



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

This will be a teleconference meeting without a physical location.

Tuesday, November 2, 2021

5:30 PM

Televised Special Meeting Study Session (5:30) and Regular City Council Meeting (6:45)

TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION TO HELP STOP THE SPREAD OF COVID-19

In accordance with Government Code 54953(e), this will be a teleconference meeting without a physical location to help stop the spread of COVID-19.

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

- 1) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.**
- 2) 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) E-mail comments by 4:00 p.m. on Tuesday, November 2 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.**
- 2) E-mail comments during the times for public comment during the meeting to the City Clerk at cityclerk@cupertino.org. The City Clerk will read the emails into the record, and display any attachments on the screen, for up to 3 minutes (subject to the Mayor's discretion to shorten time for public comments). Members of the public that wish to share a document must email cityclerk@cupertino.org prior to speaking.**

3) Teleconferencing Instructions

Members of the public may provide oral public comments during the teleconference meeting as follows:

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

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_1o0HoxTzQOWXA1keFrN0_g

Phone

Dial: 669-900-6833 and enter Webinar ID: 914 0321 4661 (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)

Meeting ID: 914 0321 4661

SIP: 91403214661@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.
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In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference City Council 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 Council meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

NOTICE AND CALL FOR A SPECIAL MEETING OF THE CUPERTINO CITY COUNCIL

NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino City Council is hereby called for Tuesday, November 02, 2021, commencing at 5:30 p.m. In accordance with Government Code 54953(e), this will be a teleconference meeting without a physical location to help stop the spread of COVID-19. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting."

SPECIAL MEETING

ROLL CALL

STUDY SESSION

- Subject: Consider new state legislation (Senate Bill 9), that provides for ministerial approval of up to two units and/or a lot split in a residential single-family zone (Application No.: CP-2021-001; Applicant: City of Cupertino; Location: Citywide in all residential single family zones)
Recommended Action: That the City Council receive the report and provide direction to staff.
[Staff Report](#)
[A - Senate Bill 9 \(Atkins, 2021\)](#)

ADJOURNMENT

REGULAR MEETING

PLEDGE OF ALLEGIANCE

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

- Subject: Presentation from United Against Hate and proclamation recognizing November 14 - 20, 2021 as United Against Hate Week

Recommended Action: Receive presentation from United Against Hate and present proclamation recognizing November 14 - 20, 2021 as United Against Hate Week

[A - Proclamation](#)

2. Subject: Proclamation recognizing November as Lung Cancer Awareness Month
Recommended Action: Present proclamation recognizing November as Lung Cancer Awareness Month
[A - Proclamation](#)

POSTPONEMENTS AND ORDERS OF THE DAY

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. 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.

REPORTS BY COUNCIL AND STAFF (10 minutes)

3. Subject: Brief reports on councilmember activities and brief announcements
Recommended Action: Receive brief reports on councilmember activities and brief announcements
4. Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments
5. Subject: City Manager update
Recommended Action: Receive City Manager update on emergency response efforts and other City business

CONSENT CALENDAR (Items 6-10)

Unless there are separate discussions and/or actions requested by council, staff or a member of the public, it is requested that items under the Consent Calendar be acted on simultaneously.

6. Subject: Approve the October 16 City Council minutes
Recommended Action: Approve the October 16 City Council minutes

[A - Draft Minutes](#)

7. Subject: Approve the October 19 City Council minutes
Recommended Action: Approve the October 19 City Council minutes
[A - Draft Minutes](#)
8. Subject: Approve the October 24 City Council minutes
Recommended Action: Approve the October 24 City Council minutes
[A - Draft Minutes](#)
9. Subject: Approve the October 26 City Council minutes
Recommended Action: Approve the October 26 City Council minutes
[A - Draft Minutes](#)
10. Subject: Consider adopting a resolution authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period November 2, 2021 through December 2, 2021 pursuant to the Brown Act, as amended by AB 361
Recommended Action: Adopt Resolution No. 21-098 authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period November 2, 2021 through December 2, 2021 pursuant to the Brown Act, as amended by AB 361
[Staff Report](#)
[A - Draft Resolution](#)
[B - Adopted Resolution No. 21-090](#)

SECOND READING OF ORDINANCES

11. Subject: Consider the second reading of Ordinance No. 21-2232 adopting amendments to the Cupertino Municipal Code Title 17, Environmental Regulations, to add a new Chapter, Chapter 17.04, to adopt standard environmental protection requirements for construction, development and other similar or related activities. (Application No(s): MCA-2021-004; Applicant(s): City of Cupertino; Location: citywide)
Recommended Action: That the City Council conduct the second reading and enact Ordinance No. 21-2232: "An Ordinance of the City Council of the City of Cupertino adding Chapter 17.04 (Standard Environmental Protection Requirements) to the Cupertino Municipal Code."
[A - Draft Ordinance](#)

PUBLIC HEARINGS

12. Subject: For the future operations of the Municipal Water System, consideration of: 1) Key Lease Terms for a new Long-Term Lease; 2) first amendment of the Current Lease Agreement with San Jose Water Company to extend the term up to three years; and 3) request to increase Public Works Administration - Special Projects Budget Allocation.
- Recommended Action: 1) Provide input on Key Lease Terms for a new Long-Term Lease;
- 2) Conduct a Public Hearing to consider a first amendment to extend the term of the Current Lease Agreement with San Jose Water Company for lease of the Cupertino Municipal Water System up to three years;
- 3) Adopt Resolution 21-099 (Attachment A), approving a first amendment to the Current Lease Agreement for lease of real property (water system) with San Jose Water Company; and
- 4) Approve Budget Modification #2122-170 increasing appropriations in Public Works Administration - Special Projects (100-80-800 750-071) by \$31,500 for the Municipal Water System Project.
- [Staff Report \(to be provided in a forthcoming amended agenda\)](#)

ORDINANCES AND ACTION ITEMS

13. Subject: FY 2021-2022 City Work Program Q1 Update
- Recommended Action: Receive FY 2021-2022 City Work Program Q1 Update
- [Staff Report](#)
- [A - FY 21-22 City Work Program Q1 Dashboard Printout](#)
- [B - FY 20-21 City Work Program Outstanding Items Dashboard Printout](#)

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

ADJOURNMENT

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.

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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.



CITY OF CUPERTINO

Agenda Item

21-10005

Agenda Date: 11/2/2021
Agenda #: 1.

Subject: Consider new state legislation (Senate Bill 9), that provides for ministerial approval of up to two units and/or a lot split in a residential single-family zone (Application No.: CP-2021-001; Applicant: City of Cupertino; Location: Citywide in all residential single family zones)

That the City Council receive the report and provide direction to staff.



COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA
95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: November 2, 2021

Subject

Consider new state legislation (Senate Bill 9) that provides for ministerial approval of up to two residential units and/or a lot split in a residential single-family zone (Application No.: CP-2021-001; Applicant: City of Cupertino; Location: Citywide in all residential single family zones)

Recommended Action

That the City Council receive the report and provide direction to staff.

Discussion

Background

Senate Bill (SB) 9 uses a two-pronged approach to require increased housing density in single family residential zones. First, if certain conditions are met, the statute requires ministerial approval of up to two units in single family residential zones. The units may be in one structure or two separate structures. Second, the statute requires ministerial approval of lot splits in single family residential districts, subject to similar conditions. No public hearing is permitted for these ministerial approvals. If the conditions are met for both approvals, the applicant can build at least four units on what was formally one single family residential lot. The requirements for approval are discussed in detail below.

A. Ministerial Approval of Housing Development Projects

SB 9 requires ministerial approval of up to two residential units on any property that is zoned single-family residential, if the project:

1. meets certain requirements for streamlining in SB 35;¹

¹ The applicable SB 35 streamlining requirements exclude any parcel located within:

- (A) [Not applicable to SB 9 projects.]
- (B) Prime farmland or farmland of statewide importance.
- (C) Wetlands.

2. does not result in the demolition of BMR or rent controlled units;
3. is not on a property occupied by tenants in the past three years;
4. is not on a property that has been withdrawn from the rental market under the Ellis Act for the past 15 years; and
5. is not on a property that is located in a historic district or included on the State Historic Resources Inventory, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

The local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards “that do not conflict with [SB 9].” However, those standards may not be imposed if they would preclude the development of two units that are at least 800 square feet in floor area.

No setbacks are required for an existing structure or for new construction in the same location and having the same dimensions as an existing structure. Setbacks of up to four feet from the side and rear lot lines may be required for other projects. The local agency may require up to one parking space per unit unless the project is located within one-half mile walking distance of either a high-quality transit corridor or a major transit stop, or there is a car share vehicle located within one block of the parcel.

The local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project (1) would have a specific, adverse impact upon public health and safety or the physical environment and (2) there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

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- (D) A very high fire hazard severity zone, subject to certain limitations.
 - (E) A hazardous waste site that is listed pursuant to Section 65962.5, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
 - (F) A delineated earthquake fault zone as determined by the State Geologist, unless the development complies with applicable seismic protection building code standards.
 - (G) A 100-year flood zone special flood hazard area, subject to certain exceptions.
 - (H) A regulatory floodway as determined by the Federal Emergency Management Agency, subject to certain exceptions.
 - (I) Lands identified as part of a conservation or natural resource protection plan.
 - (J) Habitat for species protected under state or federal law.
 - (K) Lands under conservation easement.
- (Gov. Code, § 65913.4(a)(6).)

B. Ministerial Approval of Lot Splits

Similar standards apply to lot splits under SB 9. The local agency must ministerially approve a lot split of any parcel in a single-family residential zone if:

1. The lot split creates two new parcels of approximately equal lot area (each at least 40 percent of the lot area of the original parcel);
2. Each new lot is at least 1,200 square feet;
3. Certain requirements for SB 35 streamlining are met;
4. The parcel has not been occupied by tenants in the past three years;
5. The parcel has not been withdrawn from the rental market under the Ellis Act for the past 15 years;
6. The parcel is not located in a historic district or on property included on the State Historic Resources Inventory, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance;
7. The parcel was not created through prior exercise of an urban lot split under SB 9; and
8. Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

The lots created must be limited to residential use.

A lot split must comply with applicable objective requirements of the Subdivision Map Act, and the local agency may impose applicable objective zoning, subdivision, and design review standards, subject to the limitations described above. However, a local agency cannot require dedication of land or off-site improvements such as sidewalk, curb, and gutter improvements as a condition of approval of the subdivision. A lot split may be denied based on the specific findings of adverse impact previously discussed.

The approval of a lot split and the subsequent approval of two duplexes on the resulting parcels may result in the construction of up to four units. However, under SB 9, a local agency is not required to permit the construction of an accessory dwelling unit or a junior accessory dwelling unit on the resulting parcels, where a duplex has also been approved for construction.

The local agency must require an applicant for an urban lot split (except a community land trust) to sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

Finally, a local agency may not require the correction of existing, nonconforming zoning conditions as a condition of approving a lot split.

Analysis

A. Development of Objective Standards and Regulations

While SB 9 precludes discretionary review of qualifying projects on single family zoned property, the statute expressly authorizes the City to impose objective standards to the extent they do not conflict with SB 9. Staff recommends developing objective standards for ministerial approval of up to two dwelling units on a parcel and approval of lots splits pursuant to SB 9. Elements of a potential ordinance implementing SB 9 are presented below for Council consideration.

1. Ministerial approval of up to two units (including a duplex)

SB 9 allows the City to impose objective standards on qualifying housing development projects so long as they do not conflict with the requirements of the statute, including minimum unit size and maximum rear and side setback requirements. For example, if the development potential (i.e., Floor Area Ratio) of an existing property is already maximized, the City could limit new construction to the minimum requirements of the statute. Specific issues for Council consideration are highlighted below.

- a. *Unit size and Floor Area Ratio:* Since SB 9 allows two units of up to 800 square feet, it is anticipated that any future ordinance would allow a minimum of 800 square foot units. In the event the applicant proposes a project that would meet all the other standards required pursuant to the City's adopted ordinance, staff recommends that the project be allowed at a Floor Area Ratio similar to that allowed under existing standards single family residential standards. Currently, the Floor Area Ratio in the R-1 zoning district is 45% while in the RHS zoning district the Floor Area Ratio is based on the average slope of the lot. Council may consider a higher or lower Floor Area Ratio, subject to legal constraints, including constraints on zoning changes that result in a net reduction in density.
- b. *Second story setbacks:* Pursuant to SB 9, the City can require a maximum setback of four feet on the side and rear. However, if a four-foot rear or side setback on the second floor is proposed, the City could regulate the kind of windows (opaque or non-openable) or sill height (e.g., taller than five feet) that can be installed at that setback. Staff also recommends that objective standards for landscaping and privacy protection be included in the SB 9 implementation ordinance.

- c. *Second story balconies/decks*: The City can regulate second story balconies and has the following options to minimize impacts on any adjacent side or rear yards:
 - i. Disallow balconies altogether on projects proposed pursuant to SB 9.
 - ii. Allow balconies with far greater setbacks than allowed under the City's current processes.
 - iii. Limit balconies to front yard facing balconies on lots with front yards adjacent to a public street.
 - iv. Limit balconies to properties above a certain size (e.g., 5,000 square feet or more, or wider than 50 feet and not adjacent to property with a building pad five feet or lower than theirs).

(Note that these development standards would not be applicable to all R-1 properties but only those that wish to pursue a project pursuant to SB 9.)

- d. *Parking*: SB 9 does not allow the City to require more than one parking space per unit. Staff recommends development standards that implement this requirement and impose objective standards related to the size and configuration of off-street parking. The City could require that the parking space be in an enclosed garage of a size that accommodates a one car parking space as required by the City's current parking ordinance. Also, if an applicant were to propose any additional parking spaces, they would have to meet the City's requirements related to parking stall size and configuration.
- e. *Basements*: SB 9 was adopted by the State to encourage the development of affordable units. The construction of basements, including the removal and off-haul of large amounts of soil to accommodate a basement, can add significantly to the cost of these units. As a result, the Council has the option to:
 - i. Disallow basements in SB 9 projects.
 - ii. Allow basements in SB 9 projects but regulate the size of lot on which basements are allowed (e.g., greater than 5,000 sq. ft.), location of basement (e.g., setback of basement and of lightwells), regulate size of lightwells to minimum required, etc. in a bid to minimize excavation and associated impacts to neighbors and to the environment.
- f. *Design standards*: The City could adopt objective design standards related to the architectural look of the buildings and Council can provide any specific direction on these items. Examples of design standards are: "All structures shall have 6" siding"; "All roofing must be at a 4:12 pitch"; "All windows must have a minimum three-inch-wide window trim or be inset a minimum of two inches." Staff also recommends developing objective design standards for entry features of duplexes developed under SB 9.

- g. *Regulations in the RHS zoning district:* There are several large lots on steep slopes in the RHS zoning district that could be developed under SB 9. To ensure that the impacts from development in the hills are minimized, the City limit the amount of grading and the size of units.

There is language in several areas in the General Plan related to preservation of the preservation of the natural environment and hillsides (page LU-4, LU-9, and Goal LU-12, Policies LU-12.1, Strategy LU-12.3.1, Policy LU-12.2, Policy LU-12.4). To preserve the intent of the General Plan policies, staff recommends that subdivision in the hillsides should be allowed only if driveways are shared (*to minimize grading*) and new building pads are either located close to existing building pads or flat areas close to existing driveway locations (*to encourage clustering of development*). The existing Hillside Ordinance already implements much of the intent of the General Plan related to massing, following contours, disallowing much development on a ridgeline. The objective requirements of the Hillside Ordinance would continue to apply to SB 9 projects.

2. Ministerial lot split pursuant to SB 9

Presently, typical lot shapes in the City include interior lots (*a rectangular or close to rectangular shaped lot with street frontage on one street*); corner lots (*a lot that fronts two different streets*); cul-de-sac or pie shaped lots (*lots that have a significantly smaller front lot line than its rear lot line or lots with more than four lot lines where the front lot line is smaller than the other lot lines*); and flag lots (*a lot that has a rectangular buildable lot but with access either through another lot or a portion of its lot that is designed solely for access*). Staff recommends that objective standards for SB 9 lot splits should reflect design strategies and General Plan policies, taking into account these different lot shapes. In all cases, lot splits will be subject to SB 9's requirements that the two resulting lots be roughly equal in size (no more than 60% or less than 40% of the original lot size) and that the resulting lots be no less than 1,200 square feet.

- a. *R1 zoned lots:* The City's General Plan has a strategy (Strategy LU-27.7.2) regarding allowing flag lots only "in cases where they are the sole alternative to integrate subdivisions with the surrounding neighborhood."² This policy seeks to create engaging, inviting street frontages by maximizing opportunities for interaction between neighbors and the frontage. Therefore, per the City's General, staff recommends developing objective standards that limit flag lot subdivisions to the extent such limitations are consistent with SB 9. Doing so could in some cases result in narrow lots with smaller building frontages. Council could provide direction regarding other preferred lot configurations.

² For example, there are no flag lots in the Rancho Rinconada/Blanney neighborhoods.

- b. *Shared driveways*: General Plan Policy M-3.5 encourages policies to “[m]inimize the number and width of driveway openings” in the interest of pedestrian and bicycle safety. To the extent possible, particularly in cul-de-sac or pie-shaped lots, Council may consider shared driveways to minimize conflicts with pedestrians and bicyclists and the number of curb cuts.
 - c. *Orientation of flag lots*: Where flag lots are allowed, requiring the orientation of resulting lots in the same orientation as the existing lot would minimize the impacts to existing neighbors. (*I.e.*, the front yard for the new lots would be located where the front yard of the existing lot is, minimizing impacts to abutting neighbors.)
 - d. *RHS zoned lots*: Hillside properties zoned for single family residential are also subject to SB 9. Of particular concern on these properties are building sites that are accessible via long driveways and not close to a public street. On those sites, staff recommends requiring shared access to minimize points of conflict with pedestrians and to minimize grading in the hills. Staff also recommends applying existing objective grading standards to limit excessive grading on hillside lots. Council may consider these and other policies to limit the impact of ministerially approved lot splits in the RHS zone.
3. Limitations on construction of accessory dwelling units

Under SB 9, a local agency is not required to permit the construction of an accessory dwelling unit or a junior accessory dwelling unit on the resulting parcels, where a duplex has also been approved for construction. Staff recommends that the SB 9 implementation ordinance limit the construction of accessory dwelling units and junior accessory dwelling units on subdivided lots where the construction of a duplex has been approved.

B. Approval Process

SB 9 requires the City to process permits ministerially without public hearings. Council may consider requiring public notification prior to approval of SB 9 lot splits or housing development projects, but it is important to recognize that decisions regarding the approval of SB 9 projects will be determined based on the application of objective development standards.

A summary of existing and SB 9 approval process is provided below.

Type of Development	Non-SB 9 projects (Existing and future)	SB 9 projects	Difference
Single Story Development (1 or 2 units)	<ul style="list-style-type: none"> ▪ Building permit for principal unit and ADU in R1 zoning district and RHS zoning district. 	<ul style="list-style-type: none"> ▪ Building permit for up to two units 	<ul style="list-style-type: none"> ▪ No change in approval process
Two Story Development (1 or 2 units)	<ul style="list-style-type: none"> ▪ Two story permit with site signage and noticing of adjacent property owners ▪ Decision made after two-week comment period ▪ Building permit in RHS zoning district 	<ul style="list-style-type: none"> ▪ Ministerial permit approval ▪ Building permit in RHS zoning district 	<ul style="list-style-type: none"> ▪ No site signage ▪ No comment period ▪ Council may consider notice requirements
Lot split	<ul style="list-style-type: none"> ▪ Parcel Map with 300 foot noticing and public hearing in accordance with Subdivision Map Act requirements 	<ul style="list-style-type: none"> ▪ Parcel Map with no public hearing 	<ul style="list-style-type: none"> ▪ No public hearing permitted ▪ Council may consider notice requirements

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

California Environmental Quality Act (CEQA)

Receiving the staff report and providing preliminary direction to staff is not a final discretionary decision that has a potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. As such, this action is not a project under CEQA Guidelines section 15378(a). Further, an ordinance adopted to implement SB 9 “shall not be considered a project” under CEQA. (Gov. Code, §§ 66411.7(n), 65852.21(j).)

