



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

This will be a teleconference meeting without a physical location
Tuesday, October 20, 2020
6:00 PM

Non-Televised Closed Session (6:00) and Televised Regular Meeting (6:45)

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

In accordance with Governor Newsom's Executive Order No-29-20, 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 for closed or open session by 5:00 p.m. on Tuesday, October 20 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 for closed or open session 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:

CLOSED SESSION

Members of the public may provide oral public comments in open session prior to the closed session teleconference meeting as follows:

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

Online

Join Meeting: <https://cityofcupertino.zoom.us/j/99850764856>

Phone

Dial: (888) 788 0099 and enter Meeting ID: 998 5076 4856 (Type *9 to raise hand to speak).

OPEN SESSION

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

Oral public comments will be accepted during the open session 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_1ixfsVc5TSC0uVtP_V8lUQ

Phone

Dial: (888) 788 0099 and enter Webinar ID: 999 2358 9047 (Type *9 to raise hand to speak). 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: 999 2358 9047

SIP: 99923589047@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." 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.

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.

ROLL CALL - 6:00 PM

CLOSED SESSION

1. Subject: Conference with Legal Counsel pursuant to Government Code section 54956.9(d)(1); Existing Litigation, Vallco Property Owner LLC v. City of Cupertino; Santa Clara County Superior Court, Case No. 19CV355457 (2019 Vallco General Plan and Zoning Amendments)

RECESS

PLEDGE OF ALLEGIANCE - 6:45 PM

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

2. Subject: Proclamation recognizing Anika Palloapothu for being a finalist in the nation's premier STEM competition for middle school students
Recommended Action: Present proclamation recognizing Anika Palloapothu for being a finalist in the nation's premier STEM competition for middle school students
[A - Proclamation](#)

POSTPONEMENTS

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.

REPORTS BY COUNCIL AND STAFF (10 minutes)

3. Subject: City Manager update on emergency response efforts
Recommended Action: Receive City Manager update on emergency response efforts
4. Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments

CONSENT CALENDAR

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.

5. Subject: Approve the October 6 City Council minutes
Recommended Action: Approve the October 6 City Council minutes
[A - Draft Minutes](#)
6. Subject: Annual report of commission and committee members' terms expiring in January, 2021, and application submittal deadline and candidate interview dates in January, 2021.

Recommended Action: Receive report on commission and committee members' terms expiring January, 30, 2021, and set an application submittal deadline of Friday, January 8, 2021 and candidate interview dates of Monday and Tuesday, January 25 and 26, 2021.

[Staff Report](#)

[A – Local Appointments List and Notice of Vacancies](#)

[B – Resolution Governing Recruitment](#)

7. Subject: Cancel the January 5, 2021 Council meeting

Recommended Action: Cancel the January 5, 2021 Council meeting

[Staff Report](#)

8. Subject: Adopt a resolution increasing the employer's contribution for medical and hospitalization insurance consistent with the Meyers-Geddes State Employees Medical and Hospital Care Act for the Unrepresented (Management and Confidential), Cupertino Employees' Association (Employees Association), Operating Engineers, Local Union No. 3 (Operating Engineers), Appointed (City Attorney and City Manager), Elected Official groups and retired annuitants.

Recommended Action: Adopt Resolution No. 20-117 increasing the employer's contribution for medical and hospitalization insurance for employees under the Unrepresented, Cupertino Employees' Association, Operating Engineers, Local union No. 3, Appointed, Elected Officials, and retired annuitant groups.

[Staff Report](#)

[A - Draft Resolution](#)

9. Subject: FY 2020-21 Interim Budget and Key Projects Update

Recommended Action: Accept City Manager's Interim Budget and Key Projects Report

[Staff Report](#)

SECOND READING OF ORDINANCES

PUBLIC HEARINGS

10. Subject: Consider Municipal Code Amendments to CMC Chapter 10.48 Community Noise Control to regulate leaf blowers to implement the Fiscal Year 2020/21 City Council Work Program items related to ordinance updates on gas-powered leaf blowers. Application No(s): MCA-2020-002; Applicant(s): City of Cupertino; Location: Citywide.

Recommended Action: Conduct the Public Hearing and find:

- 1) that the proposed action is exempt from CEQA; and
- 2) Conduct the first reading of Ordinance No. 20-2213: "An Ordinance of the City Council of the City of Cupertino amending Chapter 10.48, Community Noise Control for Leaf Blower Regulations".

[Staff Report](#)

[A - Draft Ordinance](#)

[B - PC Resolution 6910](#)

[C - Neighboring Jurisdictions Survey.pdf](#)

[D - Redline Ordinance Amendments](#)

ORDINANCES AND ACTION ITEMS

11. **Subject:** Minor, cleanup amendments to the Cupertino Municipal Code
Recommended Action: Conduct the first reading of Ordinance No. 20-2214: "An Ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Section 2.04.010 (concerning regular meetings of the City Council); Section 2.28.040 (concerning powers and duties of the City Manager); Section 8.01.090 (concerning animals in City buildings); Chapter 11.08 (concerning bicycle licensing and registration); and Section 13.04.190 (concerning activities prohibited in City parks)."
[Staff Report](#)
[A - Draft Ordinance](#)
12. **Subject:** Update Cupertino's annual minimum wage with an ordinance for a one-time adjustment to the City of Cupertino minimum wage to be consistent with the cities of Los Altos, Palo Alto, and Santa Clara such that the minimum wage will be consistent among those cities and the City of Cupertino in 2021 and in subsequent years to achieve a desired uniformity among the cities of Los Altos, Palo Alto, and Santa Clara
Recommended Action: Receive an update on regional minimum wage efforts and conduct the first reading of Ordinance No. 20-2215: "An Ordinance of the City of Cupertino to set the minimum wage for 2021 at \$15.65 per hour".
[Staff Report](#)
[A - Draft Ordinance](#)

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.

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

Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, 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 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. You are hereby admonished not to include any personal or private information in written communications to the City that you do not wish to make public; doing so shall constitute a waiver of any privacy rights you may have on the information provided to the City.



CITY OF CUPERTINO

Agenda Item

20-8308

Agenda Date:
10/20/2020 Agenda #: 1.

Subject: Conference with Legal Counsel pursuant to Government Code section 54956.9(d)(1); Existing Litigation, *Vallco Property Owner LLC v. City of Cupertino*; Santa Clara County Superior Court, Case No. 19CV355457 (2019 Vallco General Plan and Zoning Amendments)



CITY OF CUPERTINO

Agenda Item

20-8272

Agenda Date:
10/20/2020 Agenda #: 2.

Subject: Proclamation recognizing Anika Palloapothu for being a finalist in the nation's premier STEM competition for middle school students

Present proclamation recognizing Anika Palloapothu for being a finalist in the nation's premier STEM competition for middle school students



Proclamation

WHEREAS, The City of Cupertino wishes to recognize resident Anika Pallapothu on being named a Top 30 Finalist in the 2020 Broadcom MASTERS, a nationwide competition for middle schoolers in Science, Technology, Engineering, and Mathematics (STEM); and

WHEREAS, As a seventh grader at The Harker School, Anika competed against over three thousand students in this rigorous virtual competition that leverages project-based learning to test and demonstrate mastery of 21st century skills of critical thinking, creativity, communication, and collaboration in each of the STEM areas; and

WHEREAS, For her project, Anika designed an artificial intelligence program to spot an eye disease called diabetic retinopathy, which is a leading cause of blindness; and

WHEREAS, Anika’s program uses images of the retina to tell whether the disease is present, as well as the severity of the disease, with Anika reporting an accuracy rate of 95 percent; and

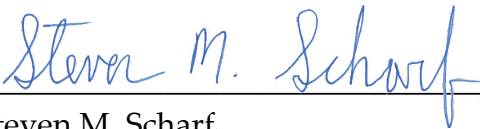
WHEREAS, The City of Cupertino commends Anika’s achievement in utilizing her knowledge in STEM and her contributions to the community.

THEREFORE, I, Mayor Steven M. Scharf, and the Cupertino City Council do hereby congratulate

Anika Pallapothu

for her accomplishment and encourage Anika to continue developing STEM skills and bringing her ideas to life.

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


Steven M. Scharf
Mayor



CITY OF CUPERTINO

Agenda Item

20-7677

Agenda Date:
10/20/2020 Agenda #: 3.

Subject: City Manager update on emergency response efforts

Receive City Manager update on emergency response efforts



CITY OF CUPERTINO

Agenda Item

19-6421

Agenda Date:
10/20/2020 Agenda #: 4.

Subject: Report on Committee assignments

Report on Committee assignments



CITY OF CUPERTINO

Agenda Item

19-6445

Agenda Date:
10/20/2020 Agenda #: 5.

Subject: Approve the October 6 City Council minutes

Approve the October 6 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, October 6, 2020

SPECIAL CITY COUNCIL MEETING

At 5:00 p.m. Mayor Steven Scharf called the Special City Council meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Darcy Paul (5:15), and Councilmembers Liang Chao, Rod Sinks, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

CLOSED SESSION

1. Subject: Conference with Legal Counsel - Anticipated Litigation. Initiation of litigation pursuant to Government Code Section 54956.9(d)(4) (one potential case)

In open session, Mayor Scharf announced that Council conferred with legal counsel regarding one potential case. No reportable action was taken.

OPEN SESSION

At 5:30 p.m. Mayor Steven Scharf reconvened the Special City Council meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Darcy Paul, and Councilmembers Liang Chao, Rod Sinks, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

STUDY SESSION

1. Subject: Study session to receive input on services to be provided in a new 10-year franchise agreement

Recommended Action: Receive and provide input on services to be provided in a new 10-year franchise agreement

Written communications for this item included a staff presentation.

Environmental Programs Manager Ursula Syrova gave a presentation.

Councilmembers asked questions and made comments.

Mayor Scharf opened the public comment period and, seeing no speakers, closed the public comment period.

Council conducted the study session on services to be provided in a new 10-year franchise agreement with Recology and provided the following input.

There was unanimous interest in exploring ways of reducing contaminants in the recyclables.

ADJOURNMENT

REGULAR CITY COUNCIL MEETING

At 6:45 p.m. Mayor Steven Scharf called the Regular City Council meeting. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Steven Scharf, Vice Mayor Darcy Paul, and Councilmembers Liang Chao, Rod Sinks, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamation declaring October 4th to 10th as Mental Illness Awareness Week
Recommended Action: Present proclamation declaring October 4th to 10th as Mental Illness Awareness Week

Mayor Scharf presented the proclamation declaring October 4th to 10th as Mental

Illness Awareness Week.

