submitting testimony for any public meeting held by the City are not required to register as lobbyists. For more information about the lobbying ordinance, please contact the City Clerk's Office at 10300 Torre Avenue, Cupertino, CA 95014; telephone (408) 777-3223; email cityclerk@cupertino.org; and website: www.cupertino.org/lobbyist.

The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a final decision of the City Council must be brought within 90 days after a decision is announced unless a shorter time is required by State or Federal law.

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to <http://www.cupertino.org/cityclerk> for a reconsideration petition form.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, Cupertino, California 95014, during normal business hours; and in Council packet archives linked from the agenda/minutes page on the Cupertino web site.

IMPORTANT NOTICE: Please be advised that pursuant to Cupertino Municipal Code section 2.08.100 written communications sent to the Cupertino City Council, Commissioners or City staff concerning a matter on the agenda are included as supplemental material to the agenda item. These written communications are accessible to the public through the City's website and kept in packet archives. Do not include any personal or private information in written communications to the City that you do not wish to make public, as written communications are considered public records and will be made publicly available on the City website.

THE CITY COUNCIL AND STAFF

CITY COUNCIL

Cupertino is a General Law city organized under and subject to statutes of the State of California. It is governed by the five-member City Council with the Mayor as the presiding officer. City Council members are elected at-large to four-year, overlapping terms. Each November a mayor and a vice-mayor are selected by the City Council for a one-year term.

The City Council receives advice and assistance from eleven advisory bodies, which are appointed by the Council. These are the Audit Committee, Bicycle Pedestrian Commission, Fine Arts Commission, Housing Commission, Library Commission, Parks and Recreation Commission, Planning Commission, Public Safety Commission, Sustainability Commission, Teen Commission, and Technology, Information, and Communications Commission.

Council members also serve on a variety of regional bodies, including:

- Association of Bay Area Governments
- League of California Cities
- Santa Clara County (SCC) Cities Association
- SCC Emergency Preparedness Council
- SCC Library District
- SCC Emergency Preparedness Commission
- Santa Clara Valley Water Commission and Water District
- SCC Transportation Authority
- West Valley Mayors and Managers

STAFF

The City Manager and the City Attorney are appointed by the Council. The City Manager is responsible for interpreting and carrying out Council policies and direction, and as the chief administrative officer, the City Manager coordinates the many activities of the city and appoints the professional and technical staff. The City Attorney is the advisor to the City Council as a whole.

TYPES OF COUNCIL ACTIONS

ORDINANCES

Ordinances are the means by which the City enacts its local laws. Unless an urgent situation exists, ordinances will first be presented at a Council meeting as a "first reading." At a subsequent Council meeting, there will be a "second reading and adoption." Ordinances go into effect after a waiting period of thirty days, in most cases, during which time the summary of the ordinance is published in a local newspaper approved for this purpose.

RESOLUTIONS

Resolutions and minute orders are the means by which the City Council formally adopts policies or approves specific actions. These go into effect when adopted.

APPEALS

Any interested person, including a Council member, may appeal a Planning Commission or Director of Community Development decision to the City Council. An appeal must be submitted in writing to the City Clerk within 14 calendar days of the mailing of the notice of the decision.

RECONSIDERATION

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to [www.http://www.cupertino.org/index.aspx?page=125](http://www.cupertino.org/index.aspx?page=125) for a reconsideration petition form.

COMMUNICATING WITH COUNCIL

All Council members: citycouncil@cupertino.gov

Sheila Mohan	SMohan@cupertino.gov	(408) 777-1326
J.R. Fruen	JRFruen@cupertino.gov	(408) 777-1316
Liang Chao	LiangChao@cupertino.gov	(408) 777-3192
Kitty Moore	KittyMoore@cupertino.gov	(408) 777-1389
Hung Wei	HWei@cupertino.gov	(408) 777-1389
Executive Assistant	Debran@cupertino.gov	(408) 777-3139
City Hall	www.cupertino.gov	(408) 777-CITY

Please note: the City Council discourages submission of written materials on the day of the meeting as this does not provide enough time to give the materials fair evaluation. If you must provide written materials on the day of the meeting, as least one copy must be given to the City Clerk for the permanent record, and ten copies are preferred.

NEWS AND NOTICES FROM CITY HALL

EMAIL

Sign up for e-notification of agendas, elections, and other news on the city website at www.cupertino.org/notify

TELEVISION

The City Channel broadcasts City Council and Planning Commission meetings, as well as agenda previews, public service announcements, and other programs of community interest, on Channel 26 in Cupertino. The meetings are shown at these times:

Tuesday (live)	6:45 p.m.	Friday (replay)	10:00 a.m.
Thursday (replay)	7:00 p.m.	Saturday (replay)	9:00 a.m.

INTERNET

City Council and Planning Commission videos are available on demand at www.cupertino.org. Select "I Want To, View City Council meetings".

News and community information can also be found at:

<https://www.facebook.com/cityofcupertino/>

<https://twitter.com/CityofCupertino>

<https://www.instagram.com/cityofcupertino>

AUDIO

Tune into Radio Cupertino, 1670 AM, for meeting announcements, public service messages, and emergency announcements.

USEFUL TELEPHONE NUMBERS

City of Cupertino (City Hall)	General Information and Comments	(408) 777-CITY
Fire (Emergency)	Santa Clara County Fire Dept. dispatch	911
Fire (Non-Emergency)	Santa Clara County Fire Dept.	(408) 378-4010
Garbage	Recology South Bay	(408) 725-4020
Gas & Electricity	Pacific Gas & Electric (PG&E)	1-800-743-5000
Recreation & Community Services	Quinlan Community Center	(408) 777-3120
Police (Emergency)	Santa Clara County Sheriff dispatch	911
Police (Non-Emergency)	Santa Clara County Sheriff	(408) 868-6600
Public Health	Santa Clara County Public Health	(408) 732-3720
Sanitary Sewers	Cupertino Sanitary District	(408) 253-7071
Water	San Jose Water	(408) 279-7900
	California Water	(650) 917-0152