Next Steps

The Community Development Department and City Attorney’s Office will continue developing an ordinance to implement SB 9 and will incorporate feedback received from

the City Council. We anticipate introducing an urgency ordinance for Council's consideration on December 7, 2021.

<u>Prepared by:</u>	Piu Ghosh, Planning Manager
<u>Reviewed by:</u>	Benjamin Fu, Director of Community Development Christopher Jensen, City Attorney
<u>Approved for Submission:</u>	Greg Larson, Interim City Manager

Attachments:
A – Senate Bill 9 (Atkins, 2021)

Senate Bill No. 9

CHAPTER 162

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

[Approved by Governor September 16, 2021. Filed with
Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 9, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24

months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the parcel is located within a single-family residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill would require an applicant to sign an affidavit stating that they intend to occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the urban lot split, unless the applicant is a community land trust or a qualified nonprofit corporation, as specified. The bill would prohibit a local agency from imposing any additional owner occupancy standards on applicants. By requiring applicants to sign affidavits, thereby expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 65852.21 is added to the Government Code, to read:

65852.21. (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is

no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(i) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) “Local agency” means a city, county, or city and county, whether general law or chartered.

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 2. Section 66411.7 is added to the Government Code, to read:

66411.7. (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division

2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the

housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

(2) This subdivision shall not apply to an applicant that is a “community land trust,” as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, “unit” means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:

(1) “Objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be

considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

SEC. 3. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency that approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or

because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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CITY OF CUPERTINO

Agenda Item

21-10024

Agenda Date: 11/2/2021
Agenda #: 1.

Subject: Presentation from United Against Hate and proclamation recognizing November 14 - 20, 2021 as United Against Hate Week

Receive presentation from United Against Hate and present proclamation recognizing November 14 - 20, 2021 as United Against Hate Week



Proclamation

WHEREAS, The United States is a nation of immigrants, whose strength comes from its diversity, and all individuals should feel safe and respected, and treated fairly, regardless of race, gender, orientation, religion, and political views;

WHEREAS, We have seen the dangers and repercussions of hate, racism, and bigotry rise and manifest most obviously but not exclusively in violent, hateful, and cruel attacks throughout the United States and the greater San Francisco Bay Area;

WHEREAS, The City of Cupertino wishes to ensure that our community will continue fighting against hate by welcoming all people and countering any hate or biases that are a threat to the safety, civility and efficacy of our neighborhoods, residents, and all people;

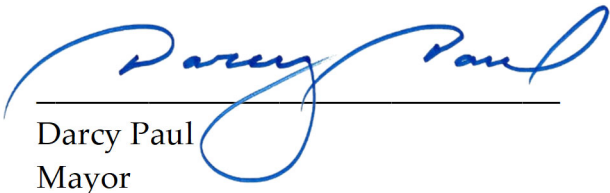
WHEREAS, Cupertino is no place for hate or ignorance, and the City of Cupertino reaffirms its commitment to stand united against hate, to do the consistent and hard work of optimizing equity and fairness in a society committed to free expression, and to celebrate unity and diversity.

THEREFORE, I, Mayor Darcy Paul, and the Cupertino City Council do hereby Proclaim the week of November 14 through November 20, in conjunction with jurisdictions throughout the Bay Area, as

United Against Hate Week

in the City of Cupertino, and call on all residents and businesses to take action, build more inclusion, and stop hate for a better and more supportive community in the City of Cupertino and the greater San Francisco Bay Area.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Cupertino to be affixed this Tuesday, November Second, Two Thousand and Twenty One.


Darcy Paul
Mayor



CITY OF CUPERTINO

Agenda Item

21-10025

Agenda Date: 11/2/2021
Agenda #: 2.

Subject: Proclamation recognizing November as Lung Cancer Awareness Month

Present proclamation recognizing November as Lung Cancer Awareness Month



Proclamation

WHEREAS, Lung cancer is the leading cause of cancer deaths among men and women in the United States and in Cupertino, accounting for more deaths than colon cancer, breast cancer, and prostate cancer combined;

WHEREAS, According to the Centers for Disease Control, there were 3,741 new lung cancer cases and 2,441 deaths because of lung cancer between 2013 and 2017 in Santa Clara County;

WHEREAS, Early diagnosis and management protocol exist, such as lung cancer screening, but have not yet been embraced as the standard of care although early detection of lung cancer can dramatically improve survival rates;

WHEREAS, Funding for lung cancer research trails far behind funding for research of other cancers;

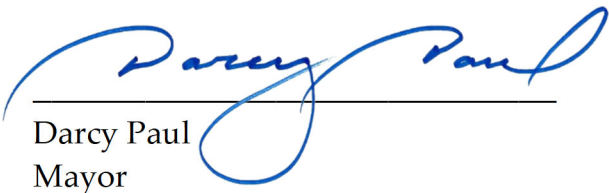
WHEREAS, Local organizations, such as the American Lung Cancer Screening Initiative, are committed to educating the Santa Clara County community about lung cancer and working to increase lung cancer screening rates locally.

THEREFORE, I, Mayor Darcy Paul, and the Cupertino City Council do hereby Proclaim November 2021 as

Lung Cancer Awareness Month

in the City of Cupertino, and encourage all citizens to learn about lung cancer and early detection practices to better maintain and lead long, healthy lives.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Cupertino to be affixed this Tuesday, November Second, Two Thousand and Twenty One.


Darcy Paul
Mayor



CITY OF CUPERTINO

Agenda Item

21-9117

Agenda Date: 11/2/2021
Agenda #: 3.

Subject: Brief reports on councilmember activities and brief announcements

Receive brief reports on councilmember activities and brief announcements



CITY OF CUPERTINO

Agenda Item

21-9196

Agenda Date: 11/2/2021
Agenda #: 4.

Subject: Report on Committee assignments

Report on Committee assignments



CITY OF CUPERTINO

Agenda Item

21-9184

Agenda Date: 11/2/2021
Agenda #: 5.

Subject: City Manager update

Receive City Manager update on emergency response efforts and other City business



CITY OF CUPERTINO

Agenda Item

21-10006

Agenda Date: 11/2/2021
Agenda #: 6.

Subject: Approve the October 16 City Council minutes

Approve the October 16 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Saturday, October 16, 2021

SPECIAL MEETING

At 9:00 a.m., Mayor Darcy Paul called the Special City Council Meeting to order in Community Hall Council Chamber, 10350 Torre Avenue.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None.

CLOSED SESSION

In open session before Council convened in closed session, the Mayor asked the City Clerk whether any members of the public were present to provide comment regarding any item on the agenda. The City Clerk indicated that no members of the public were present.

CLOSED SESSION

1. Subject: Public Employee Employment (Gov't Code 54957(b)(1)); Title: City Manager Recruitment

Council conducted Public Employee Employment (Gov't Code 54957(b)(1); Title: City Manager Recruitment.

In open session, Mayor Paul reported that the Special Meeting Closed Session Item 1 was continued until 8:00 p.m. on October 16, 2021.

OPEN SESSION

REPORT REGARDING CLOSED SESSION

Mayor Paul conducted the open session report regarding the closed session.

Council recessed from 2:42 p.m. to 8:05 p.m.

At 8:05 p.m., Mayor Darcy Paul reconvened the Special City Council Meeting in Community Hall Council Chamber, 10350 Torre Avenue.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None.

CLOSED SESSION - CONTINUED

1. Subject: Public Employee Employment (Gov't Code 54957(b)(1)); Title: City Manager Recruitment

Council conducted Public Employee Employment (Gov't Code 54957(b)(1); Title: City Manager Recruitment.

In open session, Mayor Paul reported that no reportable action was taken.

OPEN SESSION

REPORT REGARDING CLOSED SESSION

Mayor Paul conducted the open session report regarding the closed session.

ADJOURNMENT

At 12:40 a.m., Mayor Paul adjourned the Special City Council Meeting.

Kirsten Squarcia, City Clerk



CITY OF CUPERTINO

Agenda Item

21-9208

Agenda Date: 11/2/2021
Agenda #: 7.

Subject: Approve the October 19 City Council minutes

Approve the October 19 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, October 19, 2021

At 6:45 p.m. Mayor Darcy Paul called the Regular City Council meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamation recognizing October 19 as Boris Stanley Day in Cupertino
Recommended Action: Present proclamation recognizing October 19 as Boris Stanley Day in Cupertino

Boris Stanley received the proclamation and a plaque.

Mayor Paul opened the public comment period and the following people spoke.

Jennifer Griffin supported the proclamation honoring Boris Stanley.

Mayor Paul closed the public comment period.

Mayor Paul presented the proclamation recognizing October 19 as Boris Stanley Day in Cupertino.

2. Subject: Presentation of 2021 Helen Putnam Award for Excellence by the League of California Cities
Recommended Action: Receive 2021 Helen Putnam Award for Excellence Program's Ruth Vreeland Award for Excellence in Engaging Youth in City Government for "Pizza and Politics" program

Seth Miller, Regional Public Affairs Manager, Peninsula Division for the League of California Cities, presented the award.

Mayor Paul and Former Teen Commission Chair and Pizza and Politics moderator Kelly Tung received the 2021 Helen Putnam Award for Excellence Program's Ruth Vreeland Award for Excellence in Engaging Youth in City Government for the "Pizza and Politics" program.

POSTPONEMENTS AND ORDERS OF THE DAY - None

ORAL COMMUNICATIONS

Jennifer Griffin was concerned about loss of local control, recent housing bills, and leadership in Sacramento and Washington DC.

Lisa Warren supported Municipal Code amendments for privacy screening and balconies and defining architectural features in development. (Submitted written comments).

Tara Pillai, on behalf of the Menstrual Equality Committee, supported free and accessible menstrual products and reducing the stigma surrounding periods. (Submitted written comments).

REPORTS BY COUNCIL AND STAFF (10 minutes)

3. Subject: Brief reports on councilmember activities and brief announcements
Recommended Action: Receive brief reports on councilmember activities and brief announcements

Council received brief reports on councilmember activities and brief announcements.

4. Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments

Councilmembers highlighted the activities of their various committees.

5. Subject: City Manager update
Recommended Action: Receive City Manager updates on emergency response efforts and other City business

Interim City Manager Greg Larson reported on the Jollyman Dog Off-Leash Area (DOLA), Via-Cupertino Shuttle, upcoming City events, and COVID-19 mask mandates, vaccinations, case rates, and testing.

Council received the City Manager updates on emergency response efforts and other City business.

CONSENT CALENDAR (Items 6-14)

Moore moved and Wei seconded to approve the items on the Consent Calendar except for Items 10 and 13 which were pulled for discussion. Ayes: Paul, Chao, Moore, Wei, and Willey. Noes: None. Abstain: None. Absent: None.

6. Subject: Approve the October 5 City Council minutes
Recommended Action: Approve the October 5 City Council minutes
7. Subject: Approve the October 10 City Council minutes
Recommended Action: Approve the October 10 City Council minutes
8. Subject: Annual report of commission and committee members' terms expiring in January, 2022, and application submittal deadline and candidate interview dates in January, 2022
Recommended Action: Receive report on commission and committee members' terms expiring January, 30, 2022, and set an application submittal deadline of Friday, January 7, 2022 and candidate interview dates of Monday and Tuesday, January 24 and 25, 2022
9. Subject: Consider cancellation of the January 4, 2022 City Council meeting
Recommended Action: Cancel the January 4, 2022 City Council meeting
10. Subject: Consider Accepting Accounts Payable for pay period ending September 6, 2021
Recommended Action: Adopt Resolution No. 21-093 accepting Accounts Payable for pay period ending September 6, 2021

Chao moved and Wei seconded to adopt Resolution No. 21-093 accepting Accounts Payable for pay period ending September 6, 2021. The motion carried unanimously.

11. Subject: Consider Accepting Accounts Payable for pay period ending September 13, 2021
Recommended Action: Adopt Resolution No. 21-094 accepting Accounts Payable for pay period ending September 13, 2021
12. Subject: Consider Accepting Accounts Payable for pay period ending September 20, 2021
Recommended Action: Adopt Resolution No. 21-095 accepting Accounts Payable for

pay period ending September 20, 2021

13. Subject: Consider Accepting Accounts Payable for pay period ending September 27, 2021

Recommended Action: Adopt Resolution No. 21-096 accepting Accounts Payable for pay period ending September 27, 2021

Chao moved and Wei seconded to adopt Resolution No. 21-096 accepting Accounts Payable for pay period ending September 27, 2021. The motion carried unanimously.

14. Subject: Consider a donation from an anonymous donor for a plaque commemorating the Rolling Hills 4-H Club's founding in Cupertino.

Recommended Action: Authorize the following regarding a plaque commemorating the Rolling Hills 4-H Club's founding in Cupertino:

- 1) Acceptance of the plaque donation;
- 2) Wording of the plaque; and
- 3) Installation at the McClellan Ranch property leased to the Rolling Hills 4-H Club.

SECOND READING OF ORDINANCES

15. Subject: Consider the second reading of Ordinance No. 21-2230 amending Cupertino Municipal Code Sections 19.56.030 (Table 19.56.030), 19.56.030F, 19.56.040, and Table 19.56.040A and the addition of Section 19.56.080 (Density Bonus Ordinance) to allow density bonuses and other incentives as provided by state law and a new Section 19.56.080 providing that the Density Bonus Ordinance will be interpreted consistent with state density bonus law. (Application No: MCA-2021-003; Applicant: City of Cupertino; Location: Citywide.)

Recommended Action: Conduct second reading and enact Ordinance No. 21-2230: "An Ordinance of the City Council of the City Cupertino amending Cupertino Municipal Code sections 19.56.030A (table 19.56.030), 19.56.030F, table 19.56.040A and adding section 19.56.080 (Density Bonus Ordinance) to allow density bonuses and other incentives as provided by state law" (Attachment A).

Mayor Paul opened the public comment period and the following people spoke.

Jennifer Griffin supported sufficient due diligence and was concerned about the impacts of recent housing bills on cities.

Mayor Paul closed the public comment period.

City Clerk Kirsten Squarcia read the title of Ordinance No. 21-2230: "An Ordinance of the City Council of the City Cupertino amending Cupertino Municipal Code sections

19.56.030A (table 19.56.030), 19.56.030F, table 19.56.040A and adding section 19.56.080 (Density Bonus Ordinance) to allow density bonuses and other incentives as provided by state law."

Chao moved and Willey seconded to read Ordinance No. 21-2230 by title only, and that the City Clerk's reading constitutes the second reading thereof; and to enact Ordinance No. 21-2230. Ayes: Moore, Wei, Willey, Chao, and Paul. Noes: None. Abstain: None. Absent: None.

16. Subject: Consider the second reading of Ordinance No. 21-2231: "An Ordinance of the City Council of the City of Cupertino Amending City Code to Repeal Section 6.24.037, Adopt a New Section 6.24.037, Adopt a New Section 6.24.038, and Amend Sections 6.24.010, 6.24.020, 6.24.060, 6.24.240, and 9.16.030, to Mandate Organic Waste Disposal Reduction."

Recommended Action: Conduct Second Reading and Enact Ordinance No. 21-2231: "An Ordinance of the City Council of the City of Cupertino Amending City Code to Repeal Section 6.24.037, Adopt a New Section 6.24.037, Adopt a New Section 6.24.038, and Amend Sections 6.24.010, 6.24.020, 6.24.060, 6.24.240, and 9.16.030, to Mandate Organic Waste Disposal Reduction," (Attachment A).

City Clerk Kirsten Squarcia read the title of Ordinance No. 21-2231: "An Ordinance of the City Council of the City of Cupertino Amending City Code to Repeal Section 6.24.037, Adopt a New Section 6.24.037, Adopt a New Section 6.24.038, and Amend Sections 6.24.010, 6.24.020, 6.24.060, 6.24.240, and 9.16.030, to Mandate Organic Waste Disposal Reduction."

Chao moved and Willey seconded to read Ordinance No. 21-2231 by title only, and that the City Clerk's reading constitutes the second reading thereof; and to enact Ordinance No. 21-2230. Ayes: Moore, Wei, Willey, Chao, and Paul. Noes: None. Abstain: None. Absent: None.

Council recessed from 7:59 p.m. to 8:05 p.m.

PUBLIC HEARINGS

17. Subject: Consider adopting amendments to the Cupertino General Plan to add clarity to existing language in Chapter 3 (Land Use) in Figure LU-2, Policy LU-1.1 and Goal LU-13, and to add emphasis to existing language in Chapter 6 (Environmental Resources and Sustainability) (Strategy ES-6.1.1), and Cupertino Municipal Code Title 17, Environmental Regulations, to add a new Chapter, Chapter 17.04, to adopt standard environmental protection requirements for construction, development and other similar or related activities. (Application No(s): GPA-2021-001, MCA-2021-004; Applicant(s):

City of Cupertino; Location: citywide)

Recommended Action: That the City Council adopt the:

1. Resolution No. 21-097 (Attachment A) adopting the Addendum (Addendum No. 5 to the 2014 General Plan EIR) addressing the environmental effects of the proposed changes and the proposed amendments to the Cupertino General Plan (Attachment 2); and
2. Introduce and conduct the first reading of Ordinance No. 21-2232 (Attachment B), "An Ordinance of the City Council of the City of Cupertino adding Chapter 17.04 (Standard Environmental Protection Requirements) to the Cupertino Municipal Code."

Written Communications for this item included a staff presentation.

Community Development Director Ben Fu introduced the item.

Planning Manager Piu Ghosh gave a presentation.

Terri McCracken, Associate Principal at PlaceWorks, answered questions.

Councilmembers asked questions and made comments.

Mayor Paul opened the public hearing and the following people spoke.

Lisa Warren supported language allowing for future changes if necessary, amending privacy screening and balcony definitions, and conducting a community workshop.

Jennifer Griffin supported the proposed amendments, incorporating a mechanism to rewrite based on future housing bills, and concerns about architectural features.

Peggy Griffin supported modifications to the proposed amendments, including a map of cultural areas, and enforcement of the use of architectural features.

Mayor Paul closed the public hearing.

City Clerk Kirsten Squarcia read the title of Ordinance No. 21-2232, "An Ordinance of the City Council of the City of Cupertino adding Chapter 17.04 (Standard Environmental Protection Requirements) to the Cupertino Municipal Code."

Chao moved and Moore seconded the staff recommendation to:

1. Adopt Resolution No. 21-097 with amendments adopting the Addendum (Addendum No. 5 to the 2014 General Plan EIR) addressing the environmental effects of the proposed changes and the proposed amendments to the Cupertino General Plan.

Chao's amendment's to Proposed GPA - Footnotes, Chapter 3 Figure LU-2:

Building Planes:

- Bullets 1 and 5 (both locations): ~~Architectural features that do not include usable area may encroach into the slope line.~~
 - Where slope lines or other applicable height and setback limits for projects adjacent to residential areas ~~is~~**are** not established in a specific plan, conceptual zoning plan or land use plan and in any adopted design guidelines, ~~this will be established during project review~~ **project review shall be required.**
2. Read Ordinance No. 21-2232 by title only, and that the City Clerk's reading constitutes the first reading thereof.

The motion carried unanimously. Ayes: Moore, Wei, Willey, Chao, and Paul. Noes: None. Abstain: None. Absent: None.