2. Subject: Proclamation declaring the 2nd week in October as Code Enforcement Officer Appreciation Week

Recommended Action: Present proclamation declaring the 2nd week in October as Code Enforcement Officer Appreciation Week

Mayor Scharf presented the proclamation declaring the 2nd week in October as Code Enforcement Officer Appreciation Week.

POSTPONEMENTS - None

ORAL COMMUNICATIONS

Jean Bedord supported Measure M for Fremont Union High School District (FUHSD) and opposed the square foot parcel tax for Cupertino Union School District (CUSD). (Submitted written comments).

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) requested enforcement of political signs that are illegally placed.

Fine Arts Commissioner Sudha Kasamsetty (representing self) supported the square foot parcel tax for Cupertino Union School District (CUSD).

City Clerk Kirsten Squarcia read an email on behalf of John Kolski opposing the speed bumps installed at the intersection of Merriman Road and Alcalde Road.

Housing Commissioner Tessa Parrish (representing self) requested a mural installation to cover the graffiti off southbound Interstate Highway 280 before Wolfe Road.

REPORTS BY COUNCIL AND STAFF (10 minutes)

3. Subject: City Manager update on emergency response efforts

Recommended Action: Receive City Manager update on emergency response efforts

City Manager Deborah Feng reported on COVID-19 case counts, testing opportunities, and potential health orders, Parks and Recreation activities, and guidance for Halloween; high heat and air quality, homeless encampments, and an upcoming community forum on implicit bias.

Council received the City Manager update on emergency response efforts.

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

Councilmembers highlighted the activities of their various committees.

CONSENT CALENDAR

Willey moved and Scharf seconded to approve the items on the Consent Calendar as presented. Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

5. Subject: Approve the September 15 City Council minutes_
Recommended Action: Approve the September 15 City Council minutes_
6. Subject: Authorize the City Manager to execute an agreement with OpenGov, Inc. to renew a contract for budgeting, performance, communications, and reporting software for a total amount of \$318,520 over five years.
Recommended Action: Authorize the City Manager to execute an agreement with OpenGov, Inc. to renew a contract for budgeting, performance, communications, and reporting software for a total amount of \$318,520 over five years.
7. Subject: Award and authorize the City Manager to execute a construction contract with Spencon Construction, Inc, for the 2020 Reconstruction of Curbs, Gutters and Sidewalks, Project No. 2021-102
Recommended Action: Award a construction contract for the 2020 Reconstruction of Curbs, Gutters and Sidewalks project; and authorize the City Manager to execute a construction contract with Spencon Construction, Inc., in the amount of \$843,713.75 and further authorize the Director of Public Works to execute any necessary change orders up to a 10% construction contingency of \$84,371.00 for a total of \$928,084.75
8. Subject: Approval of a Master Agreement between the City of Cupertino and 4Leaf, Inc. and a separate Master Agreement between the City of Cupertino and CSG Consultants, Inc., to provide construction management services on various Capital Improvement Program (CIP) projects
Recommended Action: 1) Authorize the City Manager to execute a Master Agreement between the City of Cupertino and 4Leaf, Inc. in the amount not to exceed \$500,000 for a term of approximately two years; and
2) Authorize the City Manager to execute a Master Agreement between the City of Cupertino and CSG Consultants, Inc. in the amount not to exceed \$500,000 for a term of approximately two years

SECOND READING OF ORDINANCES

PUBLIC HEARINGS

ORDINANCES AND ACTION ITEMS

9. Subject: Discussion to adopt a position on Proposition 16, Proposition 19, Proposition 21, Measure RR, and Measure S that are on the November 2020 General Election Ballot
Recommended Action: Discuss and determine whether the City will adopt a position on Proposition 16, Proposition 19, Proposition 21, Measure RR, and Measure S that are on the November 2020 General Election Ballot

Written communications for this item included emails to Council.

Townsend Public Affairs State Capitol Director Casey Elliot gave a presentation.

Councilmembers asked questions and made comments.

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

Shubhra Dubey supported Proposition 16.

Ishita Dubey supported Proposition 16.

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) opposed Proposition 16.

Neil Park-McClintick supported Proposition 16.

Justin Li did not support affirmative action as discriminatory against Asians.

Sydney Ji supported Proposition 16.

Peggy Griffin opposed making any selections and supported conducting a study session allowing people to express their opinions.

Selina Li supported Proposition 16.

Nathan Lee supported Proposition 16.

Planning Commissioner Vikram Saxena (representing self) opposed Proposition 16.

Tony Guan opposed Proposition 16.

Qinghua Huang opposed Proposition 16.

City Clerk Kirsten Squarcia read emails on behalf of Brianna Aguilar and Alexis Ellis opposing Proposition 16.

Domingo Candelas supported Measure S.

Rachael Gibson supported Measure S.

Rick Callender supported Measure S.

Zach Zhang opposed Proposition 16.

Madhuri Kishore opposed Proposition 16.

Mayor Scharf closed the public comment period.

Paul moved and Scharf seconded that Council abstain from adopting a position on all measures as presented. The motion carried unanimously.

10. Subject: City Council to consider modification of Cupertino Municipal Code Section 2.18.030 to limit the use of City Attorney time by individual City Councilmembers. Recommended Action: City Council to consider modification of Cupertino Municipal Code Section 2.18.030 to limit the use of City Attorney time by individual City Councilmembers; and if Council decides to proceed, conduct the first reading of Ordinance No. 20-2212: An Ordinance of the City Council of the City of Cupertino Amending City Code Section 2.18.030 (Council-Attorney Relations) of Chapter 2.18 (City Attorney) to Title 2 (Administration and Personnel) to Limit use of City Attorney Time by Individual City Councilmembers.

Written Communications for this item included emails to Council.

Assistant City Manager Dianne Thompson reviewed the staff report.

Councilmembers asked questions and made comments.

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

Jean Bedord supported limiting the use of City Attorney time for Councilmembers. (Submitted written comments).

Planning Commissioner Kitty Moore (representing self) was concerned about changing the code without clear cause or direction.

Jim Moore opposed limiting the use of City Attorney time for Councilmembers.

Lisa Warren opposed limiting the use of City Attorney time for Councilmembers.

Peggy Griffin opposed limiting the use of City Attorney time for Councilmembers.

Tessa Parish opposed limiting City Attorney time for Councilmembers but supported exploring other fiscal options.

Mayor Scharf closed the public comment period.

Paul moved and Scharf seconded to table the item; and form a subcommittee comprised of Willey and Paul to meet bimonthly or quarterly to evaluate legal billings and the legal process, and report back to Council. The motion carried with Sinks voting no.

11. Subject: COVID-19 Response: Coronavirus Aid, Relief and Economic Security (CARES) Act Framework and Funding Priorities
Recommended Action: 1. Review, discuss, and approve CARES Act Grant Funding and Funding Priorities.
2. Adopt Resolution No. 20-116 amending the budget and authorizing the City Manager to accept \$735,259 Coronavirus Relief Fund (CRF) from the US Treasury (pass-through via the State of California) and \$553,939 in CARES-CV from US Department of Housing and Urban Development (HUD).

Written Communications for this item included a staff video presentation.

Finance Manager Zach Korach played a video presentation.

Councilmembers asked questions and made comments.

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

Planning Commissioner Kitty Moore (representing self) asked about funds for small businesses assistance and homeless encampment support.

Mayor Scharf closed the public comment period.

Paul moved and Scharf seconded to adopt Resolution No. 20-116 amending the budget and authorizing the City Manager to accept \$735,259 Coronavirus Relief Fund (CRF) from the US Treasury (pass-through via the State of California) and \$553,939 in CARES-CV from US Department of Housing and Urban Development (HUD). The motion carried unanimously.

ORAL COMMUNICATIONS - CONTINUED (As necessary) - None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

- Added an agenda item for a report on how Regnart Creek Trail fence dollars are being allocated (Willey/Chao)
- Added a study session on homeless housing solutions in Cupertino (Willey/Paul)

ADJOURNMENT

At 10:58 p.m., Mayor Scharf adjourned the meeting. Note: A special meeting of the Cupertino Public Facilities Corporation followed the regular City Council meeting.

Kirsten Squarcia, City Clerk



CITY OF CUPERTINO

Agenda Item

20-8147

Agenda Date:
10/20/2020 Agenda #: 6.

Subject: Annual report of commission and committee members' terms expiring in January, 2021, and application submittal deadline and candidate interview dates in January, 2021.

Receive report on commission and committee members' terms expiring January, 30, 2021, and set an application submittal deadline of Friday, January 8, 2021 and candidate interview dates of Monday and Tuesday, January 25 and 26, 2021.



OFFICE OF THE CITY CLERK

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 20, 2020

Subject

Receive report on commission and committee members' terms expiring January, 30, 2021, and set an application submittal deadline of Friday, January 8, 2020 and candidate interview dates of Monday and Tuesday, January 25 and 26, 2021.

Recommended Action

Receive report on commission and committee members' terms expiring January, 30, 2021, and set an application submittal deadline of Friday, January 8, 2020 and candidate interview dates of Monday and Tuesday, January 25 and 26, 2021.

Background

Outreach for the annual recruitment of all commission candidates will begin in late October and City Council will interview applicants in January. Commissions with upcoming vacancies in January 2021 include: Audit Committee (1), Bicycle Pedestrian Commission (2), Fine Arts Commission (2), Housing Commission (1), Library Commission (3), and Planning Commission (3). During the interviews, Council will also have the option to designate alternates at the time of the appointment of regular members.

Discussion

The City Council appoints members to 11 advisory commissions. Members serve staggered, four-year terms with a two-term limit and must wait two years before they can reapply for the same commission. The Cupertino Municipal Code specifies that the term of office for the members of each commission shall end on January 30 of the year their term is due to expire. No commissioner shall serve more than two consecutive terms except if they have been appointed to fill an unscheduled vacancy for a (partial) term that is less than two years.

Recruitment, appointment, and reappointment are governed by City Council Resolution No. 16-137, and Government Code sections 54970-54974. The Teen Commission is governed by Resolution No. 18-019 and follows a different appointment schedule and structure.

Vacancy notices are advertised through the local media, Cupertino Scene, the City website, as well as at City Hall, Quinlan Community Center, the Senior Center, and the Library. Notices are mailed to CERT graduates, Neighborhood Block Leaders, Leadership 95014 graduates, the

Chamber of Commerce, service organizations, commissioners who have expired terms and are eligible for reappointment, and previous candidates (whose applications are retained for one year).

The attached list describes all of the commissions and lists the names of incumbents whose terms are ending in January 2021. Applicants may apply for up to two commissions and each applicant is interviewed for their preferred commission(s).

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

Prepared by: Lauren Sapudar, Deputy City Clerk

Reviewed by: Kirsten Squarcia, City Clerk

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A – Local Appointments List and Notice of Vacancies

B – Resolution Governing Recruitment



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CUPERTINO.ORG

LOCAL APPOINTMENTS LIST AND NOTICE OF COMMISSION AND COMMITTEE TERMS EXPIRING IN 2021

NOTICE IS HEREBY GIVEN that residents are encouraged to apply for positions on City commissions that will have vacancies in January of 2021. The application deadline is 4:30 p.m. on Friday, January 08, 2021. Council will conduct interviews beginning at 5:30 p.m. on Monday, January 25, 2021 and Tuesday, January 26, 2021. Commissioners are appointed by the City Council and may serve a total of two consecutive 4-year terms (the Teen Commission has a different term structure). Council may also appoint alternates to serve on commissions and committees in the event of a vacancy. A commissioner may serve more than two consecutive terms if he or she has been appointed to fill an unexpired (partial) term of less than two years. All meetings are open to the public. For more information or to apply for a commission, please contact the City Clerk's Office, 777-3223 or cityclerk@cupertino.org; or visit the City website at www.cupertino.org/vacancies.

AUDIT COMMITTEE			
1 available seat (no residency requirement for at large members)			
Incumbent	Date Appointed	Term Expires	Eligible to Reapply?
Eno Schmidt	5/15/2012 (partial); 1/30/13; 1/30/2017	Second term expires 1/30/21	No
<p><u>Qualifications:</u> The Committee consists of four or five members serving four-year terms. Two individuals are members of City Council, and a minimum of two and a maximum of three are at large members. The at large members shall not be officials or employees of the City, nor cohabit with as defined by law, nor be related by blood or marriage to any member of the Committee, the City Manager or staff person assigned to the Committee. An Audit Committee at large member is not required to be a Cupertino resident, but the City Council will give priority to individuals who have substantial accounting, audit, or investment experience, preferably in connection with a governmental agency. The powers and functions of the Audit Committee shall be as follows: A. Review the annual audit report and management letter; B. Recommend appointment of auditors; C. Review the monthly Treasurer's report, D. Review City investment policies and internal controls of such policies. The Audit Committee falls under the Political Reform Act of 1974 and financial disclosure is required. Regular meetings are held quarterly on the 4th Tuesday of the selected month at 4:00 p.m. at City Hall in Conference Room A. For more information, contact staff liaison Zach Korach at 408-777-3280 or zachk@cupertino.org</p>			

BICYCLE PEDESTRIAN COMMISSION
2 available seats (residency requirement for all five members)

Incumbent	Date Appointed	Term Expires	Eligible to Reapply?
Ilango Ganga	12/12/2019 (partial fill, doesn't count towards first term))	Partial term expires 1/30/21	Yes
Vacant			
<p><u>Qualifications:</u> The Commission consists of five members who are residents of the City and shall be appointed by the Council to four-year overlapping terms. None shall be officials or employees of the City nor cohabit with, as defined by law, nor be related by blood or marriage to, any member of the committee, the City Manager or the staff person or persons assigned to the Commission. The function of the Commission is to review, monitor and suggest recommendations for City transportation matters including, but not limited to bicycle and pedestrian traffic, parking, education and recreation within Cupertino. The Bicycle Pedestrian Commission falls under the Political Reform Act of 1974 and financial disclosure is required. Regular meetings are held monthly on the third Wednesday at 7 p.m. in City Hall, Conference Room C. For more information, call staff liaison David Stillman at 408-777-3249 or davids@cupertino.org.</p>			

FINE ARTS COMMISSION			
2 available seats (residency requirement for three out of five members)			
Incumbent	Date Appointed	Term Expires	Eligible to Reapply?
Rajeswari Mahalingam	5/3/2011 (partial); 1/28/2013; 1/30/2017	Second term expires 1/30/21	No
Sonia Dhami	1/30/2019	Partial term expires on 1/30/21	Yes
<p><u>Qualifications:</u> The Commission consists of five members appointed by Council for four-year terms. None of the members shall be employees or officials of the City, nor cohabit with as defined by law, nor be related by blood or marriage to any member of the Commission, the City Manager or staff person assigned to the Commission. At least three shall be Cupertino residents. The powers and functions of the Fine Arts Commission are to foster, encourage and assist the realization, preservation and advancement of the fine arts for the benefit of the community. The Fine Arts Commission falls under the Political Reform Act of 1974 and financial disclosure is required. Regular meetings are held on the 4th Monday of every other month (odd months) and more often as necessary at 7:00 p.m. in City Hall, Conference Room C. For more information, contact staff liaison Kelsey Hayes at 408-777-3126 or kelseyh@cupertino.org.</p>			

HOUSING COMMISSION			
1 available seat (residency requirement for four out of five members; Business representative must be from a Cupertino-based business)			
Incumbent	Date Appointed	Term Expires	Eligible to Reapply?
Sanjiv Kapil	1/30/2017; 7/25/2019 (partial fill doesn't count towards second term)	Partial term expires 1/30/21	Yes

Qualifications: The Commission consists of five members appointed by the council to four-year terms. One must be a representative from a Cupertino business. Housing Commission members who are representatives of a business are not required to be Cupertino residents, but the business represented must be located in Cupertino. The four remaining community members must be residents of Cupertino. The commission assists in developing housing policies and strategies, recommends policies for implementation and monitoring of affordable housing projects, helps identify sources of funding for affordable housing and performs other advisory functions authorized by the City Council. The Cupertino Housing Commission falls under the Political Reform Act of 1974 and financial disclosure is required. Regular meetings are held at 9:00 a.m., the second Thursday of the month at City Hall, Conference Room C. For more information, contact staff liaison Kerri Heusler at 408-777-3251 or kerrih@cupertino.org.

LIBRARY COMMISSION			
3 available seats (residency requirement three out of five members)			
Incumbent	Date Appointed	Term Expires	Eligible to Reapply?
Liana Crabtree	1/30/2017	First term expires on 1/30/21	Yes
Amanda Wo	1/30/2017	First term expires on 1/30/21	Yes
Christie Wang	1/30/2017	First term expires on 1/30/21	Yes
<p><u>Qualifications:</u> The Commission consists of five members appointed by the Council to four-year, overlapping terms. At least three members must be residents of Cupertino. None of the members shall be officials or employees of the City, nor cohabit with, as defined by law, nor be related by blood or marriage to any member of the Commission, the City Manager or the staff person(s) assigned to this Commission. The Commission advises the City Council on the adequacy of library service within the community and such other matters relating to library service as specified by the city council, and serves as liaison between the city and the Santa Clara County library system. The Library Commission falls under the Political Reform Act of 1974 and financial disclosure is required. Regular meetings are held monthly on the first Wednesday of each month at 7:00 p.m. in the Cupertino Library, 10800 Torre Avenue, Story Room. For more information, call staff liaison Joanne Magrini at 408-777-3226 or joannema@cupertino.org.</p>			

PLANNING COMMISSION			
3 available seats (residency requirement for all five members)			
Incumbent	Date Appointed	Term Expires	Eligible to Reapply?
R "Ray" Wang	1/28/2019 (partial)	Partial term expires 1/30/21	Yes
David Fung	1/30/2017	First term expires on 1/30/21	Yes
Alan Takahashi	1/29/2013; 1/30/2017	Second term expires on 1/30/21	No

Qualifications: The Commission consists of five members appointed by the Council to overlapping four-year terms. Each member shall be a qualified elector in and resident of the City. None of the members shall be officials or employees of the City and none of whom shall cohabit with as defined by law, nor be related by blood or marriage to any other member of the Commission, the City Manager or the staff person(s) assigned to this Commission. The Commission's primary function is to advise the City Council on land use matters such as specific and general plans, zonings and subdivisions. The Commission reviews other matters as specified by City ordinances or Title VII of the Government Code of California. The Planning Commission falls under the Political Reform Act of 1974 and financial disclosure is required. Regular meetings are held at 6:45 on the second and fourth Tuesday of the month in the Community Hall. Commissioners must take an ethics course every two years. For more information, contact staff liaison Benjamin Fu at 408-777-3247 or benjaminf@cupertino.org.

PARKS AND RECREATION COMMISSION

No vacancies

There are no terms expiring in January 2021

PUBLIC SAFETY COMMISSION

No vacancies

There are no terms expiring in January 2021

SUSTAINABILITY COMMISSION

No vacancies

There are no terms expiring in January 2021

TEEN COMMISSION

No vacancies

There are no terms expiring in January 2021

TECHNOLOGY, INFORMATION, AND COMMUNICATIONS COMMISSION

No vacancies

There are no terms expiring in January 2021

RESOLUTION NO. 16-137

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO RESCINDING RESOLUTION NO. 10-048 AND AMENDING THE RESOLUTION ESTABLISHING RULES GOVERNING RECRUITMENT, ATTENDANCE, APPOINTMENTS, AND VACANCIES ON CITY ADVISORY BODIES TO ADD DESIGNATED ALTERNATES TO THE INTERVIEWS AND APPOINTMENTS PROCESS

WHEREAS, the City of Cupertino wishes to establish uniform terms and conditions of office for advisory commissions; and

WHEREAS, there are within the City of Cupertino many citizens with talent, expertise and experience who wish to serve the community; and

WHEREAS, the City Council believes it is important to provide these citizens the opportunity to contribute to their community;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cupertino rescinds Resolution No. 10-048 and establishes the following rules governing recruitment, appointment and reappointment to City of Cupertino Advisory bodies.