ORDINANCES AND ACTION ITEMS – None

ORAL COMMUNICATIONS - CONTINUED (As necessary) – None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Directed staff to look into the following potential agenda items:

- amending definitions for privacy screening and architectural enhancement in the Municipal Code (Willey/Chao)
- clarifying standards regarding neighborhood buffers for mixed-use urban village developments and setback and slope requirements along neighborhood streets in the General Plan (Willey/Chao)
- study feasibility of a school boundary change to bring the Apple Park parcel into the Cupertino Union School District (CUSD) (Chao/Willey/Moore)

ADJOURNMENT

At 10:27 p.m., Mayor Paul adjourned the Regular City Council Meeting.

Kirsten Squarcia, City Clerk



CITY OF CUPERTINO

Agenda Item

21-10049

Agenda Date: 11/2/2021
Agenda #: 8.

Subject: Approve the October 24 City Council minutes

Approve the October 24 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Sunday, October 24, 2021

SPECIAL MEETING

At 12:00 p.m., Mayor Darcy Paul called the Special City Council Meeting to order in Community Hall Council Chamber, 10350 Torre Avenue.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None.

CLOSED SESSION

In open session before Council convened in closed session, the Mayor called for any members of the public who were present to provide comment regarding any item on the agenda. There were no members of the public present.

1. Subject: Public Employee Employment (Gov't Code 54957(b)(1); Title: City Manager Recruitment

Council conducted Public Employee Employment (Gov't Code 54957(b)(1); Title: City Manager Recruitment.

In open session, Mayor Paul reported that no reportable action was taken.

OPEN SESSION

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None.

REPORT REGARDING CLOSED SESSION

Mayor Paul conducted the open session report regarding the closed session.

ADJOURNMENT

At 5:44 p.m., Mayor Paul adjourned the Special City Council Meeting.

Kirsten Squarcia, City Clerk



CITY OF CUPERTINO

Agenda Item

21-10054

Agenda Date: 11/2/2021
Agenda #: 9.

Subject: Approve the October 26 City Council minutes

Approve the October 26 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, October 26, 2021

SPECIAL MEETING

At 4:30 p.m., Mayor Darcy Paul called the Special City Council Meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None. All Councilmembers attended the meeting via teleconference.

CLOSED SESSION

1. Subject: Public Employee Performance Evaluation (Government Code § 54957(b)(1));
Title: Interim City Manager

Council conducted Public Employee Performance Evaluation (Government Code § 54957(b)(1)); Title: Interim City Manager

In open session, Mayor Paul reported that no reportable action was taken.

2. Subject: Public Employee Appointment/Public Employment (Government Code § 54957(b)(1)); Title: City Manager

Council conducted Public Employee Appointment/Public Employment (Government Code § 54957(b)(1)); Title: City Manager

In open session, Mayor Paul reported that no reportable action was taken.

3. Subject: Conference with Legal Counsel - Existing Litigation (Government Code § 54956.9(c)); City of Cupertino v. Jennifer Chang, Santa Clara County Superior Court Case No. 21CV380291

Council conducted Conference with Legal Counsel - Existing Litigation (Government Code § 54956.9(c)); City of Cupertino v. Jennifer Chang, Santa Clara County Superior Court Case No. 21CV380291

In open session, Mayor Paul reported that no reportable action was taken.

OPEN SESSION

REPORT REGARDING CLOSED SESSION

Mayor Paul conducted the open session report regarding the closed session.

ADJOURNMENT

At 5:58 p.m., Mayor Paul adjourned the Special City Council Meeting.

Kirsten Squarcia, City Clerk



CITY OF CUPERTINO

Agenda Item

21-9941

Agenda Date: 11/2/2021
Agenda #: 10.

Subject: Consider adopting a resolution authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period November 2, 2021 through December 2, 2021 pursuant to the Brown Act, as amended by AB 361

Adopt Resolution No. 21-098 authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period November 2, 2021 through December 2, 2021 pursuant to the Brown Act, as amended by AB 361



CITY MANAGER'S OFFICE

CITY HALL
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CITY COUNCIL STAFF REPORT

Meeting: November 2, 2021

Subject

Consider adopting a resolution authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period November 2, 2021 through December 2, 2021 pursuant to the Brown Act, as amended by AB 361

Recommended Action

Adopt Resolution No. 21-___ authorizing continued remote teleconference meetings of the legislative bodies of the City of Cupertino for the period November 2, 2021 through December 2, 2021 pursuant to the Brown Act, as amended by AB 361

Background

On March 2, 2020, Governor Newsom declared a state of emergency due to the public health threat posed by COVID-19. On March 4, 2020, Governor Newsom issued Executive Order No-29-20, which suspended certain elements of the Brown Act and specifically allowed legislative bodies to hold meetings entirely electronically with no physical meeting. In accordance with the Executive Order, the City held its first teleconference meeting on March 24, 2020, to help stop the spread of COVID-19. On June 11, 2021, Governor Newsom issued Executive Order No-08-21, which stated that the provisions in Executive Order No-29-20, suspending certain elements of the Brown Act, would continue to apply through September 30, 2021.

On September 15, 2021, Governor Newsom signed AB 361 into law, which allows state and local agencies to continue using teleconferencing during certain state-declared emergencies under modified Brown Act requirements. AB 361 became effective immediately after signing due to its emergency clause and is set to sunset on January 1, 2024. Under AB 361, teleconference meetings may be held during a state of emergency if (1) state or local officials have imposed or recommended measures to promote social distancing, or (2) a legislative body determines by a majority vote that meeting in person would present imminent risks to the health or safety of attendees. (Gov. Code, § 54953(e)(1).)

To continue teleconference meetings beyond a 30-day period, AB 361 requires the Council to make a determination that either (i) "[t]he state of emergency continues to directly impact the ability of the members to meet safely in person, or (ii) "State or local officials continue to impose or recommend measures to promote social distancing." (Gov. Code, § 54953(e)(3)(B).) That determination must be reviewed each 30 days thereafter to continue teleconference meetings. (*Ibid.*)

Discussion

AB 361 allows the City Council and other City legislative bodies to continue meeting exclusively via teleconference so long as a state emergency declaration remains in place and the statute's conditions for permitting remote meetings are met. To continue meeting remotely, the City Council must find that state or local officials have imposed or recommend measures to support social distancing, or that the state of emergency continues to directly impact the ability of the members to meet safely in person.

On October 5, 2021, Council adopted Resolution No. 21-090 affirming findings related to AB 361 and authorizing the City Manager and legislative bodies of the City of Cupertino to meet exclusively by teleconference in accordance with Government Code section 54953(e)(3) and other applicable provisions of the Brown Act through November 4, 2021 (Attachment B). Council may make either or both of the permitted findings to extend the time to allow teleconference meetings to continue. The Santa Clara County Health Officer continues to recommend that governmental entities limit indoor activities to protect participants who are not fully vaccinated. ([Health Officer Order, June 21, 2021](#).) In addition, state Department of Industrial Relations [Emergency Temporary Standards](#) continue to require or recommend social distancing in certain circumstances. These measures are required or recommended based on evidence that indoor activities continue to present imminent health and safety risks, particularly for unvaccinated individuals. It is therefore recommended that Council adopt the Draft Resolution authorizing continued teleconference meetings for the City of Cupertino's legislative bodies in order to protect the health and safety of all attendees and participants, particularly those who are unvaccinated (Attachment A).

Sustainability Impact

Conducting meetings remotely has reduced paper consumption.

Fiscal Impact

No fiscal impact.

Prepared by: Kirsten Squarcia, City Clerk

Approved for Submission by: Greg Larson, Interim City Manager

Attachments:

A – Draft Resolution

B – Adopted Resolution No. 21-090

RESOLUTION NO. 21-__

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
AUTHORIZING CONTINUED REMOTE TELECONFERENCE MEETINGS
OF THE LEGISLATIVE BODIES OF THE CITY OF CUPERTINO FOR THE
PERIOD NOVEMBER 2, 2021 THROUGH DECEMBER 2, 2021 PURSUANT
TO BROWN ACT PROVISIONS**

WHEREAS, the City of Cupertino is committed to preserving and nurturing public access and participation in meetings of the City Council, commissions, and committees; and

WHEREAS, all meetings of the City of Cupertino's legislative bodies are open and public, as required by the Ralph M. Brown Act (Government Code sections 54950–54963), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition for holding meetings exclusively by teleconference is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, Government Code section 54953(e) further requires that in order to authorize meetings exclusively by teleconference, a legislative body must determine that state or local officials have imposed or recommended measures to promote social distancing, or that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, on October 5, 2021, the Cupertino City Council made the findings required under Government Code section 54953(e) and resolved that the legislative bodies of the City of Cupertino shall conduct their meetings without compliance with Government Code section 54953 (b)(3), as authorized by Government Code section 54953(e), and that such legislative bodies should comply with the requirements to provide the public with access to the meetings as prescribed in section 54953(e)(2); and

WHEREAS, Government Code section 54593(e)(3) provides that to continue to holding meetings of legislative bodies exclusively by teleconference, the legislative body must reconsidered the circumstances of the state of emergency every 30 days, and find that either (i) the state of emergency continues to directly impact the ability of the members to meet safely in person, or (ii) State or local officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, the City Council has reconsidered the circumstances of the state of emergency that now exists, specifically defined in the County of Santa Clara proclamation of a local emergency beginning February 3, 2020, the City of Cupertino proclamation of a local emergency on March 11, 2020, the Governor of the State of California proclamation of a state of emergency beginning on March 4, 2020, and the national emergency declaration in Proclamation 9994 of March 13, 2020, beginning March 1, 2020, concerning the COVID-19 pandemic; and

WHEREAS, the County of Santa Clara Health Officer order dated June 21, 2021 and the California Department of Industrial Relations Revised Emergency Temporary Standards, effective June 17, 2021, continue to require or recommend social distancing in the workplace in certain circumstances; and

WHEREAS, the Health Officer Order, the Revised Emergency Temporary Standards, and evidence documenting the transmission of COVID-19 in indoor spaces establishes that the state of emergency continues to directly impact the ability of the members to meet safely in person; and

WHEREAS, based on the above findings, the Cupertino City Council hereby determines that the legislative bodies of the City of Cupertino shall continue to conduct their meetings without compliance with Government Code section 54953 (b)(3), as authorized by Government Code section 54953(e), and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in section 54953(e)(2); and WHEREAS, the City has and will continue to provide access for the public to legislative meetings and procedures through video teleconference technologies; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cupertino does hereby:

Section 1. Remote Teleconference Meetings. The City Manager and legislative bodies of the City of Cupertino are hereby authorized and directed to meet exclusively by teleconference and to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 2. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective through December 2, 2021, or such time as the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the City Council of the City of Cupertino may continue to teleconference without compliance with Government Code section 54953(b)(3).

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 2nd day of November 2021, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

Resolution No. 21-____
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<p>SIGNED:</p> <p>_____</p> <p>Darcy Paul, Mayor City of Cupertino</p>	<p>_____</p> <p>Date</p>
<p>ATTEST:</p> <p>_____</p> <p>Kirsten Squarcia, City Clerk</p>	<p>_____</p> <p>Date</p>

RESOLUTION NO. 21-090

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE
LEGISLATIVE BODIES OF THE CITY OF CUPERTINO FOR THE PERIOD
OCTOBER 5, 2021 THROUGH NOVEMBER 4, 2021 PURSUANT TO BROWN
ACT PROVISIONS**

WHEREAS, the City of Cupertino is committed to preserving and nurturing public access and participation in meetings of the City Council, commissions, and committees; and

WHEREAS, all meetings of the City of Cupertino's legislative bodies are open and public, as required by the Ralph M. Brown Act (Government Code sections 54950–54963), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition for holding meetings exclusively by teleconference is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, Government Code section 54953(e) further requires a legislative body to determine that state or local officials have imposed or recommended measures to promote social distancing, or that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in the City, specifically defined in the County of Santa Clara proclamation of a local emergency beginning February 3, 2020, the City of Cupertino proclamation of a local emergency on March 11, 2020, the Governor of the State of California proclamation of a state of emergency beginning on March 4, 2020, and the national emergency declaration in Proclamation 9994 of March 13, 2020, beginning March 1, 2020, concerning the COVID-19 pandemic; and

Resolution No. 21-090
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WHEREAS, the County of Santa Clara Health Officer issued an updated order dated June 21, 2021 recommending that government entities limit indoor activities to protect participants, particularly those who are not fully vaccinated; and

WHEREAS, the California Department of Industrial Relations has issued Revised Emergency Temporary Standards, effective June 17, 2021, that require or recommend social distancing in the workplace in certain circumstances; and

WHEREAS, the Health Officer Order, the Revised Emergency Temporary Standards, and evidence documenting the transmission of COVID-19 in indoor spaces establishes that indoor meetings of the City's legislative bodies would present an imminent health and safety risk to attendees, particularly those who are not vaccinated against the SARS-CoV-2 virus; and

WHEREAS, based on the above findings, the Cupertino City Council hereby determines that the legislative bodies of the City of Cupertino shall conduct their meetings without compliance with Government Code section 54953 (b)(3), as authorized by Government Code section 54953(e), and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in section 54953(e)(2); and

WHEREAS, the City has and will continue to provide access for the public to legislative meetings and procedures through video teleconference technologies; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cupertino does hereby:

Section 1. Remote Teleconference Meetings. The City Manager and legislative bodies of the City of Cupertino are hereby authorized and directed meet exclusively by teleconference and to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Resolution No. 21-090

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Section 2. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective through November 4, 2021, or such time as the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the City Council of the City of Cupertino may continue to teleconference without compliance with Government Code section 54953(b)(3).

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 5th day of October 2021, by the following vote:



Vote Members of the City Council

AYES: Paul, Chao, Moore, Wei, Willey

NOES: None

ABSENT: None

ABSTAIN: None

<p>SIGNED:</p>  <p>Darcy Paul, Mayor City of Cupertino</p>	<p><u>10/13/2021</u></p> <p>Date</p>
<p>ATTEST:</p>  <p>Kirsten Squarcia, City Clerk</p>	<p><u>10/13/21</u></p> <p>Date</p>



CITY OF CUPERTINO

Agenda Item

21-9646

Agenda Date: 11/2/2021
Agenda #: 11.

Subject: Consider the second reading of Ordinance No. 21-2232 adopting amendments to the Cupertino Municipal Code Title 17, Environmental Regulations, to add a new Chapter, Chapter 17.04, to adopt standard environmental protection requirements for construction, development and other similar or related activities. (Application No(s): MCA-2021-004; Applicant(s): City of Cupertino; Location: citywide)

That the City Council conduct the second reading and enact Ordinance No. 21-2232: "An Ordinance of the City Council of the City of Cupertino adding Chapter 17.04 (Standard Environmental Protection Requirements) to the Cupertino Municipal Code."

ORDINANCE NO. 21-2232

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
ADDING CHAPTER 17.04 (STANDARD ENVIRONMENTAL PROTECTION
REQUIREMENTS) TO THE CUPERTINO MUNICIPAL CODE**

The City Council of the City of Cupertino finds that:

1. WHEREAS, requiring all projects involving construction, grading, excavation, or tree removal activity that require a permit or approval by the City to comply with applicable standard environmental protection requirements, based on objective standards, will reduce the environmental consequences of projects that are not subject to review under the California Environmental Quality Act; and
2. WHEREAS, amending the Cupertino Municipal Code to specify the standard environmental protection requirements that apply to projects for which City permits for or approval of construction, grading, excavation, or tree removal activity is required will provide certainty to project applicants; and
3. WHEREAS, the City Council desires to have objective standards applicable to projects that are clear and understandable to ensure there are no unacceptable risks to human health or safety or the environment; and
4. WHEREAS, the Planning Commission held a duly noticed public hearing on September 28, 2021 regarding the proposed ordinance; and
5. WHEREAS, the Planning Commission reviewed the proposed ordinance and adopted Resolution No. 6930 on a 3-2 vote (No: Madhhipatla and Wang) recommending that the City Council adopt the proposed ordinance; and
6. WHEREAS, the City of Cupertino wishes to adopt the standard environmental protection requirements.

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

SECTION 1. Adoption.

The City of Cupertino hereby adopts Standard Environmental Protection Requirements and amends the Cupertino Municipal Code 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, Public Resources Code Section 21000 et. seq., and, together with related State CEQA Guidelines, California Code of Regulations Section 15000 et. seq., (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) (General Rule) 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, adoption of new standard environmental protection requirements, would have no or only a de minimis effect on the environment because it does not commit the City to any particular project. In addition, the new standard environmental protection requirements consist of previously adopted mitigation measures, City conditions of approval, existing regulatory requirements, and other best practices and are adopted for the purpose of reducing the effects of land use development and infrastructure projects on the environment. The foregoing determination is made by the City Council in its independent judgment.

Ordinance No. _____

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SECTION 4: Effective Date.

This Ordinance shall take effect thirty (30) 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 October 19, 2021, and **ENACTED** at a regular meeting of the Cupertino City Council on November 2, 2021, by the following vote:

Members of the City Council

AYES: Paul, Chao, Moore, Willey, Wei

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Darcy Paul, Mayor City of Cupertino	 _____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	 _____ Date
APPROVED AS TO FORM: _____ Chris Jensen, City Attorney	 _____ Date

Attachment A – Adding Chapter 17.04 (Standard Environmental Protection Requirements)

The sections of the Cupertino Municipal Code set forth below are adopted as follows:

Add new Chapter 17.04 (Standard Environmental Protection Requirements) to Title 17

CHAPTER 17.04 Standard Environmental Protection Requirements

Section

17.04.010 Purpose

17.04.020 Definitions

17.04.030 Applicability

17.04.040 Standard Environmental Protection Technical Report Submittal Requirements

17.04.050 Standard Environmental Protection Permit Submittal Requirements

17.04.060 Violations

17.04.010 Purpose.

The purpose of this chapter is to identify standard environmental protection requirements that all construction projects must meet, including but not limited to environmental mitigation measures identified in any environmental documents required as part of a General Plan update.

17.04.020 Definitions.

The following words and phrases when used in this chapter shall have the following meanings set forth in this section:

- A. “Applicable Construction Document” means a construction management plan or a permit plan, which are the project plans associated with permit applications.
- B. “Approval” means issuance of permits under Title 18 or Title 19, and when permits pursuant to Title 18 or Title 19 are not required issuance of other required City permits by the City of Cupertino.
- C. “Construction Management Plan” means a document that includes the details the construction manager is required to enforce to minimize potential construction impacts related to construction crew parking, equipment staging, off-site circulation, noise, and air quality on residents and commercial operations during the construction phase.

- D. "Construction" or "Ground-disturbing activities" include any paving, excavation, soil removal, grading, utility trenching, removal of foundations and structures, regardless of whether the soils have been previously disturbed or not.
- E. "Permit" means any discretionary or ministerial permit or approval that is required pursuant to Title 14, Title 16, Title 18, or Title 19 of the Cupertino Municipal Code to allow a project.
- F. "Permit Plan" means any project plan(s) that are required for permit approval pursuant to Title 14, Title 16, Title 18, or Title 19 of the Cupertino Municipal Code to allow a project.
- G. "Project" means any construction, ground-disturbing activity, subdivision, or tree removal activity.
- H. "Project Applicant" means the project proponent or property owner.
- I. "Regulated Projects" means any development that is subject to oversight by an environmental regulatory agency, including but not limited to oversight by the State Water Resources Control Board and other similar agencies.
- J. "Sensitive Receptor" means the types of land uses, populations, and buildings or structures that are considered sensitive to air pollution, noise, and vibration.
 - 1. Air quality-sensitive population groups include children, the elderly, the acutely ill, and the chronically ill, especially those with cardiorespiratory diseases. Disadvantaged communities identified in CalEnviroScreen 3.0 (i.e., environmental justice communities), as subsequently revised, supplemented, or replaced, may be disproportionately affected by and vulnerable to poor air quality.
 - 2. Noise-sensitive receptors include land uses where quiet environments are necessary for enjoyment and public health and safety. Residences, schools, hotels, libraries, religious institutions, hospitals, and nursing homes are examples.
 - 3. Vibration-sensitive receptors include land uses residences and buildings where people normally sleep (e.g., residences and hotels, and buildings or structures that are susceptible to architectural damage (e.g., non-engineered timber and masonry buildings and historic buildings).
- K. "Tenant Improvement" means any construction activity that modifies interior space in non-residential space.
- L. "Tree" means Protected Trees and Public Trees under the Cupertino Municipal Code, unprotected trees, or any other vegetation suitable for nesting birds.