A. RECRUITMENT

1. Two months before regular terms expire, or immediately following receipt of a resignation, the City Clerk distributes the vacancy notice as follows:
 - The Cupertino Scene
 - The Cupertino Courier
 - The World Journal
 - The Cupertino City Channel
 - City Hall bulletin board
 - The City Clerk's Office
 - The Cupertino Library
 - The Cupertino Chamber of Commerce
 - Cupertino City Web site
 - Other organizations as appropriate with respect to the openings
 - All persons with applications on file for that particular commission

Resolution No. 16-137

Page 2

2. Two months before regular terms expire, the City Clerk's Office also mails the vacancy notice to the following individuals:
 - Students and graduates of Cupertino Emergency Response Training
 - Students or graduates of Leadership Cupertino
 - Neighborhood Block Leaders
 - Individuals who have signed up for notification at the Cupertino Town Hall meetings.
3. All vacancy notices and posting shall be done in accordance with the provisions of the Maddy Act, California Government Code 54970. Specifically, vacancy notices shall be posted for a minimum of 10 days.
4. Applications will be retained for a maximum of one year after Council review. After that time, applicants shall submit a new application if they wish to remain on the list for consideration.
5. Those persons with applications on file within one year of Council review are advised of the vacancy by the City Clerk and may activate that application. –Upon receipt of the vacancy notice, the applicant must contact the City Clerk's Office and ask that the application be reactivated.
6. An applicant may file for a maximum of two commissions at any one application period.
7. A member of an advisory body, having completed two consecutive terms, must wait two years after the term would have normally ended before being eligible to apply for the same commission or committee.
8. Application forms will be available in the City Clerk's Office and will be mailed upon request with information about the opening(s). Application forms will also be available on the City's Web site.
9. No application shall be accepted after the deadline.
10. When the final deadline has passed, the City Clerk's Office will mail applicants the date, time and location of the interviews along with sample questions to consider.

11. The City Clerk's Office will copy the applicants' written material for Council members. The written material will also be available for public review in the City Clerk's Office.
12. An applicant who is unable to attend the interview may submit a 5-minute video presentation in advance of the interview meeting. The tape will be reviewed at the meeting. The video will be made by City staff at the applicant's request upon the approval of the City Clerk. The City will fund these costs.

B. INTERVIEWS AND APPOINTMENTS

1. When Council meets to conduct interviews, it is a public meeting subject to the Brown Act and therefore open to the public. The candidates will be asked by the City Clerk (either in person or by written instructions left in the waiting area) to remain seated in the waiting area until they are called in for the interview. Candidates will also be asked to return to the waiting area until the announcement of the vote, or to go home and contact the City Clerk's Office the next day regarding the results. However, all applicants and members of the public have the option of remaining in the room for any or all of the meeting.
2. The order in which interviews are scheduled to take place will be determined by a drawing of names. The City Clerk will do this in advance.
3. Interviews are informal and usually last 5-8 minutes. Council members are looking for:
 - Familiarity with the subject
 - Decision-making ability
 - Commitment to the position for which they have applied
4. Appointments will be made following a vote in public. Ballots will be distributed, and Council members will vote and sign the ballots. The City Clerk will announce the votes.

5. The City Council may appoint alternates to serve on boards, commissions and committees in the event of a vacancy. Such alternates may attend and participate in meetings of the board, commission, or committee but shall not vote in such meetings until such time as a vacancy has occurred and the alternate has filled such vacancy. If the City Council appoints more than one alternate for a particular board, commission or committee, the City Council shall designate the alternates as first alternate, second alternate and so on such that immediately upon a vacancy occurring in a board, commission, or committee, the first alternate shall fill such vacancy without the need for further City Council action.

C. UNSCHEDULED VACANCIES AND ATTENDANCE

1. If a vacancy occurs for an unexpired term and interviews for appointment to that advisory body have been conducted within the previous ninety days, the unexpired term may be filled from those applications following the required posting of the vacancy.
2. The notice of unscheduled vacancy shall be posted no earlier than 20 days before nor later than 20 days after the vacancy occurs, and at least 10 working days before appointment. The notice of unscheduled vacancy must be posted in the Office of the City Clerk, at the City Hall bulletin board, at the Cupertino Library, and in other places designated by the City Clerk.
3. A member shall be considered removed from an advisory body under the following conditions.
 - A member misses more than three consecutive meetings
 - A member misses more than 25% of the advisory body's meetings in a calendar year
4. It is the responsibility of the advisory body's staff liaison to notify the City Clerk of a member's attendance record to allow sufficient time to send a warning notice if the member has missed three consecutive meetings or 25% of the meetings, and to send a termination notice if the member has missed more three consecutive meetings or more than 25% of the meetings in a calendar year.

5. A member who has been removed from an advisory body for inadequate attendance may request a waiver of this provision by submitting a letter to the City Council setting forth the reason for the absences and confirming future availability.

D. GENERAL PROVISIONS

1. Term limit restrictions listed in this resolution do not apply to temporary appointments for unexpired terms.
2. All provisions of this resolution shall apply unless otherwise decided by the City Council on a case-by-case basis.
3. In the event that any provision of this resolution conflicts with the provisions of any other ordinance or resolution governing a particular advisory body, the provisions governing that advisory body shall prevail.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 20th day of December, 2016, by the following vote:

<u>Vote</u>	<u>Members of the City Council</u>
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AYES:	Vaidhyanathan, Chang, Scharf, Sinks
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NOES:	None
-------	------

ABSENT:	Paul
---------	------

ABSTAIN:	None
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ATTEST:

APPROVED:

/s/ Grace Schmidt

/s/ Savita Vaidhyanathan

Grace Schmidt, City Clerk

Savita Vaidhyanathan, Mayor,
City of Cupertino



CITY OF CUPERTINO

Agenda Item

20-8291

Agenda Date:
10/20/2020 Agenda #: 7.

Subject: Cancel the January 5, 2021 Council meeting

Cancel the January 5, 2021 Council meeting



OFFICE OF THE CITY CLERK

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 20, 2020

Subject

Cancel the January 5, 2021 City Council meeting.

Recommended Action

Cancel the January 5, 2021 City Council meeting.

Discussion

It has been past City Council practice to cancel the first meeting in January because City Hall is closed between Christmas and New Year's Day.

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

Prepared by: Lauren Sapudar, Deputy City Clerk

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments: None



CITY OF CUPERTINO

Agenda Item

20-8298

Agenda Date:
10/20/2020 Agenda #: 8.

Subject: Adopt a resolution increasing the employer's contribution for medical and hospitalization insurance consistent with the Meyers-Geddes State Employees Medical and Hospital Care Act for the Unrepresented (Management and Confidential), Cupertino Employees' Association (Employees Association), Operating Engineers, Local Union No. 3 (Operating Engineers), Appointed (City Attorney and City Manager), Elected Official groups and retired annuitants.

Adopt Resolution No. 20-117 increasing the employer's contribution for medical and hospitalization insurance for employees under the Unrepresented, Cupertino Employees' Association, Operating Engineers, Local union No. 3, Appointed, Elected Officials, and retired annuitant groups.



ADMINISTRATIVE SERVICES DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3220 • FAX: (408) 777-3109
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 20, 2020

Subject

Adopt a resolution increasing the employer's contribution for medical and hospitalization insurance consistent with the Meyers-Geddes State Employees Medical and Hospital Care Act for the Unrepresented (Management and Confidential), Cupertino Employees' Association (Employees Association), Operating Engineers, Local Union No. 3 (Operating Engineers), Appointed (City Attorney and City Manager), Elected Official groups and retired annuitants.

Recommended Action

Adopt the draft resolution increasing the employer's contribution for medical and hospitalization insurance for employees under the Unrepresented, Cupertino Employees' Association, Operating Engineers, Local union No. 3, Appointed, Elected Officials, and retired annuitant groups.

Discussion

Each year, CalPERS requires public agencies to notify them of any employer health contribution increase/decrease by an adopted resolution by City Council. Health Premium Adoption of the attached resolution fulfills reporting requirements associated with the Meyers-Geddes Act that "a contracting agency shall perform the functions necessary to enroll its employees and submit reports as may be required by the board."

On July 16, 2019, City Council approved a three-year Memorandum of Understanding (MOU) that extends through June 30, 2022, for Cupertino Employees' Association and the Operating Engineers, Local Union No. 3 groups. The MOU's include an increase in the City's health contribution for employee medical insurance effective January 1, 2021, as shown below:

- Employee Only - \$891.32/month
- Employee plus one dependent - \$1,515.24/month
- Employee plus 2 or more dependents - \$1,969.81/month

The same benefit has been extended to the Unrepresented, Appointed, Elected Official, and Retiree Annuitant groups.

Retiree Annuitants – Retirees hired prior to August of 2004 are eligible for the above City monthly health contributions. Retirees hired after August of 2004 are under the 100/90 Vesting Requirement which was adopted by Cupertino City Council on July 6, 2004. Effective January 1, 2021 the 100/90 Vesting Requirement for City health contributions for Retired Annuitant will increase as follows:

- Retiree Only - \$798.00/month
- Retiree plus one dependent - \$1,519.00/month
- Retiree plus 2 or dependents - \$1,937.00/month

Retiree Annuitants who reach age 65 and are Medicare eligible, are placed in the CalPERS Supplement/Managed Medicare health program. Under this program, Medicare becomes primary for health coverage, therefore, reducing the City's health contribution premiums by approximately 60%. For example, 2021 Retiree Kaiser under the CalPERS Basic Plan is \$813.64 per month whereas the CalPERS Medicare Kaiser Senior Advantage premium is \$324.48 per month.

Health Premium Adoption of the attached resolution fulfills CalPERS reporting requirements associated with the Meyers-Geddes Act.

Sustainability Impact

No sustainability impacts.

Fiscal Impact

This will increase the City's retiree annuitant medical contribution by approximately \$12,585.00 in Fiscal Year 2020-21. No budget adjustments are requested because the cost was factored in when calculating salary and benefit costs for the fiscal year.

Prepared by: Vanessa Guerra, Human Resources Manager

Reviewed by: Kristina Alfaro, Director of Administrative Services

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A – Draft Resolution

RESOLUTION NO. 19-

A RESOLUTION OF THE CITY OF COUNCIL OF THE CITY OF CUPERTINO FIXING THE EMPLOYER CONTRIBUTION AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT

- WHEREAS, City of Cupertino is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act"); and
- WHEREAS, Government Code Section 22892(a) provides that a contracting agency subject to the Act shall fix the amount of the employer contribution by resolution; and
- WHEREAS, Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and retired annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act;
- RESOLVED, (1) That the employer contribution for each employee or retired annuitant (annuitants hired prior to August 2004) shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of:

Medical Group	Monthly Employer Contribution		
	Single	Two-Party	Family
001 Management	\$891.32	\$1,515.24	\$1,969.81
002 Confidential	\$891.32	\$1,515.24	\$1,969.81
003 Employees Association	\$891.32	\$1,515.24	\$1,969.81
004 Operating Engineers	\$891.32	\$1,515.24	\$1,969.81
005 City Attorney	\$891.32	\$1,515.24	\$1,969.81

That the employer contribution for each retired annuitant (hired after August 2004) under the 100/90 Vesting Requirement shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of:

Medical Group	Monthly Employer Contribution		
	Single	Two-Party	Family
001 Management	\$798.00	\$1,519.00	\$1,937.00
002 Confidential	\$798.00	\$1,519.00	\$1,937.00
003 Employees Association	\$798.00	\$1,519.00	\$1,937.00
004 Operating Engineers	\$798.00	\$1,519.00	\$1,937.00

Plus administrative fees and Contingency Reserve Fund assessments; and be it further

RESOLVED, (2) City of Cupertino has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further

RESOLVED, (3) That the participation of the employees and retired annuitants of City of Cupertino shall be subject to determination of its status as an “agency or instrumentality of the state or political subdivision of a State” that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that City of Cupertino would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer.

RESOLVED, (4) That the executive body appoint and direct, and it does hereby appoint and direct, City Clerk to file with City Council a verified copy of this resolution, and to perform on behalf of City of Cupertino all functions required of it under the Act.

Passed and Adopted at a regular meeting of the City of Cupertino City Council, this 20th day of October 2020, by the following vote.

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	_____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	_____ Date



CITY OF CUPERTINO

Agenda Item

20-8310

Agenda Date:
10/20/2020 Agenda #: 9.

Subject: FY 2020-21 Interim Budget and Key Projects Update

Accept City Manager's Interim Budget and Key Projects Report



CITY MANAGER'S OFFICE

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 20, 2020

Subject

FY 2020-21 Interim Budget and Key Projects Update

Recommended Action

Accept City Manager's Interim Budget and Key Projects Report

Discussion

While the Administrative Services Department will be providing the City's First Quarter Financial Report on November 17, 2020, a preliminary update on the budget and key projects would be appropriate due to the economic uncertainty related to the pandemic. In summary, General Fund revenue is materializing slightly above, and expenditures are in line with year-end projections. However, the future impacts of the pandemic are unknown and will continue to be monitored.

No recommendations are being made at this time to change course on the City's expenditure reduction strategy and year-end projections given all the uncertainty that remains in the economy.

Budget Update – General Fund

Revenue

Major revenue sources for the City in the first quarter of the fiscal year saw mixed results. An unexpected increase in sales tax revenue due to strong business to business sales as schools and businesses rushed to get ready for mass and prolonged telework provided a boost in this sector and overall sales tax for the City. As of September 30, 2020, the City recognized \$11.7 million in sales tax, which represents 56% of the total amount budgeted in FY 2020-21. It also represents an increase of 109% over the First Quarter of FY 2019-20.

Transient occupancy tax continued to be impacted from COVID-19 and the shelter-in-place orders. As of September 30, 2020, the City recognized \$238,000 in transient occupancy tax, which represents 3% of the total amount budgeted in FY 2020-21. It also represents a decrease of 86% over the First Quarter of FY 2019-20.

Property taxes came in \$25,000, or 61%, higher than last year but are within forecast range.

Charges for services revenue is down 40% from the same point last year driven mainly by decreases in the other services and general services fees and offset slightly by increases in planning fee revenue. The City had forecasted that this revenue category would experience a decrease of 16% in the current fiscal year.

While these revenue fluctuations are significant, at this time, the City does not anticipate the General Fund's total budgeted revenue to fall below original projections.

Expenditures

Actual expenditures in the General Fund are tracking about 4% lower than first quarter last fiscal year. This is driven mainly by savings in materials and contracts and offset by increases in retirement and workers' compensation costs. Expenditures are still within range of year-end estimates.

Fund Balance

General Fund fund balance is projected to end FY 19-20 at \$65.5 million, including \$28.4 million in unassigned fund balance. As of September 30, 2020, the General Fund fund balance is estimated to end the year with \$72.6 million, including \$31.7 million in unassigned. This projection also assumes additional contributions to the Pension Section 115 Trust in the current fiscal year.

These unassigned fund balance dollars may be used in many ways at City Council's discretion. The City may:

- 1) Retain the unassigned reserve in the General Fund to absorb impacts from COVID-19 and recessionary conditions into the future,
- 2) Transfer a reasonable amount to the Capital Reserve to fund future capital projects, and/or
- 3) Bolster General Fund reserves (economic uncertainty, natural disaster, pension).

Key Project Updates

During the City's Work Program development, Council requested updates on key projects identified as high priority. Some of those projects such as alternatives to City Hall, density bonus ordinance update, the golf course, secondhand smoke policies, and development accountability are included in the City Work Program, therefore those updates will be included in a City Work Program update in November. Updates for the remaining key projects that are not part of the City Work Program are listed below.

Regnant Creek Trail

Project plans are 95% complete and fence selections by residents have been finalized. Permits from the Department of Fish and Wildlife have been received, and the permit from Army Corps of Engineers is expected in November. Authorization of the joint use agreement and land swap with Valley Water will be considered by the Valley Water

Board in November. If the Department of Fish and Wildlife permit is received in November, and authorization of the agreement with Valley Water is finalized is received in November, the project will go out to bid in November/December and Council will consider authorization to award the construction contract in January/February 2021.

Transit Center at State Route 85 (SR 85) and Stevens Creek Boulevard

On October 1, 2020, the Valley Transit Authority (VTA) Board of Directors accepted the SR 85 Corridor Policy Advisory Board (PAB) recommendation for: 1) a transit lane project on SR 85; and 2) to proceed with an alternatives analysis. With this action, Alternative 3.2 Long Median Transit Lane will be further analyzed. The FY 20-21 VTA budget allocated \$2.5M for initial project steps including project definition, preliminary engineering, and outreach. The timing of when and how VTA will allocate \$350M of Measure B funds for this project is unknown. Many larger transit projects, such as BART to San Jose, have the potential to significantly delay the SR 85 project. The VTA PAB will provide continuing input into the analysis, future funding, and ultimately design and construction of the project.

Gateway Process

A Study Session was conducted on July 7, 2020 to receive input from City Council on General Plan Amendment authorization policy. Amendments are being prepared based on input from Council. A presentation to Planning Commission is planned for fall 2020 with City Council review and approval by winter 2020.

Vallco Engagement

No longer applicable due to the upheld SB 35 project. Any updates on the building permit status will be reflected on the City's website.

Library Expansion

City Council awarded the Design Build contract on August 18, 2020 and the Rodan/SVA Design Build team is proceeding with design development. Demolition of the existing single-story children's reading room is scheduled for February 2021. Completion of the two-story expansion is scheduled for December 2021.

Lawrence Mitty

On September 25, 2020, the City completed the purchase of the Lawrence-Mitty property. The City will begin work on annexation of the property into Cupertino and on planning documents that will be used in future improvement of the property. Annexation of the property is being coordinated with the City of San Jose and the Local Agency Formation Commission (LAFCO). The funds used for the purchase, as well as for future development of the property, were provided as part of the development agreement between the City and Apple for the Apple Park Campus project. At mid-year, staff will be requesting a budget appropriation to begin work on the specific plan that will be used to guide the development of the park.

Objective Standards

Proposed amendments are being evaluated. General Plan amendments for suggestions received from City Council and Planning Commission will be presented to the Council in winter 2020.

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

Prepared by: Zach Korach, Finance Manager

Reviewed by: Kristina Alfaro, Director of Administrative Services

Approved for Submission by: Dianne Thompson, Assistant City Manager



CITY OF CUPERTINO

Agenda Item

20-8047

Agenda Date:
10/20/2020 Agenda #:
10.

Subject: Consider Municipal Code Amendments to CMC Chapter 10.48 Community Noise Control to regulate leaf blowers to implement the Fiscal Year 2020/21 City Council Work Program items related to ordinance updates on gas-powered leaf blowers. Application No(s): MCA-2020-002; Applicant(s): City of Cupertino; Location: Citywide.

Conduct the Public Hearing and find:

- 1) that the proposed action is exempt from CEQA; and
- 2) Conduct the first reading of Ordinance No. 20-2213: "An Ordinance of the City Council of the City of Cupertino amending Chapter 10.48, Community Noise Control for Leaf Blower Regulations".



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
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CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 20, 2020

SUBJECT

Consider Municipal Code Amendments to CMC Chapter 10.48 Community Noise Control to regulate leaf blowers to implement the Fiscal Year 2020/21 City Council Work Program items related to ordinance updates on gas-powered leaf blowers. (Application No. MCA-2020-002; Applicant: City of Cupertino; Location: Citywide)

RECOMMENDED ACTION

That the City Council:

1. Find that the proposed actions are exempt from CEQA; and,
2. Conduct the first reading of Ordinance No. 20-XXXX "An Ordinance to Amend Chapter 10.48 Community Noise Control to Adopt Leaf Blower Regulations" (Attachment A).

DISCUSSION

Background

The FY 2020/21 City Council Work Program directed the City to study and incorporate leaf blower regulations into the Municipal Code to address noise concerns from leaf blowers. Several jurisdictions in Santa Clara County have adopted restrictions on the use of leaf blowers, including bans on gas-powered leaf blowers, which are typically louder than their electric counterparts.

The City of Cupertino does not currently have a ban or noise standards specific to leaf blowers, gas-powered or otherwise. These devices are generally regulated under Cupertino Municipal Code (CMC) Chapter 10.48 Community Noise Control, which limits hours of operations for "landscape maintenance activities." Although undefined, landscape maintenance activities have been interpreted by City staff to include the use of all motorized gardening equipment, including leaf blowers.