17.04.030 Applicability and Demonstration of Compliance.

- A. Every project within the City of Cupertino shall comply with all applicable standard environmental protection requirements identified in Section 17.04.040 and Section 17.04.050.
- B. Compliance with the requirements shall be demonstrated as follows:
1. For all non-residential projects, residential projects involving the development of four or more residential units, and mixed-use projects, compliance shall be demonstrated through submittal and implementation of a construction management plan and/or permit plans, as applicable, prior to issuance of an approval to the satisfaction of the City.
 2. For residential projects with three or fewer units, for residential additions/remodels and Tenant Improvements, compliance shall be demonstrated on permit plans to the satisfaction of the City.
 3. For projects that do not require the issuance of a permit and for tree removal projects, the property owner must demonstrate compliance by ensuring that all applicable standard environmental protection requirements are implemented.

17.04.040 Standard Environmental Protection Technical Report Submittal Requirements.

Every project shall implement the following standard environmental protection technical report submittal requirements, which reports are subject to third-party peer review under the direction of the City at the applicant's cost, prior to the approval of the project unless they are not applicable to the project as demonstrated by a written explanation of why any standard environmental protection technical report submittal requirement is not applicable to the project, subject to the review and approval of the Director of Community Development and/or the City Engineer, or his or her designee, as appropriate:

A. Air Quality Technical Requirements

1. **Control Diesel Particulate Matter from Non-Residential Projects During Operation.** Applicants for new non-residential land uses within the city that either have the potential to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered Transport Refrigeration Units (TRUs), or are within 1,000 feet of a sensitive land use (e.g., residential, schools, hospitals, nursing homes), as measured from the property line of the project to the property line of the nearest sensitive use, shall:
 - a. Prepare and submit an operational Health Risk Assessment (HRA) for approval by the City prior to approval of the project.

- b. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment (OEHHA) and the Bay Area Air Quality Management District (BAAQMD).
- c. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM_{2.5} concentrations exceed 0.3 micrograms per cubic meter (µg/m³), or the appropriate noncancer hazard index exceeds 1.0, the project applicant shall be required to identify and demonstrate that Best Available Control Technologies for Toxics (T-BACTs) are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms.
- d. T-BACTs identified in the HRA shall be indicated in the appropriate applicable construction document prior to approval of the project. T-BACTs may include the following measures from BAAQMD's *Planning Healthy Places Guidebook* but are not limited to:
 - i. Restricting nonessential idling on-site to no more than two minutes.
 - ii. Providing electric charging capable truck trailer spaces to accommodate Zero Emissions (ZE) Trucks.
 - iii. Providing electric charging capable warehousing docks to accommodate ZE Transport Refrigeration Units (TRUs).
 - iv. Requiring use of Near Zero Emissions (NZE) or ZE equipment (e.g., yard trucks and forklifts) and/or vehicles.
 - v. Restricting offsite truck travel through the creation of truck routes.

2. Manage Indoor Air Pollution.

- a. Applicants for residential and other sensitive land use projects (e.g., hospitals, nursing homes, day care centers) in areas identified on the Bay Area Air Quality Management District's (BAAQMD) "Conduct Further Study" on the Planning Healthy Places Map shall:
 - i. Prepare and submit an operational Health Risk Assessment (HRA) to the City prior to approval of the project.
 - ii. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment (OEHHA) and BAAQMD. The latest OEHHA guidelines shall be used for the analysis, including age sensitivity factors, breathing rates, and body weights appropriate for children ages 0 to 16 years.

- iii. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM_{2.5} concentrations exceed 0.3 micrograms per cubic meter (µg/m³), or the appropriate noncancer hazard index exceeds 1.0, the project applicant shall identify and demonstrate measures that are capable of reducing potential cancer and non-cancer risks to an acceptable level (i.e., below ten in one million or a hazard index of 1.0), including appropriate enforcement mechanisms.
- iv. Measures to reduce risk may include, but are not limited to:
 - 1. Air intakes located away from high volume roadways and/or truck loading zones.
 - 2. Heating, ventilation, and air conditioning systems of the buildings provided with appropriately sized Minimum Efficiency Reporting Value (MERV) filters.
- b. Applicants for residential and/or other sensitive land use projects (e.g., hospitals, nursing homes, day care centers) must state in the applicable construction document where the site is located on the Bay Area Air Quality Management District (BAAQMD) Planning Healthy Places Map, as subsequently revised, supplemented, or replaced. If the site is located in an area identified as "Implement Best Practices," the project applicant shall implement, and include in applicable construction documents, the following best practices identified in the BAAQMD *Planning Healthy Places Guidebook*:
 - i. Install air filters rated at a MERV 13 or higher.
 - ii. Locate operable windows, balconies, and building air intakes as far away from any emission source as is feasible.
 - iii. Incorporate solid barriers or dense rows of trees in a minimum planter width of 5 feet per row of trees between the residential and/or sensitive land use, and the emissions source into site design.
 - iv. Do not locate residential and/or sensitive land use on the ground floor units of buildings near non-elevated sources (e.g., ground level heavily traveled roadways and freeways).
- c. The project applicant shall include the applicable measures identified in subsections (a) and (b) above in the applicable construction documents prior to approval of the project. Specifically, the air intake design and MERV filter requirements shall be included on all applicable construction documents submitted to the City and verified by the City's Planning Division.

B. Hazardous Materials

Manage Soil and/or Groundwater Contamination. Projects that involve tree removal only are not subject to this Section B. For projects that involve a change of land use (e.g., commercial to residential), development of uses that will be occupied or used by sensitive receptors, development of a net new residential unit (not including a Junior Accessory Dwelling unit or Accessory Dwelling unit), new construction of non-residential and/or mixed-use development, or subdivisions, except as provided for in Section B.3, the project applicant shall complete Section B.1 and B.2, as required, prior to approval of the project.

1. **Phase I ESA.** Retain the services of a qualified environmental consultant with experience preparing Phase I Environmental Site Assessments (ESAs) to prepare a Phase I ESA in accordance with the American Society for Testing and Materials (ASTM) Standards on Environmental Site Assessments, ASTM E 1527-13 (ASTM 1527-13) and in accordance with the U.S. Environmental Protection Agency's (EPA's) Standards and Practices for All Appropriate Inquiries (40 Code of Federal Regulations 312), published November 2005, as subsequently revised, supplemented, or replaced. The goal of an ASTM Phase I ESA is to evaluate site history, existing observable conditions, current site use, and current and former uses of surrounding properties to identify the potential presence of Recognized Environmental Conditions (RECs) as defined in ASTM E 1527-13, associated with the site. If the Phase I ESA does not identify any RECs, then no further action is needed. If the Phase I ESA identifies RECs, then a Phase II ESA shall be prepared as described in Section B.2.
2. **Phase II ESA.** A Phase II ESA shall be prepared by a qualified environmental consultant and signed and stamped by a Professional Geologist or Professional Engineer hired by the project applicant. The Phase II ESA shall include the collection and analysis of samples designed to evaluate RECs identified in the Phase I ESA, in compliance with ASTM standards, and a health risk assessment to evaluate whether the RECs pose an unacceptable or potentially unacceptable health risk to future users of the site. Depending on the health risks identified in the Phase II ESA, the project applicant shall proceed as follows:
 - a. If the Phase II ESA identifies no unacceptable or potentially unacceptable health risk associated with the RECs, then no further action is needed.
 - b. If the Phase II ESA identifies an unacceptable or a potentially unacceptable health risk, the requirements related to soil remediation in Section 17.04.050B shall apply.

- 3. Focused Phase I and II ESAs.** Projects that are on sites which are known to have current or former orchards or other irrigated agricultural activities that were active in 1950 or later are assumed to contain RECs associated with organic pesticides and are required to prepare a Focused Phase I ESA that addresses only RECs other than those associated with organic pesticides. Depending on the contaminants found in the Focused Phase I ESA, the project applicant shall proceed as follows:
- If the Focused Phase I ESA identifies no other unacceptable or potentially unacceptable health risks, then the project applicant shall prepare a Focused Phase II ESA that addresses only the potential hazards associated with organic pesticides.
 - If the Focused Phase I ESA identifies RECs other than organic pesticides, then the project applicant shall prepare the Phase II ESA as described in Section B.2 to address both the organic pesticides RECs and all other RECs.

C. Vehicle Miles Traveled Technical Report Requirements

Evaluate Vehicle Miles Traveled or VMT. Project applicants shall prepare a vehicle miles traveled (VMT) analysis, which shall include a comparison of existing VMT and project-generated VMT, for review and approval prior to project approval, indicating that the project meets the standards in Section 17.08.040 (Vehicle Miles Traveled (VMT) Standards).

D. Vibration Technical Report Requirements

- 1. Manage Vibration During Construction.** The project applicant shall provide a vibration study to determine vibration levels due to construction to the City, prior to approval of the project, when the following activities would occur within the screening distance to buildings or structures: pile driving within 100 feet, vibratory roller within 25 feet, or other heavy equipment (e.g., bulldozer) within 15 feet; and for historical structures: pile driving within 135 feet, vibratory roller within 40 feet, or other heavy equipment within 20 feet. If vibration levels due to construction activities exceeds 0.2 inches per second peak particle velocity (in/sec PPV) at nearby buildings or structures, or 0.12 in/sec PPV at historical structures, the project shall implement the following alternative methods/equipment:
 - For pile driving, one of the following options shall be used: caisson drilling (drilled piles), vibratory pile drivers, oscillating or rotating pile installation

methods, or jetting or partial jetting of piles into place using a water injection at the tip of the pile.

- b. For paving, use a static roller in lieu of a vibratory roller.
- c. For grading and earthwork activities, off-road equipment that shall be limited to 100 horsepower or less.

Section 17.04.050 Standard Environmental Protection Permit Submittal Requirements

Every project shall implement the following standard environmental protection permit submittal requirements prior to the issuance of permits by the City unless they are not applicable to the project as demonstrated by a written explanation of why any standard environmental protection permit submittal requirement is not applicable to the project, subject to the review and approval of the Director of Community Development and/or the City Engineer, or his or her designee, as appropriate:

A. Air Quality Permit Requirements

- 1. Control Fugitive Dust During Construction.** Projects shall implement the Bay Area Air Quality Management District Basic Control Measures included in the latest version of BAAQMD's CEQA Air Quality Guidelines, as subsequently revised, supplemented, or replaced, to control fugitive dust (i.e., particulate matter PM_{2.5} and PM₁₀) during demolition, ground disturbing activities and/or construction. The project applicant shall include these measures in the applicable construction documents, prior to issuance of the first permit.
- 2. Control Construction Exhaust.** Projects that disturb more than one-acre and are more than two months in duration, shall implement the following measures and the project applicant shall include them in the applicable construction document, prior to issuance of the first permit:
 - a. Utilize off-road diesel-powered construction equipment that is rated by the U.S. Environmental Protection Agency (EPA) as Tier 4 or higher for equipment more than 25 horsepower. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Tier 4 interim emissions standard for a similarly sized engine, as defined by the California Air Resources Board's (CARB) regulations. Applicable construction documents shall clearly show the selected emission reduction strategy for construction equipment over 25 horsepower.
 - b. Ensure that the construction contractor shall maintain a list of all operating equipment in use on the project site for verification by the City. The

- construction equipment list shall state the makes, models, and number of construction equipment on-site.
- c. Ensure that all equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations.
- 3. Control Volatile Organic Compound Emissions from Paint.** Projects shall use low-VOC paint (i.e., 50 grams per liter [g/L] or less) for interior and exterior wall architectural coatings. The project applicant shall include the use of low-VOC paint in the applicable construction documents prior to issuance of the first permit.

B. Hazardous Materials Permit Requirements

Soil Remediation Required. If a Focused or other Phase II ESA, as required pursuant to Section 17.04.040(B)(1), identifies an unacceptable or a potentially unacceptable health risk, the project applicant shall, depending on the contaminant, contact either the Environmental Protection Agency (EPA), Department of Toxic Substances Control (DTSC), Regional Water Quality Control Board (RWQCB) or local Certified Unified Program Agency (CUPA). The project applicant shall enter into a regulatory agency oversight program with an appropriate regulatory agency, or an established voluntary oversight program alternative with an appropriate regulatory agency, as determined by the City, and follow the regulatory agency's recommended response actions until the agency reaches a no further action determination, prior to issuance of any permit for a project that allows ground disturbing activity.

C. Greenhouse Gas Emissions and Energy Permit Requirements

Reduce Greenhouse Gas Emissions (GHG) and Energy Use. The project applicant shall complete the City of Cupertino Climate Action Plan – Development Project Consistency Checklist, for review and approval by the City Environment and Sustainability Department prior to issuance of the first permit, to demonstrate how the project is consistent with the Cupertino Climate Action Plan, as subsequently revised, supplemented, or replaced, in order to reduce greenhouse gas emissions and conserve energy.

D. Biological Resources Permit Requirements

- 1. Avoid Nesting Birds During Construction.** For all projects that involve removal of a tree (either protected or unprotected) or other vegetation suitable for nesting birds, or construction or ground-disturbing activities defined in Section 17.04.020, the project applicant shall comply with, and the construction contractor shall indicate the following on all construction plans, when required to ensure the

following measures are performed to avoid inadvertent take of bird nests protected under the federal Migratory Bird Treaty Act and California Department of Fish and Game Code when in active use:

- a. Demolition, construction, ground-disturbing, and tree removal/pruning activities shall be scheduled to avoid the nesting season to the extent feasible. If feasible, construction, ground-disturbing, or tree removal/pruning activities shall be completed before the start of the nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay area extends from February 1 through August 31. Preconstruction surveys (described below) are not required for construction, ground-disturbing, or tree removal/pruning activities outside the nesting period.
- b. If demolition, construction, ground-disturbing, or tree removal/pruning activities occur during the nesting season (February 1 and August 31), preconstruction surveys shall be conducted as follows:
 - i. No more than 7 days prior to the start of demolition, construction, ground-disturbing, or tree removal/pruning activities, in order to identify any active nests with eggs or young birds on the site and surrounding area within 100 feet of construction or tree removal activities.
 - ii. Preconstruction surveys shall be repeated at 14-day intervals until demolition, construction, ground-disturbing, or tree removal/pruning activities have been initiated in the area, after which surveys can be stopped. As part of the preconstruction survey(s), the surveyor shall inspect all trees and other possible nesting habitats in, and immediately adjacent to, the construction areas for active nests, while ensuring that they do not disturb the nests as follows:
 1. For projects that require the demolition or construction one single-family residence, ground disturbing activities affecting areas of up to 500 square feet, or the removal of up to three trees, the property owner or a tree removal contractor, if necessary, is permitted to conduct the preconstruction surveys to identify if there are any active nests. If any active nests with eggs or young birds are identified, the project applicant shall retain a qualified ornithologist or biologist to identify protective measures.
 2. For any other demolition, construction and ground disturbing activity or the removal of four or more trees, a qualified ornithologist or biologist shall be retained by the project applicant to conduct the preconstruction surveys.

- c. If the preconstruction survey does not identify any active nests with eggs or young birds that would be affected by demolition, construction, ground-disturbing or tree removal/pruning activities, no further mitigating action is required. If an active nest containing eggs or young birds is found sufficiently close to work areas to be disturbed by these activities, their locations shall be documented, and the qualified ornithologist or biologist shall identify protective measures to be implemented under their direction until the nests no longer contain eggs or young birds.
- d. Protective measures may include, but are not limited to, establishment of clearly delineated exclusion zones (i.e., demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by the qualified ornithologist or biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum of 300 feet for raptors and 75 feet for passerines and other birds. The active nest within an exclusion zone shall be monitored on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. The radius of an exclusion zone may be increased by the qualified ornithologist or biologist, if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified ornithologist or biologist only in consultation with California Department of Fish and Wildlife. The protection measures and buffers shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.
- e. A final report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and protection measures (if required), shall be prepared by the qualified ornithologist or biologist and submitted to the Director of Community Development or his or her designee, through the appropriate permit review process (e.g., demolition, construction, tree removal, etc.), and be completed to the satisfaction of the Community Development Director prior to the start of demolition, construction, ground-disturbing, or tree removal/pruning activities.

2. Avoid Special-Status Roosting Bats During Construction Permit Requirements

- a. For all projects that involve demolition, renovation, or re-tenanting of an abandoned or vacant building or structure, where the property owner cannot show evidence to the satisfaction of the City of Cupertino Building Inspector that the building or structure was appropriately sealed at the time the building or structure was vacated to prevent bats from roosting, the project applicant

- shall retain a qualified biologist to conduct preconstruction surveys of the on-site buildings or structures prior to commencing any demolition, renovation, or re-tenanting activities. A building or structure is not appropriately sealed unless seal holes that are more than 0.5 inches in diameter or cracks that are 0.25 by 1.5 inches or larger are filled or closed with suitable material such as caulking, putty, duct tape, self-expanding polyurethane foam, 0.25-inch mesh hardware cloth, 0.5-inch or smaller welded wire mesh, installing tighter-fitting screen doors, or steel wool.
- b. The project applicant shall comply with, and the construction contractor shall include in the applicable construction documents, the following to ensure appropriate preconstruction surveys are performed and adequate avoidance provided for any special-status roosting bats, if encountered on the site. Preconstruction surveys shall:
- i. Be conducted by a qualified biologist prior to tree removal or building demolition, renovation, or re-tenanting. Note that the preconstruction survey for roosting bats is required at any time of year since there is no defined bat roosting season as there is with nesting birds.
 - ii. Be conducted no more than 14 days prior to start of tree removal or demolition, renovation, or re-tenanting.
 - iii. Be repeated at 14-day intervals until construction has been initiated after which surveys can be stopped, unless construction activities are suspended for more than 7 consecutive days at which point the surveys shall be reinitiated.
 - iv. If no special-status bats are found during the survey(s), then no additional measures are warranted.
- c. Protective measures shall be included in the applicable construction documents and implemented prior to issuance of permits, if any special-status bat species are encountered or for any roosts detected within the existing structures, where individual bats could be inadvertently trapped and injured or killed during demolition unless passively evicted in advance of construction activities. Protective measures shall include:
- i. If no maternity roosts are detected, adult bats can be flushed out of the structure or tree cavity using a one-way eviction door placed over the exit location for a minimum 48-hour period prior to the time tree removal or building demolition is to commence.
 - ii. Confirmation by the qualified biologist that the one-way eviction door was effective, and that all bats have dispersed from the roost location, modifying

any exclusion efforts to ensure individual bats have been successfully evicted in advance of initiating tree removal or building demolition.

- iii. If a maternity roost is detected, and young are found roosting in a building identified for demolition, renovation, or re-tenanting, work shall be postponed until the young are flying free and are feeding on their own, as determined by the qualified biologist.
- iv. Once the qualified biologist has determined that any young bats can successfully function without the maternity roost, then the adults and young bats can be excluded from the structure to be demolished using the one-way eviction methods described above.
- v. Monitoring shall be provided by the qualified biologist as necessary to determine status of any roosting activity, success of any required bat exclusion, and status of any maternity roosting activity by bats, in the remote instance a maternity roost is encountered on the site.