The use of motorized landscape equipment is limited to the hours of 8:00 a.m. to 8:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on weekends and holidays, except for such

activities at public schools, public and private golf courses, and public facilities, which are allowed to begin at 7:00 a.m. (CMC Chapter 10.48.051). Generally, daytime and nighttime maximum noise levels in residential zones are limited to 60 decibels (dBA) and 50 dBA, respectively, measured at the shared property line of the receiving property (CMC Chapter 10.48.040), with some exceptions. Landscape maintenance activities are exempt from these daytime and nighttime noise limits provided that reasonable efforts are made by the user to minimize disturbances to nearby residents through the use of appropriate noise mufflers, running equipment only the minimal period necessary, and locating equipment so as to provide the least impact to adjoining properties.

Planning Commission Review

The proposed amendments were presented to the Planning Commission at its Regular meeting on September 22, 2020. The Commission received public comments, reviewed the ordinance, and concluded that the proposed amendments to Municipal Code 10.48, Community Noise Control are unnecessary for the following reasons:

1. The lack of necessity for specific leaf blower regulations based on the low number of complaints filed against leaf blowers (approximately three per year since 2015);
2. Difficulties for Code Enforcement to regulate;
3. The proposed regulations inequitably harm small business owners;
4. The proposal does not merit passage and is not worthy of advancing, and;
5. The proposed ordinance is considered overregulation.

The Planning Commission voted against recommending that the City Council adopt the proposed Ordinance with a 0-4-1 vote (absent – Saxena) (Attachment B).

Analysis

Leaf Blower Regulations:

Noise violations are reported to the Code Enforcement Division. Staff compiled and analyzed data for landscape maintenance related cases in the City over a five-year period (from January 2015 to July 2020). Table 1 on the following page presents this data by the type of complaint and the land use of the respondent property.

A review of the data indicates a total of 27 complaints - 15 of which were specific to leaf blower noise and hours of operation. The remaining 12 cases are non-specific and could possibly include other motorized landscaping equipment such as lawn mowers, edgers, and chainsaws. In aggregate, ten complaints were related to the use of loud equipment, while 22 were related to the use of landscape equipment too early in the day.

Leaf Blower				
	Commercial/ Office	Single-Family Residential	Multi- family	Total
Too Loud	2	1	0	3
Too Early	4	2	1	7
Loud and Early	2	3	0	5
Total	8	6	1	15
Miscellaneous Landscape Complaints				
	Commercial/ Office	Single-Family Residential	Multi- family	Total
Too Loud	1	1	0	2
Too Early	0	9	1	10
Loud and Early	0	0	0	0
Total	1	10	1	12

Table 1. Cupertino Code Enforcement Cases (Jan. 2015 – July 2020)

Comparison of Surrounding Jurisdictions

Five neighboring communities with adopted standards specific to leaf blowers were surveyed to compare their regulations with the City of Cupertino's Community Noise Regulations (Attachment C). The jurisdictions researched were: Palo Alto, Sunnyvale, Saratoga, Los Gatos, and Los Altos. Staff researched the current restrictions for leaf blowers by type (electric or gas), allowable hours of operation, enforcement body, outreach conducted, and their respective definitions of "leaf blower".

Applicability and Standards

Palo Alto, Sunnyvale, Saratoga, and Los Gatos set decibel limits for leaf blowers at 65 dBA (when measured 50 feet from the blower), while Los Altos does not have a noise level specified in their ordinance. Staff is recommending that the noise levels for leaf blowers in Cupertino be set to 65 dBA for leaf blowers.

The American National Standards Institute (ANSI) B175.2 details methodology for sound testing, safety, and performance for internal combustion engine-powered handheld and backpack leaf blowers. Leaf blowers that are ANSI-certified display a label for ease of identification, allowing for easier enforcement. However, electric leaf blowers are not tested according to ANSI standards and while these blowers are not labeled, the noise levels of these units can be found readily in the manufacturer's specifications, if the make and model of the unit is known.

While the cities of Sunnyvale and Saratoga do not prohibit the use of gas-powered leaf blowers in any zoning district, Los Altos limits their use to only non-residential zoning districts. Additionally, Palo Alto and Los Gatos, which has a similar topography as

Cupertino, with both smaller valley floor and larger foothill residential properties, does not allow the use of gas-powered leaf blowers in any residential zoning district.

Upon research, staff has found that electric leaf blowers are generally quieter than gas leaf blowers. According to a research article in the Journal of Environmental and Toxicological Studies titled “Lawn and Garden Equipment Sound: A Comparison of Gas and Battery Electric Equipment”, gas-powered leaf blowers have a markedly greater low frequency component compared with the battery electric leaf blower sound spectrum, “allowing it to transmit and remain audible over longer distances and have greater adverse impact on the surrounding community” (Pollock, Sparks, & Banks, 2018). The lower frequency of gas leaf blowers allows the emitted sounds to travel more readily through windows and glass doors of homes. The study also concludes that, based on an analysis of perceived loudness by the human ear, gas leaf blowers can be heard up to several times louder than battery electric counterparts in both outdoor and indoor settings.

Landscape maintenance activities for larger commercial properties, mixed use developments, and public parks can be negatively impacted if limited to the use of electric leaf blowers alone. The Cupertino Public Works Department’s Maintenance Service Division expressed concerns with switching to electric leaf blowers due to the lack of power needed for larger sites (such as the public parks and schools) and consequently increased maintenance times. Additional concerns include inadequate run times for battery-operated blowers and restricted mobility for corded electric leaf blowers.

Taking into consideration the regulations from neighboring jurisdictions and the concerns regarding larger properties, the draft ordinance permits the use of only certified electric leaf blowers in residential single-family, duplex, and triplex developments, while allowing the use of both ANSI-certified gas leaf blowers and certified electric leaf blowers for landscape maintenance on non-residential and multi-family, mixed use developments, and city properties (i.e. parks, streets, medians, public facilities, etc.).

All the jurisdictions researched limit hours of operation by weekday, weekend and holidays. Most cities allow the use of leaf blowers beginning at 8:00 a.m. citywide on weekdays. Only the City of Palo Alto further limits the hours of operation for use of leaf blowers in residential areas on weekdays while Los Altos has shorter hours on weekdays for both residential and non-residential areas. All cities allow the use of leaf blowers, some for shorter hours, on Saturdays. The cities of Saratoga, Palo Alto and Los Gatos prohibit the use of leaf blowers on Sundays and Holidays. However, two cities, Sunnyvale and Los Altos, do not have special weekend or Holiday hours of operation.

Table 2 below summarizes the hours of operation for each of the cities.

	Weekdays	Saturday	Sunday	Holidays
Saratoga	8:00 a.m. to 5:00 p.m.	10:00 a.m. to 5:00 p.m.	Prohibited	No mention
Palo Alto	Res: 9:00 a.m. to 5:00 p.m. Non-res: 8:00 a.m. to 6:00 p.m.	10:00 a.m. to 4:00 p.m.	Prohibited	Prohibited
Los Gatos	8:00 a.m. to 5:00 p.m.	9:00 a.m. to 4:00 p.m.	Prohibited	Prohibited
Los Altos	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 5:00 p.m.	9:00 a.m. to 5:00 p.m.
Sunnyvale	8:00 a.m. to 8:00 p.m.	8:00 a.m. to 8:00 p.m.	8:00 a.m. to 8:00 p.m.	8:00 a.m. to 8:00 p.m.
Cupertino (current – for all landscape equipment)	8:00 a.m. to 8:00 p.m.	9:00 a.m. to 6:00 p.m.	9:00 a.m. to 6:00 p.m.	9:00 a.m. to 6:00 p.m.

Table 2. Leaf Blower Operational Hours Comparison Table

Cupertino has hours of operation similar to Sunnyvale’s for weekdays but has reduced hours of operation on Saturdays/Sundays and Holidays. No changes are proposed with the draft ordinance on the hours of operation, as it pertains to the use of leaf blowers.

Effective date of Leaf Blower Regulations

The most recent jurisdiction to adopt leaf blower regulations was the City of Saratoga, whose leaf blower ordinance went into effect on October 1, 2019. However, the ordinance, approved on October 4, 2017, included a two-year grace period leading up to the effective date of the new noise standards related to leaf blowers. This was to allow time for outreach and inform stakeholders about the changes and encourage the transition to the use of certified leaf blowers.

The outreach plan included:

- Citywide postcard mailers after adoption of the ordinance
- Notifications to all landscape and gardening businesses located within Saratoga city limits
- Informational median signs throughout the City
- A dedicated leaf blower FAQ page on the City’s website

Staff recommends a two-year grace period (starting when the ordinance is effective) with an outreach plan similar to Saratoga’s, to allow time for residents and landscapers to familiarize themselves with the new regulations and acquire permitted equipment. Should City Council adopt the leaf blower regulations in a Second Reading on November 3, 2020, the new regulations would become effective on November 5, 2022. The City will continue to enforce the existing regulations for landscape maintenance activities until the effective date.

Environmental Review

The proposed ordinance is exempt from environmental review under the California Environmental Quality Act (“CEQA”) Guidelines Section 15061(b)(3) because it can be seen with certainty the Ordinance’s regulation related to leaf blower enforcement will have no possible significant effect on the environment. Finally, the Ordinance is exempt from CEQA under CEQA Guidelines section 15308 since these regulations are being adopted to assure the maintenance, restoration, enhancement, or protection of the environment.

Public Noticing & Outreach

The following noticing has been conducted for this project:

Notice of Public Hearing, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none"> ▪ Legal ad placed in newspaper (<i>at least 10 days prior to hearing</i>) ▪ Display ad placed in newspaper (<i>at least 10 days prior to hearing</i>) 	<ul style="list-style-type: none"> ▪ Posted on the City's official notice bulletin board (<i>four days prior to hearing</i>) ▪ Posted on the City of Cupertino’s Web site (<i>four days prior to hearing</i>)

NEXT STEPS

Second Reading by City Council tentatively scheduled for November 3, 2020. If adopted, the ordinance will be effective two years after the second reading/adoption.