E. Cultural Resources Permit Requirements

1. Protect Archaeological Resources and Tribal Cultural Resources: For all projects requiring ground-disturbing activities on land with no known archaeological or tribal cultural resources that has not been previously disturbed and/or where ground-disturbing activities would occur at a greater depth or affect a greater area than previously disturbed, the following shall be required:

a. Areas with No Known Cultural Resources. For all projects within areas where there are no known cultural resources, prior to soil disturbance, the project applicant shall provide written verification, including the materials provided to contractors and construction crews, to the City confirming that contractors and construction crews have been notified of basic archaeological site indicators, the potential for discovery of archaeological resources, laws pertaining to these resources, and procedures for protecting these resources as follows:

- i. Basic archaeological site indicators that may include, but are not limited to, darker than surrounding soils of a friable nature; evidence of fires (ash, charcoal, fire affected rock or earth); concentrations of stone, bone, or shellfish; artifacts of stone, bone, or shellfish; evidence of living surfaces (e.g., floors); and burials, either human or animal.
- ii. The potential for undiscovered archaeological resources or tribal cultural resources on site.

- iii. The laws protecting these resources and associated penalties, including, but not limited to, the Native American Graves Protection and Repatriation Act of 1990, Public Resources Code Section 5097, and California Health and Safety Code Section 7050 and Section 7052.
- iv. The protection procedures to follow should construction crews discover cultural resources during project-related earthwork, include the following:
 - 1. All soil disturbing work within 25 feet of the find shall cease.
 - 2. The project applicant shall retain a qualified archaeologist to provide and implement a plan for survey, subsurface investigation, as needed, to define the deposit, and assessment of the remainder of the site within the project area to determine whether the resource is significant and would be affected by the project.
 - 3. Any potential archaeological or tribal cultural resources found during construction activities shall be recorded on appropriate California Department of Parks and Recreation forms by a qualified archaeologist. If the resource is a tribal cultural resource, the consulting archaeologist shall consult with the appropriate tribe, as determined by the Native American Heritage Commission, to evaluate the significance of the resource and to recommend appropriate and feasible avoidance, testing, preservation or mitigation measures, in light of factors such as the significance of the find, proposed project design, costs, and other considerations. The archeologist shall perform this evaluation in consultation with the tribe.

b. Areas with Known Cultural Resources. For all projects within areas of known cultural resources as documented in the 2015 General Plan EIR Table 4.4-2, Cultural Resources in the Project Study Area and Vicinity, as subsequently revised, supplemented, or replaced by the City, and the archaeological or tribal cultural resources cannot be avoided, in addition to the requirements in Section E.1.a for all construction projects with ground-disturbing activities, the following additional actions shall be implemented prior to ground disturbance:

- i. The project applicant shall retain a qualified archaeologist to conduct a subsurface investigation of the project site, and to ascertain the extent of the deposit of any buried archaeological materials relative to the project's

area of potential effects, in consultation with a tribal representative as applicable. The archaeologist shall prepare a site record and file it with the California Historical Resource Information System and the City of Cupertino.

- ii. If the resource extends into the project's area of potential effects as determined by the archaeologist, the resource shall be evaluated by a qualified archaeologist to determine if the resource is eligible for listing on the California Register of Historical Resources. If the qualified archaeologist determines that the resource is not eligible, no further action is required unless there is a discovery of additional resources during construction (as required above for all construction projects with ground-disturbing activities). If the qualified archaeologist determines that the resource is eligible, the qualified archaeologist shall identify ways to minimize the effect which the project applicant shall implement. A written report of the results of investigations and mitigations shall be prepared by the qualified archaeologist and filed with the California Historic Resources Information System Northwest Information Center and the City of Cupertino.

2. Protect Human Remains and Native American Burials. The project applicant shall comply with California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98.

- a. In the event of discovering human remains during construction activities, there shall be no further excavation or disturbance of the site within a 100-foot radius of the remains, or any nearby area reasonably suspected to overlie adjacent remains.
- b. The Santa Clara County Coroner shall be notified immediately and shall make a determination as to whether the remains are Native American.
- c. If the Santa Clara County Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission (NAHC) within 24 hours.
- d. The NAHC shall attempt to identify descendants (Most Likely Descendant) of the deceased Native American.
- e. The Most Likely Descendant has 48 hours following access to the project site to make recommendations or preferences regarding the disposition of the remains. If the Most Likely Descendant does not make recommendations within 48 hours after being allowed access to the project site, the owner shall, with appropriate dignity, reinter the remains in an area of the property secure

from further disturbance and provide documentation about this determination and the location of the remains to the NAHC and the City of Cupertino. Alternatively, if the owner does not accept the Most Likely Descendant's recommendations, the owner or the descendent may request mediation by the NAHC. Construction shall halt until the mediation has concluded.

F. Hydrology and Water Quality Permit Requirements

Control Stormwater Runoff Contamination. The project applicant shall demonstrate compliance with Chapter 9.18 (Stormwater Pollution Prevention and Watershed Protection) of the Cupertino Municipal Code, to the satisfaction of the City of Cupertino. All identified stormwater runoff control measures shall be included in the applicable construction documents.

G. Noise and Vibration Permit Requirements

1. Notice and Signage:

- a. At least 10 days prior to the start of any demolition, ground disturbing, or construction activities, the project applicant shall send notices of the planned activity by first class mail as follows:
 - i. For projects on sites that are more than 0.5 acres or four or more residential units the notices shall be sent to off-site businesses and residents within 500 feet of the project site;
 - ii. For projects on sites between 0.25 to 0.5 acres, or two or three residential units (not including Accessory Dwelling Units) notices shall be sent to off-site businesses and residents within 250 feet of the project site; or
 - iii. For projects on sites less than 0.25 acres or one residential unit, the notices shall be sent to off-site businesses and residents within 100 feet of the project site.

The notification shall include a brief description of the project, the activities that would occur, the hours when activity would occur, and the construction period's overall duration. The notification should include the telephone numbers of the contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. The project applicant shall provide the City with evidence of mailing of the notice, upon request. If pile driving, see additional noticing requirements in subsection 3(b) below.

- b. At least 10 days prior to the start of construction activities, a sign shall be posted at the entrance(s) to the job site, clearly visible to the public, which

includes permitted construction days and hours, as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, they shall investigate, take appropriate corrective action, and report the action to the City within three business days of receiving the complaint.

2. Manage Noise During Construction. Projects shall implement the following measures to reduce noise during construction and demolition activity:

- a. The project applicant and contractors shall prepare and submit a Construction Noise Control Plan to the City's Planning Department for review and approval prior to issuance of the first permit. The Construction Noise Plan shall demonstrate compliance with daytime and nighttime decibel limits pursuant to Chapter 10.48 (Community Noise Control) of Cupertino Municipal Code. The details of the Construction Noise Control Plan shall be included in the applicable construction documents and implemented by the on-site Construction Manager. Noise reduction measures selected and implemented shall be based on the type of construction equipment used on the site, distance of construction activities from sensitive receptor(s), site terrain, and other features on and surrounding the site (e.g., trees, built environment) and may include, but not be limited to, temporary construction noise attenuation walls, high quality mufflers. During the entire active construction period, the Construction Noise Control Plan shall demonstrate that compliance with the specified noise control requirements for construction equipment and tools will reduce construction noise in compliance with the City's daytime and nighttime decibel limits.
- b. Select haul routes that avoid the greatest amount of sensitive use areas and submit to the City of Cupertino Public Works Department for approval prior to the start of the construction phase.
- c. Signs will be posted at the job site entrance(s), within the on-site construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment will be turned off if not in use for more than 5 minutes.
- d. During the entire active construction period and to the extent feasible, the use of noise producing signals, including horns, whistles, alarms, and bells will be for safety warning purposes only. The construction manager will use smart back-up alarms, which automatically adjust the alarm level based on the background noise level or switch off back-up alarms and replace with human spotters in compliance with all safety requirements and law.

- 3. Manage Vibrations During Construction:** In the event pile driving is required, the project applicant shall:
- a. Notify all vibration-sensitive receptors within 300 feet of the project site of the schedule 10 days prior to its commencement and include the contact information for the person responsible for responding to complaints on site.
 - b. The project applicant shall retain a qualified acoustical consultant or structural engineer, to prepare and implement a Construction Vibration Monitoring Plan, which is subject to third-party peer review under the direction of the City at the applicant's cost, for areas within 100 feet for pile driving, 25 feet for vibratory roller, or 15 feet for other heavy equipment (e.g., bulldozer); and for historical structures: within 135 feet for pile driving, 40 feet for vibratory roller, or 20 feet for other heavy equipment. The plan shall include surveying the condition of existing structures; and determining the number, type, and location of vibration sensors and establish a vibration velocity limit (as determined based on a detailed review of the proposed building), method (including locations and instrumentation) for monitoring vibrations during construction, location of notices displaying the contact information for on-site coordination and complaints on site, and method for alerting responsible persons who have the authority to halt construction should limits be exceeded or damaged observed.
 - c. Submit final monitoring reports to the City upon completion of vibration related construction activities.
 - d. Conduct a post-survey on any structure where either monitoring has indicated high vibration levels or complaints that damage has occurred are received.
 - e. The project applicant shall be responsible for appropriate repairs as determined by the qualified acoustical consultant or structural engineer where damage has occurred as a result of construction activities.

H. Paleontological Resources Permit Requirements

Protect Paleontological Resources During Construction. If paleontological resources are encountered during ground disturbing and/or other construction activities, all construction shall be temporarily halted or redirected to allow a qualified paleontologist, which shall be retained by the project applicant, to assess the find for significance. If paleontological resources are found to be significant, the paleontological monitor shall determine appropriate actions, in coordination

with a qualified paleontologist, City staff, and property owner. Appropriate actions may include, but are not limited to, a mitigation plan formulated pursuant to guidelines developed by the Society of Vertebrate Paleontology and implemented to appropriately protect the significance of the resource by preservation, documentation, and/or removal, prior to recommencing activities. Measures may include, but are not limited to, salvage of unearthed fossil remains and/or traces (e.g., tracks, trails, burrows); screen washing to recover small specimens; preparation of salvaged fossils to a point of being ready for curation (e.g., removal of enclosing matrix, stabilization and repair of specimens, and construction of reinforced support cradles); and identification, cataloging, curation, and provision for repository storage of prepared fossil specimens.

I. Utilities and Service Systems Permit Requirements

1. Manage Wastewater Inflow and Infiltration to Sewer System. Project applicants shall implement the following measures to reduce wastewater flow:

- a. The project applicant shall demonstrate, to the satisfaction of the City of Cupertino and Cupertino Sanitary District (CSD) that the project would not exceed the peak wet weather flow capacity of the Santa Clara sanitary sewer system by implementing one or more of the following methods:
 - i. Reduce inflow and infiltration in the CSD system to reduce peak wet weather flows, or
 - ii. Increase on-site water reuse, such as increased grey water use, or reduce water consumption of the fixtures used within the proposed project, or other methods that are measurable and reduce sewer generation rates to acceptable levels, to the satisfaction of the CSD.

The project's estimated wastewater generation shall be calculated using the current generation rates used by the CSD unless alternative (i.e., lower) generation rates achieved by the project are substantiated by the project applicant based on evidence to the satisfaction of the CSD.

- b. The project applicant shall obtain a letter of clearance from the Cupertino Sanitary District and provide a copy of the letter of clearance to the City prior to issuance of the first permit.

2. Ensure Adequate Water Supply and Infrastructure. The project applicant shall obtain written approval from the appropriate water service provider for water connections, service capability, and location and layout of water lines and backflow preventers, prior to issuance of the first permit.

17.04.050 Violations

Violation of any of the standard environmental protection requirements, except for any such standard environmental protection requirements that the Director of Community Development and/or the City Engineer, or his or her designee, has deemed inapplicable pursuant to Section 17.04.040 and Section 17.04.050, constitutes a violation of this Code.



CITY OF CUPERTINO

Agenda Item

21-9690

Agenda Date: 11/2/2021
Agenda #: 12.

Subject: For the future operations of the Municipal Water System, consideration of: 1) Key Lease Terms for a new Long-Term Lease; 2) first amendment of the Current Lease Agreement with San Jose Water Company to extend the term up to three years; and 3) request to increase Public Works Administration - Special Projects Budget Allocation.

- 1) Provide input on Key Lease Terms for a new Long-Term Lease;
- 2) Conduct a Public Hearing to consider a first amendment to extend the term of the Current Lease Agreement with San Jose Water Company for lease of the Cupertino Municipal Water System up to three years;
- 3) Adopt Resolution 21-099 (Attachment A), approving a first amendment to the Current Lease Agreement for lease of real property (water system) with San Jose Water Company; and
- 4) Approve Budget Modification #2122-170 increasing appropriations in Public Works Administration - Special Projects (100-80-800 750-071) by \$31,500 for the Municipal Water System Project.

The Staff Report for this item is forthcoming in an amended agenda.



CITY OF CUPERTINO

Agenda Item

21-9932

Agenda Date: 11/2/2021
Agenda #: 13.

Subject: FY 2021-2022 City Work Program Q1 Update

Receive FY 2021-2022 City Work Program Q1 Update



CITY MANAGER'S OFFICE

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CITY COUNCIL STAFF REPORT

Meeting: November 2, 2021

Subject

City Work Program - First Quarter Update

Recommended Action

Receive City Work Program - First Quarter Update

Background

This City Work Program update focuses on the first quarter of the FY 2021-2022 City Work Program from July through September. The City Council adopted the FY 21-22 City Work Program at the May 26, 2021 City Council meeting. As requested by the City Council, the City has been providing updates on the City Work Program on a regular basis through the City Work Program dashboard at cupertino.org/cityworkprogram. A printout of these updates can be found in Attachment A for review. In addition, the Interim City Manager has begun providing single project updates under City Manager Reports at each Council meeting.

Discussion

The following are notable highlights from the current items in the FY 21-22 City Work Program. For more details and updates on all items, see the dashboard printout in Attachment A.

Dogs Off Leash Area (DOLA): The DOLA trial has recently been concluded and is moving forward with the establishment of an ongoing DOLA program at Jollyman Park. The administrative policy was taken to the Parks and Recreation Commission for their feedback at their Thursday, October 7 meeting. The ongoing DOLA at Jollyman Park will be monitored by the administrative policy composed of the DOLA rules from the trial and the Cupertino Municipal Code. Based on discussions between the City Manager and the DOLA users' group, further expansion of the DOLA at Jollyman Park or elsewhere in Cupertino will not be continued until at least one year after the ongoing DOLA operations at Jollyman Park.

Shuttle Bus Pilot Program: The Via-Shuttle was launched in October 2019 in order to increase connectivity throughout the City. This pilot program saw tremendous popularity and ridership grew rapidly. Due to the COVID-19 pandemic, the pilot program was put on hold, but was re-authorized by the City Council in July. The pilot program was relaunched and resumed its operations on October 19, 2021.

Homeless Jobs Program: In September, the City issued a Request for Proposals (RFP) and

selected a service provider, West Valley Community Services, to administer the City's Pilot Homeless Jobs Program. The City worked with the service provider to finalize program guidelines and the pilot program was launched in October. The City will continue to monitor the pilot program and will provide assistance, as needed.

Mental Health Support: The City is continuing research on local mental health resources for the [Mental Health webpage](#)¹ published in September. The resources on the webpage are currently suicide prevention based and will be updated to include more mental health resources on an ongoing basis. On September 21, the City Council joined eight other Santa Clara County cities in adopting a Suicide Prevention Ordinance. Other mental health resources offered through Santa Clara County were presented to the Teen Commission in October, and the Bobateeno youth event returned on October 9 to connect youth and teens with local mental health resources.

Pilot – Adaptive Traffic Signaling: Intelligent traffic management devices and software modifications have been installed, configured, and tested at four intersections in Cupertino to gather data on traffic patterns in the City. The intersections are:

1. DeAnza & Mariani Ave
2. DeAnza & 280 N
3. DeAnza & 280 S
4. DeAnza & Homestead

The City is collecting this data for analysis on enhancing traffic signaling to help reduce congestion. At the first quarter budget update, there will be a request to add \$160,000 to support the completion of the traffic signal hardware updates.

Three items from the FY 20-21 City Work Program were expected to be completed in FY 20-21 but were delayed into FY 21-22. Two of those items have now been completed and one is expected to complete in December 2021. For more details on these items, see the summaries below and the dashboard printout for FY 20-21 outstanding items in Attachment B.

Establish Preapproved ADU Plans: The ADU pre-approved plan process went to the Planning Commission on August 24, 2021 as a study session item to review the final process and webpage. City Council approved the final pre-approved plan process on September 21, 2021. This item is now complete, and the process is posted on the webpage: cupertino.org/aduplans. The City is currently accepting applications for pre-approved plans from vendors.

Housing Survey: Staff finalized a consultant contract in 2020 and worked with the Housing Survey Subcommittee to develop the Housing Survey. The survey was open to residents from June 1 to July 15 and received 935 responses. Staff tabulated the data and provided the final report with survey results to the subcommittee on August 2 and to the City Council on October 5. This item is now complete.

General Plan Authorization Process: This item was expected to be completed in FY 20-21

¹ cupertino.org/mentalhealth

and has been extended in order to address comments from the City Council at the February 2, 2021 City Council meeting. A study session to discuss this project was held on July 7, 2020 and a Planning Commission hearing was held on January 12, 2021. The Planning Commission's recommendations were presented to the City Council on February 2, 2021 where the City Council provided additional direction to staff. The item was heard by the City Council on August 17, 2021 and staff was directed to look at voluntary community amenities. This item is expected to be completed in December 2021.

Second Quarter Preview of the "Top 10" Priorities in the FY 21-22 City Work Program

The following highlights are to provide a brief preview of what can be expected in the upcoming second quarter FY 21-22 City Work Program update. These items were the "Top 10" highest rated items in the FY 21-22 City Work Program.

1. Single-Use Plastics Ordinance and Mayor's Cup Challenge Event: Significant outreach, including surveys, stakeholder meetings, a dedicated [webpage](#)², tabling events such as the Day N Night Fun Fest, and presentations to the Chamber of Commerce and Teen Commission, have been completed. Engagement response will be analyzed, and findings and ordinance element suggestions will be presented to a Sustainability Commission subcommittee in November or December for a recommendation to Council in early 2022. Various planning sessions in preparation for the Mayor's Cup Challenge will continue.
2. Consider options to develop extremely low-income (ELI) and below market rate (BMR) housing units for Developmentally Disabled Individuals on City-owned property along Mary Avenue as well as the Outback Steakhouse location: The City's FY 21-22 Notice of Funding Availability for affordable housing funds will be open from November 2021 – February 2022. Non-profits, developers, and service providers will receive technical assistance on affordable housing developments during the application process and once funds have been awarded. The feasibility of an affordable housing project on City owned parcels will be determined.
3. Revisit 5G, including, but not limited to, recording, responding to complaints, transparency on existing applications: The City continues to record all inquiries, including a street image of the location, and communicates the concerns to the cell providers. To date, the City has received 179 inquiries on small cells. Of those, 162 have opposed the installation, 11 had questions or requests, and 6 supported the installation. Nearby cities are continually monitored for any updates on 5G cells in residential areas. Staff are developing revised guidelines for the placement of wireless facilities and an ordinance for consideration by Council in the first quarter of 2022.
4. Senior Strategy: Outreach has begun to the commissions to encourage participation in a survey assessing resource awareness and need among seniors. Analysis of the survey will begin once the survey is completed in December. The City will conduct workshops and invite all interested Commissions and Council to review survey results and provide input

² <https://engagecupertino.org/single-use-plastics>

and ideas on how to address senior needs.

5. Lehigh and Stevens Creek Quarry: City staff are monitoring the Stevens Creek Quarry's application to Santa Clara County's Planning Department for a use permit and reclamation plan, which County Planning staff had determined to be incomplete. The County's Board of Supervisors has a meeting scheduled for November 2021 to consider vested rights determination for Lehigh. Correspondence to and from the County can be accessed at the Quarry Information webpage [here](#)³. The City is working on finalizing a contract with a vendor to add at least three stationary sensors for air quality and noise monitoring around the quarries.
6. Homeless Jobs Program: This pilot program launched in October and will provide employment to two unhoused Cupertino residents with jobs located in Cupertino. The City will provide technical assistance and review outcomes of the pilot program to determine a need for additional funding and resources, as needed.
7. City Plan to End Homelessness: In partnership with the County and Destination: Home, the City has engaged with technical assistance from HomeBase to review existing services offered to unhoused residents in Cupertino. The City has also selected HomeBase to draft the City Plan to End Homelessness. The Plan will be presented to the Housing Commission and the City Council for adoption in Spring.
8. Memorial Park Improvements: This project is on schedule per the City Work Program Dashboard. The City has selected a design professional to prepare plans and specifications to go out to competitive bids to remove the existing ponds and landscape the impacted area in the short term. Competitive bids for construction are tentative for February 2022 with award consideration by City Council March 2022. Construction could begin as early as May 2022. The long-term replacement of the ponds will be explored during the development of the specific plan. The City is preparing the start of design for amphitheater improvements and the specific plan design.
9. Consider New Commissions and Committees: This is one of the Interim City Manager's priorities during his tenure and he plans to bring this item forward to the City Council for consideration on November 16.
10. Shuttle Bus Pilot Program Implementation: The Via-Cupertino Shuttle service resumed operations on October 19, 2021, after being paused due to COVID-19. To communicate the relaunch there was a story in the October issue of The Scene and there will be a cover story in the November issue of the Scene and robust outreach on social media. Future riders will be educated on COVID-19 safety measures being put into place, such as plexiglass dividers, a requirement to wear masks, and a standard to drive with windows open when possible to create the safest environment possible. An update on the program will be

³ <https://www.cupertino.org/our-city/city-news/2018-2020-issues-between-lehigh-quarry-stevens-creek-quarry-county-city>

included in the Items of Interest in December and a report will be brought to Council in February 2022 to discuss the program and next steps. The pilot program is set to end on October 30, 2022. The [Via-Cupertino website](#)⁴ will be maintained to include all pertinent information.

In addition to the “Top 10” priorities, the following item previews are highlighted as they may be of particular interest to the City Council.

RHNA Related General Plan Updates and Rezoning (Housing Element): The City’s RHNA numbers as of May 2021 call for 1,193 very low-income units, 687 low-income units, 755 moderate-income units, and 1,953 above moderate-income units, for a total of 4,588 units. Through a competitive RFP process, a consultant has been selected to assist the City with the Housing Element update. Council authorized initiation of 6th Cycle Housing Element update and awarded a consultant agreement to EMC Planning Group to be the City’s Housing Element update consultant. Staff and consultants presented the public outreach and timeline for the Housing Element project at a City Council study session on October 5, 2021. Robust public outreach will begin next quarter and will include various public meetings with the community and stakeholders. Housing Element update is to be completed by January 2023.

Lawrence Mitty: The annexation process with the City of San Jose and LAFCO is ongoing with completion expected as early as April 2022. A Request for Qualifications (RFQ) for a design professional to complete the park specific plan was completed in September and RFQ proposals are being evaluated. Selection of design consultant is tentative for November 2021 with a design consultant selected by January 2022. Concept design completion is expected by July 2022, all outreach and completed design by FY22 and start of construction by early FY23. On September 9, 2021, investigative excavation work occurred on the existing earthen berms. The purpose of the work was to determine what amount of concrete and asphalt materials are buried within the berms. Having this information will allow staff to better competitively bid out the work to remove the berms.

Municipal Water System: On July 20, 2021, the City Council authorized staff to proceed with an RFP for a new long-term lease up to 12 years in duration with an option to extend to a total duration not to exceed 20 years, to bring back key lease terms, and to analyze the option of the system being operated by City staff. A presentation of key terms and a proposed amendment of the existing lease agreement (to add additional time for increased flexibility) is tentatively scheduled for the City Council’s consideration on November 2nd. Responses to the RFP are expected in early 2022 with a recommendation for a future operation of the system, including an analysis of City staff operation, considered by Council in early 2022.

Competing Challenges

The City continues to face overarching challenges that make simultaneous focus on all designated Work Program items difficult, if not impossible. Some of these challenges, including both

⁴ www.cupertino.org/shuttle

resource constraints and other priorities that must be advanced, will directly impact the City's ability to complete lower priority Work Program items this fiscal year. Some of these overarching challenges include:

- * Key staff vacancies in every department except Information Technology;
- * City Manager and City Attorney leadership transitions;
- * Vallco project review and processing;
- * COVID response and planning, including resumption of some pre-pandemic services;
- * Initiation of a comprehensive internal audit program with substantial staff support;
- * New campsites for unhoused individuals;
- * RHNA consultant selection efforts and project re-launch;
- * SB 9 response and implementation; and
- * Other referrals and work items beyond the normal course of work that were not included in the Work Program.

The Interim City Manager will discuss approaches for managing through these additional challenges as part of his City Council presentation.

Conclusion

FY 21-22 updates highlighted in this report can be found on the FY 21-22 City Work Program dashboard webpage at cupertino.org/cityworkprogram.

The second quarter update on the FY 21-22 City Work Program will be available on the dashboard in January and will be presented at a City Council meeting in February.

Sustainability Impact

There are no sustainability impacts associated with this update.

Fiscal Impact

There are no fiscal impacts associated with this update.

Prepared by: Astrid Robles, Management Analyst

Reviewed by: Dianne Thompson, Assistant City Manager

Katy Nomura, Deputy City Manager

Approved by: Greg Larson, Interim City Manager

Attachments:

A – FY 21-22 City Work Program Q1 Dashboard Printout (in priority order)

B – FY 20-21 City Work Program Outstanding Items Dashboard Printout

Sustainability & Fiscal Strategy

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1. Single-Use Plastics Ordinance and Mayors Cup Challenge

Adopt an ordinance to address single-use food service ware items. Engage stakeholders, conduct public outreach, determine CEQA requirements, work with Sustainability Commission. Create an event to help develop ideas to address non-recyclable plastic.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Sustainability Commission	\$100,000.00	\$100,000.00	\$27,900.00	\$72,100.00	10/26/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	10/20/20	3/31/22	Participating in regional policy meetings, determining elements for consideration.	57
1.3	Planning	 In Progress	11/10/20	10/19/21	Developing stakeholder engagement, Mayor's Cup ideas, and ordinance process plan.	99
1.4	Procurement	 Complete	3/16/21	5/31/21	Selected and engaged consultant for Diversity, Equity, and Inclusion outreach.	100
1.5	Outreach	 Complete	3/18/21	12/31/21	Engaged critical stakeholders, including food service, food safety, disabled, Chamber, youth.	100
1.6	Execution Phase	 In Progress	2/14/21	3/31/22	Adapt model ordinance language for Cupertino, bring to Sustainability Commission and City Council, host MCC event.	10
1.7	Closing Processes	 Future	3/4/22	3/31/22	Prep for Implementation.	0

Housing

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2. Consider options to develop Extremely Low Income (ELI) and Below Market Rate (BMR) housing units for Developmentally Disabled individuals on City-owned property along Mary Avenue as well as the Outback Steakhouse location

Identify ways to build ELI housing units for developmentally disabled. Investigate additional sites for BMR or ELI housing.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	▼ Planning Commission	\$250,000.00	\$250,000.00	\$12,540.00	\$237,460.00	10/26/21	Community Development

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	7/1/19	10/30/19	Research need for ELI developmentally disabled housing and moderate income housing and determine possible City locations.	100
1.3	Planning Phase	● In Progress	7/1/21	2/11/22	Release FY 21-22 City and CDBG capital housing funds, scope affordable housing project with non-profits/developers, and work with Public Works to determine feasibility of project on City sites.	25
1.4	Outreach	✓ Complete	10/1/21	11/8/21	Market City's capital housing funds for development of affordable housing.	100
1.5	Procurement	● In Progress	2/9/21	3/1/22	Procurement phase dependent on application for City funds.	50
1.6	Execution Phase	○ Future	3/9/22	3/31/22	Award funds to eligible applicant for development.	0
1.7	Closing Processes	○ Future	6/2/22	6/30/22	Report to Housing Commission and City Council on project status.	0

Quality of Life

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3. Revisit 5G. Including but not limited to, recording, responding to complaints, transparency on existing applications

Council review existing 5G policy and make alterations as they deem fit. Suggested areas to explore: 1) Spacing between small cell sites and 2) study the City's ability to mandate multi-tenant small cells. Staff is to record all resident concerns on a Resident Concern Record. Staff is to add a street image for the 5G cell location and fill out the questionnaire 2. Staff is to meet with the cell providers monthly or as needed based on additional resident concerns and give the cell provider the sum total of Resident Concern Records and then report back to City Council. Staff is to continue to update the City Managers spreadsheet of updated status for nearby cities 5G cells in residential areas.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Technology, Information, and Communications Commission	\$250,000.00	\$250,000.00	\$0.00	\$250,000.00	10/21/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.5	Research	✓ Complete	7/1/21	8/31/21	Compile requested modifications and verify legal standing and how other Cities handle the issue.	100
1.6	Planning Phase	○ Future	11/1/21	11/29/21	Put together modified regulations and City Ordinance	0
1.7	Design Phase	○ Future	11/30/21	3/18/22	Present regulations and ordinance to City Council for approval.	0
1.8	Execution Phase	○ Future	3/21/22	7/22/22	Enact Regulations and establish expectations.	0
1.9	Closing Processes	○ Future	7/25/22	9/8/22	Report findings to Council.	0

Public Engagement & Transparency

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4. Senior Strategy

Address the needs of seniors in collaboration with the City Council and Commissions. Needs to address include technology resources, housing, food supply, transportation, and mental and physical health and wellbeing.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	Parks and Recreation Commission	\$34,000.00	\$34,000.00	\$0.00	\$34,000.00	10/22/21	Parks and Recreation

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	7/1/21	8/31/21	Staff researched the available resources and City efforts in each of the defined focus areas.	100
1.3	Outreach	● In Progress	9/1/21	11/12/21	Outreach survey questions were drafted, reviewed by the Senior Advisory Council on September 27, 2021 and finalized by staff. Survey will be posted and shared with all Commissions to assist with community outreach.	49
1.4	Planning Phase	○ Future	11/15/21	1/28/22	Analyze senior survey results on focus items. Conduct workshop(s) and invite input and ideas from Council and Commissions on ways to address senior needs as identified.	0
1.5	Execution Phase	○ Future	1/31/22	4/15/22	Consolidate information gathered from research, survey, and workshops. Draft and finalize the Senior Strategy to address senior needs and determine appropriate stakeholders to facilities plans.	0
1.6	Closing Processes	○ Future	4/18/22	6/30/22	Initiate plans to address senior needs with appropriate stakeholders, as applicable.	0

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5. Lehigh and Stevens Creek Quarry

Monitoring and Reporting of Lehigh and Stevens Creek Quarries

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	N/A	\$415,550.00	\$415,550.00	\$235,482.70	\$180,067.30	10/21/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	7/1/21	6/30/22	Continue to monitor activities and coordinate with County regulatory activities. Provide comment letters as needed to regulatory agencies to advocate City interests.	25
1.3	Outreach	 In Progress	7/1/21	6/30/22	Update webpage and notify public of significant progress.	25

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5. Pilot - Lehigh and Stevens Creek Noise and Pollution Monitoring

Utilize IOT sensors to measure noise, particulate, and pollution levels at Lehigh and Stevens Creek Quarry.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	Technology, Information, and Communications Commission	\$62,500.00	\$62,500.00	\$0.00	\$62,500.00	10/21/21	Innovation Technology

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	9/7/20	1/29/21	Preliminary research into IoT technologies, their use at other cities, develop/publish RFI has been completed.	100
1.3	Planning Phase	✓ Complete	2/8/21	3/24/21	Development of scope of work, project charter, risk register and project plan has been completed.	100
1.4	Procurement	● In Progress	2/8/21	11/5/21	Procurement process along with receipt of pollution map has occurred. Stationary Air Quality and Noise vendor selected. Preliminary location of stationary sensors have been defined.	75
1.5	Execution Phase	● In Progress	4/1/21	1/3/22	Pollutant detail map along with training provided to staff. Stationary Sensor location under review.	58
1.6	Closing Processes	○ Future	1/19/22	3/17/22	Close out project.	0

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6. Homeless Jobs Program

Create a jobs program for up to 2 individuals for 6 months. Could involve a job in maintenance of parks or in Public Works.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Housing Commission	\$200,000.00	\$200,000.00	\$169,058.00	\$30,942.00	10/21/21	City Manager's Office

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	6/1/20	9/30/21	Research existing programs and documentation.	100
1.3	Planning Phase	✓ Complete	9/1/21	10/29/21	Work with social services agency to finalize program guidelines.	100
1.4	Execution Phase	● In Progress	10/1/21	6/30/22	Launch pilot program.	25
1.5	Closing Processes	○ Future	6/30/22	6/30/22	Review outcomes and determine need for additional funding and resources.	0

Housing

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7. City Plan to End Homelessness

Draft an Implementation Plan to the Santa Clara County Community Plan to End Homelessness 2020-25 to create a roadmap for addressing homelessness in Cupertino.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Housing Commission	\$300,000.00	\$300,000.00	\$0.00	\$300,000.00	10/18/21	Community Development

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	7/1/19	1/21/21	Researched existing City/County programs to determine needs for homeless residents.	100
1.3	Planning Phase	✓ Complete	7/1/19	1/15/21	Worked with the County and Destination: HOME on the Community Plan to End Homelessness. Determined need for creation of City Plan to End Homelessness.	100
1.4	Procurement	● In Progress	7/1/20	11/30/21	Working with consultant to draft the City Plan to End Homelessness. Provided sanitary stations to homeless encampment. Provided emergency assistance funds to Abode Services to administer program for encampment.	81
1.5	Outreach	○ Future	11/16/21	4/1/22	Will develop comprehensive community engagement process that ensures that planning and recommendation development is based on concrete information about local needs and resources via virtual/physical outreach such as diverse focus groups and interviews.	0
1.6	Execution Phase	○ Future	11/16/21	4/29/22	Will draft Plan to be submitted by consultant, reviewed by City staff, and then processed for public hearing at Housing Commission and City Council.	0
1.7	Closing Processes	○ Future	5/2/22	6/15/22	Will present at Housing Commission for recommendation to City Council, and then present at City Council for final approval and adoption.	0

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8. Memorial Park Improvements - Amphitheatre

Implement a six-month and 12-month plan for Memorial Park improvements including: Amphitheater Improvements

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Parks and Recreation Commission	\$1,150,000.00	\$1,150,000.00	\$0.00	\$1,150,000.00	10/12/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	9/6/21	1/28/22	Review existing documentation, develop project scope, initiate consultant contract[s]	15
1.3	Planning	 Future	3/14/22	4/1/22	Establish Phasing Plan/Schedule	0
1.4	Design	 Future	3/28/22	6/24/22	Initiate/Implement Amphitheater design phase	0
1.5	Procurement	 Future	6/27/22	10/4/22	Implement RFP for Construction	0
1.6	Execution	 Future	10/17/22	4/14/23	Implement Construction	0
1.7	Closing Processes	 Future	4/17/23	5/26/23	Close out construction	0

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8. Memorial Park Improvements - Pond Repurposing

Implement a six-month and 12-month plan for Memorial Park improvements including: Memorial Park - Pond Repurposing

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Parks and Recreation Commission	\$3,000,000.00	\$3,000,000.00	\$126,000.00	\$2,874,000.00	10/13/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	9/6/21	12/1/21	Review existing documentation, develop project scope, initiate consultant contract[s]	91
1.3	Planning	 Future	12/2/21	2/10/22	Establish Phasing Plan/Schedule	0
1.4	Design	 In Progress	9/7/21	1/28/22	Initiate/Implement Ponds design phase	0
1.5	Procurement	 Future	1/31/22	3/11/22	Implement RFP for Construction	0
1.6	Execution	 Future	3/14/22	6/30/22	Implement Construction	0
1.7	Closing Process	 Future	7/5/23	7/31/23	Close out construction	0

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8. Memorial Park Improvements - Specific Plan Design

Implement a six-month and 12-month plan for Memorial Park improvements including: Specific Plan Design

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Parks and Recreation Commission	\$500,000.00	\$500,000.00	\$0.00	\$500,000.00	10/21/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	9/6/21	12/1/21	Reviewing existing documentation, developing project scope	4
1.3	Procurement	 Future	1/3/22	4/20/22	Implement RFP for Design	0
1.4	Planning	 Future	4/21/22	7/22/22	Develop Draft Specific Plan	0
1.5	Outreach	 Future	7/25/22	11/4/22	Implement Communications plan	0
1.6	Design	 Future	11/7/22	1/20/23	Implement Design Phase	0
1.7	Execution	 Future	1/23/23	3/10/23	Final Design Process	0
1.8	Closing Processes	 Future	3/13/23	4/14/23	Close Design Process	0

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9. Consider New Commissions and Committees

Explore the possibility of additional commissions or committees to address City needs, such as senior, traffic, transportation, and economic development

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Small	All	▼ \$0.00	\$0.00	\$0.00	\$0.00	10/26/21	City Manager's Office

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	9/1/19	8/1/21	Initial research phase completed. Additional research, which began earlier this year in order to review additional topics due to the expanded scope, has also been completed.	100
1.3	Planning Phase	✓ Complete	5/1/20	10/1/21	Report of findings from other cities and recommendations for Cupertino has been completed.	100
1.4	Execution Phase	○ Future	11/1/21	4/30/22	Anticipated to present findings to Council in November.	0
1.5	Closing Processes	○ Future	5/1/22	6/30/22	Will update the Municipal Code, as directed by Council.	0

Public Engagement & Transparency






9. Consider New Commissions and Committees - Economic Development Committee Charter

Develop a committee charter for the Economic Development Committee.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Economic Development Committee	\$0.00	\$0.00	\$0.00	\$0.00	10/21/21	City Manager's Office

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	10/18/21	3/15/22	Review charters of other agencies with committees and commissions.	50
1.3	Outreach	 In Progress	10/15/21	1/15/22	Staff has begun outreach with key business stakeholders.	30
1.4	Planning Phase	 Future	1/15/22	3/30/22	Develop options for Council consideration based on research findings.	0
1.5	Execution Phase	 Future	4/1/22	4/30/22	Present options to Council for input and direction.	0
1.6	Closing Processes	 Future	4/30/22	6/30/22	Implement option based on Council direction.	0

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9. Consider New Commissions and Committees - Fine Arts Commission Name Change

Change the name of the Fine Arts Commission to broaden the reach of potential interest and align with commission goals.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Small	Fine Arts Commission	\$0.00	\$0.00	\$0.00	\$0.00	10/19/21	Parks and Recreation

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	7/1/21	9/13/21	Reviewed the municipal code on the Commission's current name and duties.	100
1.3	Planning Phase	● In Progress	9/14/21	1/24/22	Presented approved project from the City Work Program to the Fine Arts Commission. Will research surrounding cities and gather information on Art Commission names from their municipal codes and present findings to the Commission.	23
1.4	Outreach	○ Future	1/25/22	3/28/22	Perform outreach efforts to survey residents and obtain feedback on possible names for the Commission.	0
1.5	Execution Phase	○ Future	3/29/22	6/7/22	Draft a redline version to update the municipal code and the ordinance to adopt the name change. Update the Commission's duties to encompass the name change accordingly. Present ordinance to City Council for approval.	0
1.6	Closing Processes	○ Future	6/8/22	6/17/22	Update the municipal code, City website, and all other necessary locations.	0