Prepared by: Jeffrey Tsumura, Associate Planner

Reviewed by: Piu Ghosh, Planning Manager

Reviewed and Approved for Submission by: Benjamin Fu, Director of Community Development; Dianne Thompson, Assistant City Manager

Attachments:

A - Draft Ordinance for MCA-2020-002

B – Planning Commission Resolution No. 6910

C - Comparison of Neighboring Jurisdictions

D – Redlined Ordinance

DRAFT ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING CHAPTER 10.48 COMMUNITY NOISE CONTROL FOR
LEAF BLOWER REGULATIONS**

The City Council of the City of Cupertino finds that:

WHEREAS, the City has certain General Plan Goals, Policies and Strategies that support minimizing noise impacts on the community and maintaining a compatible noise environment, it does not have regulations that specifically address leaf blower impacts to promote effective noise reduction policies, and that the amendments to Chapter 10.48 will provide effective standards to promote noise management operations;

WHEREAS, a two-year grace period (starting when the ordinance is adopted) is proposed before the new regulations go into effect to allow time for public outreach and education for residents and landscapers to familiarize themselves with the new regulations and acquire permitted equipment; and

WHEREAS, following public notices given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Planning Commission held a public hearing on September 22, 2020 to consider the Municipal Code Amendments; and

WHEREAS, with Resolution No. 6910 the Planning Commission voted against recommending that the City Council adopt the proposed Ordinance amending the Municipal Code with a 0-4-1 vote (absent – Saxena) for the following reasons: 1) The lack of necessity for specific leaf blower regulations based on the low number of complaints filed against leaf blowers (approximately three per year since 2015), 2) Difficulties for Code Enforcement to regulate, 3) The proposed regulations inequitably harm small business owners, 4) The proposal does not merit passage and is not worthy of advancing, and 5) The proposed ordinance is considered overregulation; and

WHEREAS, on October 20, 2020 upon due notice, the City Council has held at least one public hearing to consider the Planning Commission's recommendation and the Ordinance; and

WHEREAS, the City Council is the decision-making body for this Ordinance; and

WHEREAS, the City Council does find as follows:

- a. That the proposed zoning is in accord with this title of the Municipal Code and the City's Comprehensive General Plan.

The Ordinance does not change any zoning designations or regulations, but rather it modifies Title 10: Public Peace, Safety and Morals by adding amendments based on

zoning designations for the implementation of leaf blower regulations. The proposed amendments do not render existing provisions of the Municipal Code inconsistent with those proposed.

The proposed amendments will also support the following General Plan Goals, Policies, and Strategies:

- *Goal HS-8: Minimize noise impacts on the community and maintain a compatible noise environment for existing and future land use.*
 - *Policy HS-8.1: Land Use Decision Evaluation – Use the Land Use Compatibility for Community Noise Environments chart, the Future Noise Contour Map (see Figure D-1 in Appendix D) and the City Municipal Code to evaluate land use decisions.*
 - *Policy HS-8.2: Building and Site Design – Minimize noise impacts through appropriate building and site design.*
 - *Policy HS-8.3: Construction and Maintenance Activities – Regulate construction and maintenance activities. Establish and enforce reasonable allowable periods of the day, during weekdays, weekends and holidays for construction activities. Require construction contractors to use the best available technology to minimize excessive noise and vibration from construction equipment such as pile drivers, jack hammers, and vibratory rollers.*
- b. The proposed zoning is in compliance with the provisions of the California Environmental Quality Act (CEQA).
The proposed Ordinance is exempt from environmental review under California Environmental Quality Act (“CEQA”) Guidelines section 15308 because these regulations are being adopted to assure the maintenance, restoration, enhancement, or protection of the environment; and CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that these regulations related to leaf blower regulations will have no possibility of a significant effect on the environment.
- c. The site is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested zoning designation(s) and anticipated land use development(s).
Not applicable. The proposed ordinance amendments do not change the zoning designation for any properties, nor does it change any land uses allowed. The amendments also do not propose any physical changes in the environment or increased development.
- d. The proposed zoning will promote orderly development of the City.

Not applicable. The proposed ordinance amendments do not affect the development of the City.

- e. That the proposed zoning is not detrimental to the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels.

The proposed ordinance provides regulation to maintain the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels by providing regulations on the types and usage leaf blowers within these neighborhoods to minimize excessive noise.

- f. The proposed amendments are internally consistent with this title.
All the necessary chapters and sections of Title 10: Public Peace, Safety and Morals have been amended to ensure internal consistency with the proposed regulations.

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

SECTION 1. Adoption.

The Cupertino Municipal Code is hereby amended as follows:

- I. The following definitions are added to Section 10.48.010 (Definitions) of the Cupertino Municipal Code:

“Leaf blower” means any portable motorized landscape equipment used to blow leaves, dirt and other debris off sidewalks, driveways, lawns or other surfaces.

“Leaf blower, Certified” means a leaf blower with a noise level reading of 65 dBA or less measured at a distance of 50 feet by an independent laboratory per American National Standards Institute (ANSI) standard B175.2, as certified by the manufacturer, or an electric leaf blower with a noise level measured at 65 dBA or less at a distance of 50 feet, as certified by the manufacturer.

“Motorized landscape equipment” means a motorized device powered by electricity or fuel used for landscape maintenance. Motorized landscape equipment includes but is not limited to: lawn mowers, leaf blowers, edgers, and chainsaws.

- II. Section 10.48.051 (Landscape Maintenance Activities) of the Cupertino Municipal Code is amended as follows:

10.48.051 Landscape Maintenance Activities.

~~—The use of motorized equipment for landscape maintenance activities shall be limited to the hours of 8:00 a.m. to 8:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on weekends and holidays, with the exception of landscape~~

maintenance activities for public schools, public and private golf courses, and public facilities, which are allowed to begin at 7:00 a.m. The use of motorized equipment for landscape maintenance activities during these hours is exempted from the limits of Section 10.48.040; provided, that reasonable efforts are made by the user to minimize the disturbances to nearby residents by, for example, installation of appropriate mufflers or noise baffles, running equipment only the minimal period necessary, and locating equipment so as to generate minimum noise levels on adjoining properties.

A. The use of motorized landscape equipment for landscape maintenance activities shall be limited as follows:

	<u>Weekdays</u>	<u>Weekends and Holidays</u>
<u>At public schools, public and private golf courses and public facilities</u>	<u>7:00 a.m. – 8:00 p.m.</u>	<u>7:00 a.m. – 6:00 p.m.</u>
<u>All others</u>	<u>8:00 a.m. – 8:00 p.m.</u>	<u>9:00 a.m. – 6:00 p.m.</u>

B. The use of motorized **landscape** equipment for landscape maintenance activities during **the hours indicated in subsection A** is exempted from the limits of Section 10.48.040; provided that reasonable efforts are made by the user to minimize the disturbances to nearby residents by, for example, installation of appropriate mufflers, ~~or~~ noise baffles, **or extension tubes supplied by the manufacturer,** running equipment only the minimal period necessary, and locating equipment so as to generate minimum noise levels on adjoining properties.

C. After November 5, 2022, the following regulations shall apply to leaf blowers:

- 1. The use of any leaf blower other than a certified leaf blower is prohibited.**
- 2. Certified leaf blowers shall only be used in a manner consistent with Section 10.48.080(A) and (B) and as provided in the table below:**

	<u>Certified Gas-powered Leaf Blowers</u>	<u>Certified Electric Leaf Blowers</u>
<u>Residential (single family homes, duplexes and triplexes)</u>	<u>Prohibited</u>	<u>Permitted</u>
<u>Non-Residential and Multi-family or mixed-use developments</u>	<u>Permitted</u>	<u>Permitted</u>
<u>City Property (Parks, streets, medians, public facilities, etc.)</u>	<u>Permitted</u>	<u>Permitted</u>

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.

The proposed ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") Guidelines Section 15308 since these regulations are being adopted to assure the maintenance, restoration, enhancement, or protection of the environment. Further, the proposed ordinance is exempt from CEQA under CEQA Guidelines section 15061(b)(3) because it can be seen with certainty the Ordinance's regulation related to leaf blower regulations will have no possible significant effect on the environment.

SECTION 4: Effective Date.

This Ordinance shall take effect two years 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 20, 2020 and **ENACTED** at a regular meeting of the Cupertino City Council on November 3, 2020 by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	 _____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	 _____ Date
APPROVED AS TO FORM: _____ Heather Minner, City Attorney	 _____ Date

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. 6910

OF THE CUPERTINO PLANNING COMMISSION
RECOMMENDING THAT THE CITY COUNCIL ADOPT AN
ORDINANCE TO AMEND CHAPTER 10.48 COMMUNITY NOISE
CONTROL TO ADOPT LEAF BLOWER REGULATIONS

The Planning Commission recommends the City Council adopt the Draft Ordinance attached as Exhibit A to:

1. Find that the Ordinance is exempt from environmental review under California Environmental Quality Act ("CEQA") Guidelines section 15601(b)(3) because it can be seen with certainty that the Ordinance's regulation related to leaf blower enforcement will have no possible significant effect on the environment; and CEQA Guidelines section 15308 because these regulations are being adopted to assure the maintenance, restoration, enhancement, or protection of the environment; and
2. Adopt the proposed amendments to the Municipal Code, with the findings reflected in the proposed Ordinance, which the Planning Commission makes as though set forth in their entirety in this Resolution, in substantially the form as shown in said Exhibit entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF CUPERTINO AMENDING CHAPTER 10.48
COMMUNITY NOISE CONTROL FOR LEAF BLOWER
REGULATIONS

DENIED this 22ND day of September 2020, at a Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS: none
NOES: COMMISSIONERS: Chair Moore, Vice Chair Wang, Fung, Takahashi
ABSTAIN: COMMISSIONERS: none
ABSENT: COMMISSIONERS: Saxena

ATTEST:

APPROVED:

/s/Piu Ghosh
Piu Ghosh
Planning Manager

/s/Kitty Moore
Kitty Moore
Chair, Planning Commission

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING CHAPTER 10.48 COMMUNITY NOISE CONTROL FOR
LEAF BLOWER REGULATIONS**

The City Council of the City of Cupertino finds that:

WHEREAS, the City has certain General Plan Goals, Policies and Strategies that support minimizing noise impacts on the community and maintaining a compatible noise environment, it does not have regulations that specifically address leaf blower impacts to promote effective noise reduction policies, and that the amendments to Chapter 10.48 will provide effective standards to promote noise management operations;

WHEREAS, a two-year grace period (starting when the ordinance is adopted) is proposed before the new regulations go into effect to allow time for public outreach and education for residents and landscapers to familiarize themselves with the new regulations and acquire permitted equipment;

WHEREAS, on September 22, 2020, Planning Commission provided staff guidance on potential Leaf Blower regulations; and

WHEREAS, following public notices given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Planning Commission held a public hearing on September 22, 2020 to consider the Ordinance; and

WHEREAS, with Resolution No. XXXX the Planning Commission has recommended on a X-X vote that the City Council adopt the Ordinance amending the Municipal Code in substantially similar form as presented in Planning Commission Resolution No. XXXX; and

WHEREAS, on _____, 2020 upon due notice, the City Council has held at least one public hearing to consider the Planning Commission's recommendation and the Ordinance; and

WHEREAS, the City Council is the decision-making body for this Ordinance; and

WHEREAS, the City Council does find as follows:

- a. That the proposed zoning is in accord with this title of the Municipal Code and the City's Comprehensive General Plan.