Public Engagement & Transparency

9. Consider New Commissions and Committees - Fiscal Strategic Planning Committee Charter

Develop committee charter for Fiscal Strategic Planning Committee

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Fiscal Strategic Planning Committee	\$0.00	\$0.00	\$0.00	\$0.00	10/21/21	Administrative Services

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	<input type="radio"/> Future	11/1/21	12/31/21	Review charters of agencies with similar committees	0
1.3	Execution Phase	<input type="radio"/> Future	1/1/22	5/3/22	Prepare proposed charter and bring it for Council consideration and adoption	0
1.4	Closing Processes	<input type="radio"/> Future	4/1/22	6/30/22	Amend the Municipal Code as directed by Council	0

Public Engagement & Transparency

9. Consider New Commissions and Committees - Review Environmental Review Committee

Review the scope of the ERC.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Small	Environmental Review	\$0.00	\$0.00	\$0.00	\$0.00	10/21/21	City Manager's Office

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	9/1/20	11/19/20	Research of current scope and scope in other cities complete.	100
1.3	Outreach	✓ Complete	11/19/20	4/30/21	Presented research results to Environmental Review Committee (ERC) on 4/16/21.	100
1.4	Execution Phase	● In Progress	4/16/21	2/15/22	Have analyzed ERC feedback and preparing to present to Council as part of the Commission and Committee item in November.	30
1.5	Closing Processes	○ Future	2/15/22	6/1/22	Will update Municipal Code as directed by Council.	0

Transportation

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10. Shuttle Bus Pilot Program Implementation

Community shuttle bus 18-month pilot program to increase connectivity throughout the City, nearby medical locations, and Caltrain in Sunnyvale. Explore complimentary opportunities to expand into other cities.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	N/A	\$1,750,000.00	\$1,750,000.00	\$1,749,999.74	\$0.26	10/21/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	10/29/19	11/20/21	Compiled research on various shuttle options, conducted community surveys, spoke with West Sacramento staff and other Via jurisdictions, met with several transit vendors.	100
1.3	Outreach	✓ Complete	10/29/19	11/30/21	Conducted numerous pop-up events, including at Senior Center, library, and other locations citywide.	100
1.4	Planning Phase	✓ Complete	10/29/19	11/30/21	Continued outreach to likely riders and locations of interest, Caltrain, De Anza college, etc.	100
1.5	Procurement	✓ Complete	10/29/19	11/30/21	Met with various vendors including MV transportation, Altrans, chariot, etc.	100
1.6	Design Phase	✓ Complete	10/29/19	11/20/21	Pilot designed.	100
1.7	Execution Phase	● In Progress	10/29/19	6/30/22	Pilot launched 10/31/19, ridership grew rapidly. Service was paused due to COVID-19, but was re-authorized by Council on 7/20/21 and will resume on 10/19/21.	63
1.8	Closing Processes	○ Future	11/20/21	6/30/22	Pilot Program set to end 6/30/22.	0

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11. Lawrence Mitty - Acquisition

Acquire a parcel at Lawrence Expressway and Mitty Ave for trail expansion and park development. Complete annexation process.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	Parks and Recreation	\$2,844,995.00	\$2,844,995.00	\$42,858.97	\$2,802,136.03	10/21/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	7/1/21	10/1/21	Compile and prepare required information for annexation.	100
1.3	Outreach	● In Progress	7/1/21	4/6/22	Acquire Support from San Jose and submit application to LAFCO for Annexation.	38
1.4	Planning Phase	✓ Complete	7/1/21	8/27/21	Acquired Support Resolution from Cupertino City Council and recorded resolution.	100
1.5	Execution Phase	○ Future	11/1/21	2/4/22	Submit application to LAFCO for Annexation.	97
1.6	Closing Processes	○ Future	4/7/22	5/9/22	Coordinate final steps with LAFCO.	0

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11. Lawrence Mitty - Master Plan

Development project for Lawrence Mitty will be included in the CIP. Programming, Outreach, & Design with outreach expected to start by Q3 FY 21-22.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	Parks and Recreation Commission	\$5,425,999.00	\$5,425,999.00	\$5,096.94	\$5,420,902.06	9/21/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	7/1/21	8/11/21	Review existing documentation	100
1.3	Procurement	● In Progress	8/12/21	12/7/21	Implement RFQ process, secure consultant contract[s]	46
1.5	Outreach	○ Future	1/10/22	3/15/22	Implement Communications plan	0
1.4	Planning Phase	○ Future	1/10/22	3/15/22	Develop Project Work Plan	0
1.6	Design Phase	○ Future	12/16/21	3/23/22	Implement Design Phase	0
1.7	Execution Phase	○ Future	6/22/22	8/2/22	Finalize Design Phase	0
1.8	Closing Processes	○ Future	1/16/23	3/15/23	Close out Design Phase	0

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12. Development Accountability

Analyze methods to limit the implementation timeline for entitled/future projects and encourage development. Monitor implementation of development agreements and conditions of approval. Review and establish accountability in the project approval process.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	Planning Commission	▲ \$10,000.00	\$10,000.00	\$0.00	\$10,000.00	10/14/21	Community Development

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	3/1/20	3/1/22	Currently conducting research for the City and surrounding jurisdictions.	3
1.3	Planning Phase	 Future	3/1/22	4/1/22	Planning phase pending research.	0
1.4	Design Phase	 Future	4/1/22	6/1/22	Draft Procedures for Council review.	0
1.5	Execution Phase	 Future	6/1/22	6/15/22	Finalize Procedures for Council adoption.	0
1.6	Closing Processes	 Future	6/15/22	6/30/22	Close Project.	0

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13. Review and Update General Plan (GP) and Municipal Code

1. Amend GP & MC & zoning code to provide objective standards as identified in 2019/2020 evaluation. 2. Re-evaluate the Heart of the City Specific Plan for sections of the plan that could be clarified and updated easily with objective standards.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Planning Commission	\$500,000.00	\$1,000,000.00	\$224,199.00	\$775,801.00	10/14/21	Community Development

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	6/3/19	10/2/19	Reviewed existing documentation and objective standards.	100
1.3	Outreach	✓ Complete	6/3/19	6/3/19	Seven meetings held with Planning Commission and two meetings held with City Council in 2019 to collect comments from public, commissioners and councilmembers. City Council delegated prioritization to City Manager.	100
1.4	Planning Phase	✓ Complete	6/3/19	6/5/19	Met approximately 15 times between Oct 2019 and Sept 2020 to prioritize and discuss each suggestion made and determine next steps.	100
1.5	Procurement	✓ Complete	9/1/20	9/21/21	Council adopted general plan and zoning code objective standards for Vallco in August and September 2019. Council adopted zoning code objective standards for P zoning and parkland dedications in Dec 2019. Third Round of amendments presented Spring 2021.	100
1.6	Execution Phase	● In Progress	6/3/19	11/2/21	Anticipated to present third round of amendments at Oct 19 City Council meeting.	99
1.7	Closing Processes	● In Progress	10/1/21	11/1/21	Finalize documents and post on website.	0

Public Engagement & Transparency






14. Revamping Block Leader and Neighborhood Watch Programs

Revamping Block Leader, Neighborhood Watch Program to encourage and allow broad participation, and consider neighborhood councils.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	Public Safety Commission	\$1,500.00	\$1,500.00	\$0.00	\$1,500.00	10/14/21	City Manager's Office

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	7/1/21	11/30/21	Documentation Review in progress. Recruitment of Block Leader Coordinator in progress.	75
1.3	Outreach	 In Progress	7/1/21	1/28/22	Outreach meetings have been scheduled with full campaign in development.	42
1.4	Planning Phase	 Future	11/1/21	5/27/22	Planning phase pending recruitment of Block Leader Coordinator.	0
1.5	Execution Phase	 In Progress	9/1/21	2/28/22	Neighborhood Watch and Block Leader meeting held in Rancho Rinconada. Future meetings to be scheduled.	11
1.6	Closing Processes	 Future	6/1/22	6/30/22	Evaluate Revamped Block Leader program for effectiveness and sustainability.	0

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15. Encouraging Dark Sky Compliance

Encourage compliance by existing commercial properties and other organizations, including school sites.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Small	N/A	▲ \$10,000.00	\$10,000.00	\$0.00	\$10,000.00	10/13/21	Community Development

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	<input type="radio"/> Future	11/1/21	3/2/22	Conduct research on best practices	0
1.3	Outreach	<input type="radio"/> Future	1/1/22	6/30/22	Plan and deliver outreach campaign (ex. Scene, Website, Earth Day, and other public events)	0
1.4	Planning Phase	<input type="radio"/> Future	1/1/22	4/1/22	Develop Outreach materials, if any	0
1.5	Procurement	<input type="radio"/> Future	3/1/22	3/30/22	Select Vendor for printed materials, if any	0
1.6	Closing Processes	<input type="radio"/> Future	6/30/22	6/30/22	Debrief and continue to refine materials for outreach	0

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16. City Light Transition Assessment

Assess the costs, benefits, and opportunities of transitioning the City's streetlight infrastructure, and other City operated lights, from induction to LED fixtures. LEDs would allow lights to be turned down and the assessment will evaluate the efficacy

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Small	N/A	\$50,000.00	\$50,000.00	\$0.00	\$50,000.00	10/14/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.3	Research	 In Progress	7/1/21	11/5/21	Establish the scope and desired result of the report	40
1.4	Procurement	 In Progress	9/27/21	12/17/21	Select consultant and execute agreement	7
1.5	Design Phase	 Future	1/3/22	5/27/22	Prepare, review and finalize the assessment report	0
1.6	Closing Processes	 Future	4/18/22	5/6/22	City Council receives report and provides input. Objective is to include in FY22/23 CIP a citywide lighting upgrade project	0

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17. Mental Health Support

Provide a dedicated webpage with resources for mental health and emphasize mental health programming in class offerings.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	N/A	\$10,000.00	\$10,000.00	\$0.00	\$10,000.00	10/14/21	Parks and Recreation

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	8/16/21	1/28/22	Research of local mental health resources is complete. Research of contractors and instructors to provide mental health programming and workshops is ongoing.	38
1.3	Planning Phase	 Complete	9/6/21	9/20/21	Website was drafted and published on September 20. Resource list will be updated on an ongoing basis.	100
1.4	Procurement	 In Progress	8/30/21	1/28/22	Meeting with potential contractors on an ongoing basis. Draft and execute an agreement or MOU with selected contractor(s).	16
1.5	Execution Phase	 Future	1/31/22	3/25/22	Finalize mental health programming schedule and post information to the Mental Health Website.	0
1.6	Outreach	 Future	3/28/22	4/22/22	Create and execute marketing campaign for Mental Health programming.	0
1.7	Closing Processes	 Future	3/28/22	6/30/22	Open registration for Mental Health programming. Evaluate programs based on customer feedback.	0

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18. Climate Action Plan

Engage a consultant and commit staff time to developing CAP 2.0. California State law requires addressing climate adaptation, resiliency, transportation greenhouse gasses, and environmental justice in the next climate action plan.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Sustainability Commission	▼ \$178,000.00	\$178,000.00	\$100,000.00	\$78,000.00	10/21/21	City Manager's Office

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	7/1/20	10/1/20	Benchmark with other cities, conducted policy research	100
1.3	Planning Phase	✓ Complete	8/1/20	3/12/21	Council gave direction to increase budget and seek out CEQA documentation of the CAP. Schedule adjusted to accommodate this work.	100
1.4	Execution Phase	● In Progress	10/1/20	1/20/22	Goals and targets approved. Draft list of measures and actions created and seeking public feedback. Received Council authorization to seek out CEQA streamlining support.	65
1.5	Outreach	● In Progress	3/10/21	12/1/21	Commission meeting scheduled for October 11. Council Study Session November 16.	70
1.6	Closing Processes	● In Progress	7/1/21	4/1/22	Complete project and finalize lessons learned.	1

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19. Regional Transformative Transit Projects Initiative

Work to advance the following projects as submitted to the Metropolitan Transportation Commission (MTC) as Transformative Transportation Projects: 1. Stevens Creek Corridor High Capacity Transit 2. Highway 85 Transit Guideway 3. Silicon Valley High Capacity Transit Loop 4. Transit Update & Funding Strategies

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	N/A	\$0.00	\$0.00	\$0.00	\$0.00	10/13/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Planning Phase	✓ Complete	4/12/18	4/10/21	Concepts were prepared by Cupertino and submitted to the MTC as part of Horizon initiative (ideas contest). Although two were selected as finalists, in the end they were deemed infeasible based on MTC scoring criteria.	100
1.3	Execution Phase	● In Progress	4/12/18	4/10/30	Station under consideration now at SR 85 and Stevens Creek Blvd. VTA Board approved study on Highway 85 Transit Guideway and next steps awaiting prioritization among Measure B projects.	45

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20. Residential and Mixed Use Residential Design Standards

Create objective design standards for residential and mixed-use residential projects, including ensuring adequate buffers from neighboring low-density residential development.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
▲ Medium	Planning Commission	\$240,000.00	\$240,000.00	\$0.00	\$240,000.00	10/21/21	Community Development

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Procurement	✓ Complete	10/9/20	4/6/21	RFP sent out in Oct 2020. Proposals evaluated. Contracts and budget amendment adopted by Council on 4/6/21.	100
1.3	Outreach	● In Progress	6/1/21	4/6/22	Outreach plan under development.	3
1.4	Execution Phase	● In Progress	6/1/21	1/31/22	Initial review being conducted. Staff evaluating design standards.	14
1.5	Closing Processes	○ Future	3/1/22	4/1/22	Finalize Documents for Posting on Website.	0

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21. Study Session on Regulating Diversified Retail Use

Identify ways to encourage retail diversity and vital services, find creative solutions to retenant vacant spaces and to attract independent operators. Evaluate pros and cons of Retail Formula Ordinances in other cities.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	▲ Planning Commission	\$50,000.00	\$50,000.00	\$0.00	\$50,000.00	10/21/21	City Manager's Office

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	7/1/20	5/31/22	The new ED Manager started on 10/11/21 and will continue research to include effects of pandemic. Coordination with CDD ongoing to catch up on work previously done under this item.	50
1.3	Outreach	 In Progress	7/1/20	5/31/22	Engage in a series of stakeholder feedback sessions. Gather data on local market strenghts and trends.	39
1.4	Planning Phase	 Future	1/3/22	5/1/22	This item is pending subject to research, stakeholder engagement and development of draft retail strategy.	0
1.5	Execution Phase	 Future	4/29/22	6/30/22	This item is pending subject to research, stakeholder engagement and development of draft retail strategy.	0
1.6	Closing Processes	 Future	6/30/22	6/30/22	This item is pending subject to research, stakeholder engagement and development of draft retail strategy.	0

Public Engagement & Transparency







22. Personal Preparedness Campaign

Develop a personal preparedness campaign including providing personal preparedness kits to the community. To include a revamp of the Block Leader program to encourage membership and include a preparedness focus.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	Public Safety Commission	\$10,000.00	\$10,000.00	\$0.00	\$10,000.00	10/14/21	City Manager's Office

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	9/1/21	2/1/22	Research ongoing. Recruitment of Block Leader Coordinator and Emergency Management Analyst in progress.	52
1.3	Outreach	 Future	11/1/21	12/31/21	Schedule of training sessions delayed due to COVID. Outreach planning in progress.	0
1.4	Planning Phase	 Future	11/1/21	1/31/22	Finalize content and instructor roles / sections	0
1.5	Procurement	 Future	12/1/21	1/31/22	Procure supplies and materials to create personal preparedness kits	0
1.6	Execution Phase	 Future	1/31/22	6/30/22	Deliver training sessions on schedule with personal preparedness kits as incentive for attendance and participation, Evaluate trainings and feedback from participants	0
1.7	Closing Processes	 Future	6/1/22	6/30/22	Evaluate success of overall program and feedback from participants, implement lessons learned for future programming	0

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23. Seismic Retrofits and Upgrades to Existing City Hall (formerly "Investigate Alternatives to City Hall")

Examine seismic retrofits, upgrades, and remodels to existing City Hall.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Department
▲ Large	N/A	\$500,000.00	\$500,000.00	\$17,500.00	\$482,500.00	10/12/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	7/1/21	12/31/21	Review existing documentation, develop program scope and communications plan; coordinate with CIP City Hall Feasibility and Programming project	42
1.3	Procurement	 Future	1/3/22	4/15/22	Implement RFQ process	0
1.4	Planning Phase	 Future	4/18/22	5/13/22	Implement Planning/Program phase	0
1.5	Outreach	 Future	5/16/22	9/16/22	Implement Communications plan	0
1.6	Conceptual Design Phase	 Future	5/16/22	10/14/22	Implement Conceptual Design Phase	0

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24. Vision Zero

Develop a Vision Zero Policy and Action Plan. The Plan will guide policies and programs with the goal of eliminating fatalities on Cupertino roadways. Special emphasis will be placed on routes to, and streets surrounding, Cupertino schools.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	Bicycle Pedestrian Commission	\$0.00	\$0.00	\$0.00	\$0.00	10/21/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	7/1/21	10/20/21	Research typical components of Vision Zero plans and how other cities have developed their programs. Sunnyvale and San Jose staff will present their programs at the October BPC meeting.	60
1.3	Outreach	 In Progress	8/18/21	11/17/21	Engage BPC for direction, guidance and feedback on development of Vision Zero plan.	70
1.4	Execution Phase	 Future	11/1/21	5/31/22	Drawing upon information gained from previous tasks, design Vision Zero plan to meet Cupertino's needs.	0
1.5	Closing Processes	 Future	5/18/22	6/30/22	Take final Vision Plan to BPC for approval, then to City Council for adoption.	0

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25. Municipal Water System

To analyze and recommend options for the continued operation of the system currently and at the end of lease with San Jose Water Company in November 2022.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Department
Medium	N/A	\$150,000.00	\$150,000.00	\$80,562.00	\$69,438.00	10/21/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	11/2/20	3/1/22	Researching Legal and other requirements if system is leased, sold or City Operated in the future.	71
1.3	Planning Phase	 In Progress	9/21/21	12/2/22	In July 2021, City Council directed staff to proceed with an RFP for a new long-term lease and to bring back key terms for Council consideration. An agenda item for this consideration is scheduled for November 2021.	10
1.4	Closing Processes	 Future	10/1/22	12/2/22	Receive Council direction and close project.	0

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26. Blackberry Farm Golf Course Needs Assessment

Determine short-term and long-term improvements to the golf course and amenities.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	Parks and Recreation Commission	\$50,000.00	\$50,000.00	\$0.00	\$50,000.00	10/14/21	Parks and Recreation

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Planning Phase	 In Progress	8/31/21	12/3/21	Engage consultants for study of two options and develop scope for each	60
1.3	Research	 In Progress	8/30/21	10/29/21	Compile data from past work, and existing conditions, at this site	47
1.4	Procurement	 In Progress	10/11/21	11/12/21	Will execute a contract with the consultant(s) for the golf course feasibility study to include an updated scope of work.	50
1.5	Execution Phase	 Future	11/1/21	4/8/22	Consultant(s) will assess the different options and financial impacts for golf course and present the draft studies to the City for review and feedback.	0
1.6	Outreach	 Future	11/8/21	3/11/22	Will facilitate outreach to key stakeholders about discussing future options of the golf course. Present draft studies to Parks and Recreation Commission and City Council for feedback.	0
1.7	Closing Processes	 Future	4/11/22	5/5/22	Pending feedback and input from Council on the draft studies, resubmit for final approval and direction on preferred option. Expected completion: April 2022.	0

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27. Pilot - Adaptive Traffic Signaling

Utilize the City's Traffic Management System to test impact of enhanced adaptive traffic signaling. This will be done through software modifications and/or the addition of IOT devices such as intelligent cameras and sensors.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	Technology, Information, and Communications Commission	\$435,000.00	\$275,000.00	\$253,328.00	\$21,672.00	10/21/21	Innovation Technology

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	9/7/20	3/5/21	Research Complete	100
1.3	Planning Phase	✓ Complete	2/8/21	3/24/21	Project Charter & SOW Created	100
1.4	Procurement	✓ Complete	2/1/21	5/14/21	Contract Signed, Equipment Ordered	100
1.5	Execution Phase	● In Progress	4/1/21	12/31/21	IOT Equipment Installed/Configured/Tested/In Production at 4 intersections. Currently collecting data for analysis	85
1.6	Closing Processes	○ Future	1/3/22	2/14/22	Complete analysis and close project	0

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28. Pilot - Multimodal Traffic Count

Utilize the City's Traffic Management System and/or IOT equipment to provide the number of vehicles, pedestrians and bike traffic that moved through a given area, e.g., intersection, roadway or trail.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	Technology, Information, and Communications Commission	\$55,000.00	\$55,000.00	\$55,000.00	\$0.00	10/21/21	Innovation Technology

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	9/7/20	3/5/21	Research smart city technologies pertinent to Cupertino.	100
1.3	Planning Phase	✓ Complete	3/8/21	3/17/21	Project Charter and SOW Created.	100
1.4	Procurement	✓ Complete	3/17/21	3/31/21	Contracts Set and PO in Process.	100
1.5	Execution Phase	✓ Complete	4/1/21	10/1/21	Equipment Installed/Configured/Tested/In Production at 4 Intersections.	100
1.6	Closing Processes	○ Future	11/4/21	11/22/21	Complete Project.	0

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29. Dogs Off Leash Area (DOLA)

Identify additional areas suitable for permitting dogs to be off leash and establish one such area, if the current trial period is successful.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Small	Parks and Recreation Commission	\$5,000.00	\$5,000.00	\$0.00	\$5,000.00	10/26/21	Parks and Recreation

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	✓ Complete	7/1/19	8/2/19	Initial comparative analysis of neighboring cities with existing DOLAs completed.	100
1.3	Outreach	✓ Complete	7/1/19	9/5/19	Survey was administered to neighboring residents (within .25 miles) of Jollyman Park. 618 responses with 78% in support of the trial. Parks and Recreation Commission approved initial trial.	100
1.4	Execution Phase	✓ Complete	9/6/19	6/30/22	Initial trial performed and extended until sufficient data was collected on the DOLA, after implementation of the updated Athletic Field Use Policy and to account for changing COVID restrictions.	100
1.5	Outreach	✓ Complete	9/20/21	10/7/21	The administrative policy for the ongoing DOLA program at Jollyman Park was drafted and then presented to the Parks and Recreation Commission for feedback and input on October 7, 2021. The Commission reviewed and approved the policy.	100
1.6	Closing Processes	● In Progress	10/8/21	10/10/22	Update signage and website for the ongoing DOLA program at Jollyman Park. Continue to evaluate the ongoing DOLA operation for at least a year prior to consideration of an additional DOLA location elsewhere.	5

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30. Roadmap Project

Publish Process Flow Chart for Public Facing Online Applications

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Medium	▲ N/A	\$0.00	\$0.00	\$0.00	\$0.00	10/21/21	Innovation Technology

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Planning Phase	● In Progress	7/1/20	10/1/21	In Process - Identify online service and prioritize list. Graphics Tool (Visio) selected	73
1.3	Design Phase	✓ Complete	9/1/20	10/30/20	Design Complete - PRA Application	100
1.4	Execution Phase	● In Progress	1/11/21	12/3/21	Development Process flow in progress and Recreation Process flow under final review	30
1.5	Closing Processes	○ Future	12/6/21	12/22/21	Complete and publish process flow chart	0

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
10455 Torre Avenue Improvements Programming & Feasibility

Program, plan, and build facility improvements, including seismic, utility and ADA upgrades, for the long-term use of this facility. The scope of work will include public outreach, programming, planning, design, and construction.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Department
Large	N/A	\$3,000,000.00	\$3,000,000.00	\$54,500.00	\$2,945,500.00	10/21/21	Public Works

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	7/1/21	10/29/21	Review existing conditions documentation and municipal code requirements, work with staff to develop program, and research candidates for PM roles	50
1.3	Planning Phase	 Future	11/1/21	12/31/21	Develop initial scope requirements, schedule, communications plan and RFQ for design phase	0
1.4	Procurement - Design	 Future	1/3/22	4/8/22	Develop and initiate contract with Design phase consultants	0
1.5	Outreach	 Future	4/11/22	8/12/22	Implement Public outreach/input process	0
1.6	Design Phase - Schematic	 Future	4/11/22	6/10/22	Initiate the design process through schematic design	0
1.7	Procurement - Design/Build	 Future	6/13/22	8/19/22	Develop and initiate contract with Construction phase consultants	0
1.8	Execution Phase - Design Build	 Future	8/22/22	4/7/23	Implement the design/build process from design development through to construction	0
1.9	Closing Processes	 Future	4/10/23	5/26/23	Final closeout processes with design/build entity, facilitate AV/IT/Security implementations, secure Furniture, Fixtures, and Equipment, make ready for move in	0

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Cupertino Store at Chamber of Commerce

Explore the potential of locating Cupertino store and public incubator center at Chamber of Commerce or other locations with a mutually beneficial agreement, including potential Cupertino store merchandise, and attempt to provide a draft proposal for consideration by the Council by the end of FY 2021-2022.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Department
Medium	Fine Arts Commission	\$5,000.00	\$5,000.00	\$0.00	\$5,000.00	10/21/21	City Manager's Office

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	10/13/21	1/3/22	Economic Development Manager started work on 10/11/2021 and has begun to reach out to key stakeholders.	30
1.3	Outreach	 In Progress	10/19/21	4/15/22	Staff will meet with Chamber to begin the process of developing the concept for the space and related business model.	10
1.4	Planning Phase	 Future	4/15/22	5/15/22	Staff plans to develop the concept and related implementation plan.	0
1.5	Execution Phase	 Future	5/1/22	6/1/22	Present concept and related implementation plan to Council for input and direction.	0
1.6	Closing Processes	 Future	6/1/22	6/30/22	Proceed to next phase pending Council direction.	0

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RHNA Related General Plan Updates and Rezoning (Housing Element)

Review preliminary RHNA numbers. Look at strategies for RHNA compliance including evaluating sites for potential upzoning, and jobs-housing ratio and statistics. Identify Priority Housing sites, update Housing Element and complete rezoning by Sept. 2023.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
Large	Planning Commission	\$1,069,248.00	\$1,069,248.00	\$774,248.00	\$295,000.00	10/26/21	Community Development

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Outreach	 In Progress	5/19/20	12/1/22	Conducted 6 study sessions/public hearings with Housing Commission/Planning Commission/City Council + 1 community meeting to date. Additional public engagement & education to be conducted through late 2022. Housing Element update anticipated 1/31/23.	53
1.3	Procurement	 Complete	3/2/21	9/21/21	Conducted consultant recruitment. Council authorized Housing Element consultant & initiation of 6th Cycle Housing Element Update.	100
1.4	Execution Phase	 Future	11/1/21	1/31/23	Complete Sites Inventory, Housing Policies & Programs, Draft Housing Element document, Final Housing Element document, & CEQA in accordance with state law.	0
1.5	Closing Processes	 Future	1/31/23	1/31/23	Housing Element to be completed by 1/31/23.	0

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Sign Ordinance Update

Update existing provisions, particularly in the temporary sign regulations.

Details

Project Size	Commission	Estimated Budget	Allocated Budget	Budget Expended/ Encumbered	Budget Remaining	Last Updated	Lead Department
▲ Small	Planning Commission	\$25,000.00	\$25,000.00	\$0.00	\$25,000.00	10/21/21	Community Development

Updates

#	Task	Status	Task Start	Task End	Update	% Completed
1.2	Research	 In Progress	5/13/20	11/11/21	Conducting research on surrounding jurisdictions	60
1.3	Planning Phase	 In Progress	12/1/20	12/1/22	Preparing draft ordinance amendments	43
1.4	Execution Phase	 In Progress	6/1/21	2/1/22	Expected PC and CC hearing	0
1.5	Closing Processes	 Future	2/2/22	2/2/22	Update Municipal Code, as directed by Council	0

Establish Preapproved ADU Plans

Establish procedures and policies on streamlining the ADU review process.

Allocated Budget: \$0.00 **Budget Remaining:** \$0.00 **Fiscal Year:** FY21

Budget Expended: \$0.00 **Estimated Budget:** \$0.00 **Size:** Small

Commission / Committee: Planning Commission **Category:** Housing

Last Updated: 10/13/2021

#	Task	Status	Milestone Update	Task Start	Task Finish	% Complete
1.2	Research	✓ Complete	Review City resources and information from other jurisdictions.	3/2/2020	9/1/2020	100
1.3	Execution Phase	✓ Complete	Finalized pre-approved plan process approved by Council in September 2021.	11/1/2020	9/30/2021	100
1.4	Closing Processes	✓ Complete	Project completed. Webpage will be updated accordingly.	9/21/2021	10/29/2021	100

Housing Survey

To improve public engagement, conduct a citywide housing survey ahead of the 2023-2030 Housing Element update.

Allocated Budget: \$25.00K **Budget Remaining:** \$25.00K **Fiscal Year:** FY21
Budget Expended: \$0.00 **Estimated Budget:** \$25.00K **Size:** Medium
Commission / Committee: Housing Commission **Category:** Housing
Last Updated: 10/14/2021

#	Task	Status	Milestone Update	Task Start	Task Finish	% Complete
1.2	Research	✓ Complete	Reviewed Spring 2020 City Housing Survey and prepared for future survey.	7/1/2019	10/30/2019	100
1.3	Procurement Phase	✓ Complete	Selected consultant and executed contract.	1/1/2020	2/28/2020	100
1.4	Planning Phase	✓ Complete	Worked with Subcommittee and consultant to develop Housing Survey.	7/1/2020	6/15/2021	100
1.5	Outreach	✓ Complete	Notify community of Housing Survey project.	4/1/2021	6/3/2021	100
1.6	Execution Phase	✓ Complete	Educate community on Housing Survey. Survey deadline extended. Collect data upon survey completion.	5/3/2021	7/30/2021	100
1.7	Closing Processes	✓ Complete	Presented results to Housing Survey Subcommittee in August and City Council in October. Project complete.	6/3/2021	8/16/2021	100

General Plan Authorization Process

Evaluate the existing City Council authorization process for General Plan Amendment projects.

Allocated Budget: \$6.50K **Budget Remaining:** \$5.36K **Fiscal Year:** FY21
Budget Expended: \$1.15K **Estimated Budget:** \$6.50K **Size:** Small
Commission / Committee: Planning Commission **Category:** Quality of Life
Last Updated: 10/13/2021

#	Task	Status	Milestone Update	Task Start	Task Finish	% Complete
1.2	Research	✓ Complete	Research existing documentation and processes of other jurisdictions.	7/7/2020	12/15/2020	100
1.3	Outreach	✓ Complete	Council Study Session on 7/7/2020	7/7/2020	11/5/2020	100
1.4	Execution Phase	✓ Complete	Prepared materials for hearings	10/1/2020	5/12/2021	100
1.5	Closing Processes	● In Progress	PC hearing on 1/12/21 with recommendation presented to Council on 2/2/21. Went back to Council on 8/17/21. Expected to be completed in December.	12/8/2020	12/21/2021	50

Senate Bill No. 9

CHAPTER 162

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

[Approved by Governor September 16, 2021. Filed with
Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 9, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24

months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a local agency to ministerially approve a parcel map for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the parcel is located within a single-family residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a local agency to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill would require an applicant to sign an affidavit stating that they intend to occupy one of the housing units as their principal residence for a minimum of 3 years from the date of the approval of the urban lot split, unless the applicant is a community land trust or a qualified nonprofit corporation, as specified. The bill would prohibit a local agency from imposing any additional owner occupancy standards on applicants. By requiring applicants to sign affidavits, thereby expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 65852.21 is added to the Government Code, to read:

65852.21. (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

(B) The site has not been occupied by a tenant in the last three years.

(6) The development is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(b) (1) Notwithstanding any local law and except as provided in paragraph (2), a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards that do not conflict with this section.

(2) (A) The local agency shall not impose objective zoning standards, objective subdivision standards, and objective design standards that would have the effect of physically precluding the construction of up to two units or that would physically preclude either of the two units from being at least 800 square feet in floor area.

(B) (i) Notwithstanding subparagraph (A), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(ii) Notwithstanding subparagraph (A), in all other circumstances not described in clause (i), a local agency may require a setback of up to four feet from the side and rear lot lines.

(c) In addition to any conditions established in accordance with subdivision (b), a local agency may require any of the following conditions when considering an application for two residential units as provided for in this section:

(1) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(2) For residential units connected to an onsite wastewater treatment system, a percolation test completed within the last 5 years, or, if the percolation test has been recertified, within the last 10 years.

(d) Notwithstanding subdivision (a), a local agency may deny a proposed housing development project if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is

no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(f) Notwithstanding Section 65852.2 or 65852.22, a local agency shall not be required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels that use both the authority contained within this section and the authority contained in Section 66411.7.

(g) Notwithstanding subparagraph (B) of paragraph (2) of subdivision (b), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(h) Local agencies shall include units constructed pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(i) For purposes of this section, all of the following apply:

(1) A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit.

(2) The terms “objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(3) “Local agency” means a city, county, or city and county, whether general law or chartered.

(j) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(k) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 2. Section 66411.7 is added to the Government Code, to read:

66411.7. (a) Notwithstanding any other provision of this division and any local law, a local agency shall ministerially approve, as set forth in this section, a parcel map for an urban lot split only if the local agency determines that the parcel map for the urban lot split meets all the following requirements:

(1) The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a single-family residential zone.

(B) The parcel subject to the proposed urban lot split is located within a city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

(i) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(ii) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(iii) A parcel or parcels on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(iv) Housing that has been occupied by a tenant in the last three years.

(E) The parcel is not located within a historic district or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a city or county landmark or historic property or district pursuant to a city or county ordinance.

(F) The parcel has not been established through prior exercise of an urban lot split as provided for in this section.

(G) Neither the owner of the parcel being subdivided nor any person acting in concert with the owner has previously subdivided an adjacent parcel using an urban lot split as provided for in this section.

(b) An application for a parcel map for an urban lot split shall be approved in accordance with the following requirements:

(1) A local agency shall approve or deny an application for a parcel map for an urban lot split ministerially without discretionary review.

(2) A local agency shall approve an urban lot split only if it conforms to all applicable objective requirements of the Subdivision Map Act (Division

2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(3) Notwithstanding Section 66411.1, a local agency shall not impose regulations that require dedications of rights-of-way or the construction of offsite improvements for the parcels being created as a condition of issuing a parcel map for an urban lot split pursuant to this section.

(c) (1) Except as provided in paragraph (2), notwithstanding any local law, a local agency may impose objective zoning standards, objective subdivision standards, and objective design review standards applicable to a parcel created by an urban lot split that do not conflict with this section.

(2) A local agency shall not impose objective zoning standards, objective subdivision standards, and objective design review standards that would have the effect of physically precluding the construction of two units on either of the resulting parcels or that would result in a unit size of less than 800 square feet.

(3) (A) Notwithstanding paragraph (2), no setback shall be required for an existing structure or a structure constructed in the same location and to the same dimensions as an existing structure.

(B) Notwithstanding paragraph (2), in all other circumstances not described in subparagraph (A), a local agency may require a setback of up to four feet from the side and rear lot lines.

(d) Notwithstanding subdivision (a), a local agency may deny an urban lot split if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(e) In addition to any conditions established in accordance with this section, a local agency may require any of the following conditions when considering an application for a parcel map for an urban lot split:

(1) Easements required for the provision of public services and facilities.

(2) A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way.

(3) Off-street parking of up to one space per unit, except that a local agency shall not impose parking requirements in either of the following instances:

(A) The parcel is located within one-half mile walking distance of either a high-quality transit corridor as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop as defined in Section 21064.3 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(f) A local agency shall require that the uses allowed on a lot created by this section be limited to residential uses.

(g) (1) A local agency shall require an applicant for an urban lot split to sign an affidavit stating that the applicant intends to occupy one of the

housing units as their principal residence for a minimum of three years from the date of the approval of the urban lot split.

(2) This subdivision shall not apply to an applicant that is a “community land trust,” as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code, or is a “qualified nonprofit corporation” as described in Section 214.15 of the Revenue and Taxation Code.

(3) A local agency shall not impose additional owner occupancy standards, other than provided for in this subdivision, on an urban lot split pursuant to this section.

(h) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(i) A local agency shall not require, as a condition for ministerial approval of a parcel map application for the creation of an urban lot split, the correction of nonconforming zoning conditions.

(j) (1) Notwithstanding any provision of Section 65852.2, 65852.21, 65852.22, 65915, or this section, a local agency shall not be required to permit more than two units on a parcel created through the exercise of the authority contained within this section.

(2) For the purposes of this section, “unit” means any dwelling unit, including, but not limited to, a unit or units created pursuant to Section 65852.21, a primary dwelling, an accessory dwelling unit as defined in Section 65852.2, or a junior accessory dwelling unit as defined in Section 65852.22.

(k) Notwithstanding paragraph (3) of subdivision (c), an application shall not be rejected solely because it proposes adjacent or connected structures provided that the structures meet building code safety standards and are sufficient to allow separate conveyance.

(l) Local agencies shall include the number of applications for parcel maps for urban lot splits pursuant to this section in the annual housing element report as required by subparagraph (I) of paragraph (2) of subdivision (a) of Section 65400.

(m) For purposes of this section, both of the following shall apply:

(1) “Objective zoning standards,” “objective subdivision standards,” and “objective design review standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. These standards may be embodied in alternative objective land use specifications adopted by a local agency, and may include, but are not limited to, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

(n) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be

considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(o) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local agency shall not be required to hold public hearings for coastal development permit applications for urban lot splits pursuant to this section.

SEC. 3. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 24 months. However, if the subdivider is required to expend two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way that abut the boundary of the property to be subdivided and that are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 48 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2012, and each calendar year thereafter, the amount of two hundred thirty-six thousand seven hundred ninety dollars (\$236,790) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges, overcrossings, street interchanges, flood control or storm drain facilities, sewer facilities, water facilities, and lighting facilities.

(b) (1) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) The length of time specified in paragraph (1) shall be extended for up to three years, but in no event beyond January 1, 1992, during the pendency of any lawsuit in which the subdivider asserts, and the local agency that approved or conditionally approved the tentative map denies, the existence or application of a development moratorium to the tentative map.

(3) Once a development moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(d) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(e) Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(f) For purposes of this section, a development moratorium includes a water or sewer moratorium, or a water and sewer moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a final or parcel map. A development moratorium shall also be deemed to exist for purposes of this section for any period of time during which a condition imposed by the city or county could not be satisfied because of either of the following:

(1) The condition was one that, by its nature, necessitated action by the city or county, and the city or county either did not take the necessary action or by its own action or inaction was prevented or delayed in taking the necessary action before expiration of the tentative map.

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency that owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency that owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency that owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

SEC. 4. The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1 and 2 of this act adding Sections 65852.21 and 66411.7 to the Government Code and Section 3 of this act amending Section 66452.6 of the Government Code apply to all cities, including charter cities.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or

because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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