The Ordinance does not change any zoning designations or regulations, but rather it modifies Title 10: Public Peace, Safety and Morals by adding amendments based on zoning designations for the implementation of leaf blower regulations. The proposed

amendments do not render existing provisions of the Municipal Code inconsistent with those proposed.

The proposed amendments will also support the following General Plan Goals, Policies, and Strategies:

- *Goal HS-8: Minimize noise impacts on the community and maintain a compatible noise environment for existing and future land use.*
 - *Policy HS-8.1: Land Use Decision Evaluation – Use the Land Use Compatibility for Community Noise Environments chart, the Future Noise Contour Map (see Figure D-1 in Appendix D) and the City Municipal Code to evaluate land use decisions.*
 - *Policy HS-8.2: Building and Site Design – Minimize noise impacts through appropriate building and site design.*
 - *Policy HS-8.3: Construction and Maintenance Activities – Regulate construction and maintenance activities. Establish and enforce reasonable allowable periods of the day, during weekdays, weekends and holidays for construction activities. Require construction contractors to use the best available technology to minimize excessive noise and vibration from construction equipment such as pile drivers, jack hammers, and vibratory rollers.*
- b. The proposed zoning is in compliance with the provisions of the California Environmental Quality Act (CEQA).
The proposed Ordinance is exempt from environmental review under California Environmental Quality Act (“CEQA”) Guidelines section 15308 because these regulations are being adopted to assure the maintenance, restoration, enhancement, or protection of the environment; and CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that these regulations related to leaf blower regulations will have no possibility of a significant effect on the environment.
- c. The site is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested zoning designation(s) and anticipated land use development(s).
Not applicable. The proposed ordinance amendments do not change the zoning designation for any properties, nor does it change any land uses allowed. The amendments also do not propose any physical changes in the environment or increased development.
- d. The proposed zoning will promote orderly development of the City.
Not applicable. The proposed ordinance amendments do not affect the development of the City.

- e. That the proposed zoning is not detrimental to the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels.

The proposed ordinance provides regulation to maintain the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels by providing regulations on the types and usage leaf blowers within these neighborhoods to minimize excessive noise.

- f. The proposed amendments are internally consistent with this title.

All the necessary chapters and sections of Title 10: Public Peace, Safety and Morals have been amended to ensure internal consistency with the proposed regulations.

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

SECTION 1. Adoption.

The Cupertino Municipal Code is hereby amended as follows:

- I. The following definitions are added to Section 10.48.010 (Definitions) of the Cupertino Municipal Code:

“Leaf blower” means any portable motorized landscape equipment used to blow leaves, dirt and other debris off sidewalks, driveways, lawns or other surfaces.

“Leaf blower, Certified” means a leaf blower with a noise level reading of 65 dBA or less measured at a distance of 50 feet by an independent laboratory per American National Standards Institute (ANSI) standard B175.2, as certified by the manufacturer, or an electric leaf blower with a noise level measured at 65 dBA or less at a distance of 50 feet, as certified by the manufacturer.

“Motorized landscape equipment” means a motorized device powered by electricity or fuel used for landscape maintenance. Motorized landscape equipment includes but is not limited to: lawn mowers, leaf blowers, edgers, and chainsaws.

- II. Section 10.48.051 (Landscape Maintenance Activities) of the Cupertino Municipal Code is amended as follows:

10.48.051 Landscape Maintenance Activities.

~~– The use of motorized equipment for landscape maintenance activities shall be limited to the hours of 8:00 a.m. to 8:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on weekends and holidays, with the exception of landscape maintenance activities for public schools, public and private golf courses, and public facilities, which are allowed to begin at 7:00 a.m. The use of motorized~~

equipment for landscape maintenance activities during these hours is exempted from the limits of Section 10.48.040; provided, that reasonable efforts are made by the user to minimize the disturbances to nearby residents by, for example, installation of appropriate mufflers or noise baffles, running equipment only the minimal period necessary, and locating equipment so as to generate minimum noise levels on adjoining properties.

A. The use of motorized landscape equipment for landscape maintenance activities shall be limited as follows:

	<u>Weekdays</u>	<u>Weekends and Holidays</u>
<u>At public schools, public and private golf courses and public facilities</u>	<u>7:00 a.m. – 8:00 p.m.</u>	<u>7:00 a.m. – 6:00 p.m.</u>
<u>All others</u>	<u>8:00 a.m. – 8:00 p.m.</u>	<u>9:00 a.m. – 6:00 p.m.</u>

B. The use of motorized **landscape** equipment for landscape maintenance activities during **the hours indicated in subsection A** is exempted from the limits of Section 10.48.040; provided that reasonable efforts are made by the user to minimize the disturbances to nearby residents by, for example, installation of appropriate mufflers, ~~or~~ noise baffles, **or extension tubes supplied by the manufacturer,** running equipment only the minimal period necessary, and locating equipment so as to generate minimum noise levels on adjoining properties.

C. After November 5, 2022, the following regulations shall apply to leaf blowers:

- 1. The use of any leaf blower other than a certified leaf blower is prohibited.**
- 2. Certified leaf blowers shall only be used in a manner consistent with Section 10.48.080(A) and (B) and as provided in the table below:**

	<u>Certified Gas-powered Leaf Blowers</u>	<u>Certified Electric Leaf Blowers</u>
<u>Residential (single family homes, duplexes and triplexes)</u>	<u>Prohibited</u>	<u>Permitted</u>
<u>Non-Residential and Multi-family or mixed-use developments</u>	<u>Permitted</u>	<u>Permitted</u>
<u>City Property (Parks, streets, medians, public facilities, etc.)</u>	<u>Permitted</u>	<u>Permitted</u>

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.

The proposed ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") Guidelines Section 15308 since these regulations are being adopted to assure the maintenance, restoration, enhancement, or protection of the environment. Further, the proposed ordinance is exempt from CEQA under CEQA Guidelines section 15061(b)(3) because it can be seen with certainty the Ordinance's regulation related to leaf blower regulations will have no possible significant effect on the environment.

SECTION 4: Effective Date.

This Ordinance shall take effect two years 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 _____, 2020 and **ENACTED** at a regular meeting of the Cupertino City Council on _____, 2020 by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	_____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	_____ Date
APPROVED AS TO FORM: _____ Heather Minner, City Attorney	_____ Date

1293499.1

Leaf Blower Neighboring Jurisdiction Survey

Jurisdiction	Noise Standards and Regulations	Hours of Operation	Outreach
Palo Alto (Chapter 9.10)	1. Gas blowers (internal combustion engines) prohibited in all residential zones 2. Gas and Electric Leaf Blowers 65 dBA or less measured 50 feet from the source (American National Standard Institute methodology) allowed in all other zones.	Weekdays: Residential: 9am-5pm Other: 8am-6pm Saturday: 10am-4pm Sundays and Holidays: Prohibited	Conducted two public forum meetings prior to adoptions: first meeting with garderners and landscapers, second meeting for residents and business owners. Citywide flyer went out after ordinance adoption. FAQ page and flyer on website
Sunnyvale (Chapter 19.42.030)	1. Gas and Electric Leaf Blowers 65 dBA or lower at 50 feet 2. Also applies to use of leaf blowers on non-residential properties adjacent to residential properties	Everyday: 8am-8pm	N/A
Los Altos (Chapter 6.16)	1. Gasoline-powered leaf blowers prohibited. 2. Electric leaf blower sound levels limited by zoning district from 45 dBA in R1 zoning districts to 60 dBA in Commercial zoning districts for receiving property line.	Everyday: 9am-5pm	N/A
Saratoga (Article 7-30)	1. Leaf Blowers 65 dBA or less at a distance of 50 feet 2. Use of any leaf blower other than a certified leaf blower, as defined in the Code, is prohibited (citywide).	Weekdays: 8am-5pm Saturdays: 10am-5pm Sundays: Prohibited	One citywide postcard mailed out to all residents shortly after ordinance was passed. Leaf blower regulation ordinance translated into five languages. Contacted Garden Center in Los Gatos. Notifications to all landscape/ gardening businesses within Saratoga in collaboration with Finance Dept. Median signs FAQ page on website
Los Gatos (Chapter 16.20.060)	1. Gas blowers prohibited from all residential, commercial, and industrial zones or public space 2. Electric Leaf Blowers 65 dBA or less measured 50 feet from the source allowed	Weekdays: 8am-5pm Saturday: 9am-4pm Sundays and Holidays: Prohibited	Normal code change Flyer in July, six months to compliance Another went out in November, five months after adoption FAQ page on website
Cupertino (PROPOSED)	1. Gas blowers (internal combustion engines) prohibited in all residential zones 2. Gas and Electric Leaf Blowers 65 dBA or less measured 50 feet from the source (American National Standard Institute methodology) allowed in all other zones.	Weekdays: 8am-8pm Saturday: 9am-6pm Sundays and Holidays: 9am-6pm	Postcards after adoption of ordinance mailed out to all residents and businesses shortly after ordinance passed. Contact Summerwinds and Yamagami Nursery in Cupertino and Home Depot on Bollinger. Notification to all landscape/ gardening businesses within Cupertino in collaboration with Finance Dept. Cupertino Scene - two articles closer to effective date (October 2021 and 2022) Signage across Stevens Creek Blvd in collaboration with Public Works (Maybe) FAQ page on website

10.48.010 Definitions.

For purposes of this chapter:

“Commercial area” means commercially-zoned property as defined in the community zoning ordinance.

“Commercial establishment” means any store, factory, manufacturing or industrial plant used for the sale, manufacturing, fabrication, assembly or storage of goods, wares and merchandise.

“Construction” means any site preparation, assembly, erection, repair, substantial alteration, or similar action, of public or private property, rights-of-way, structures, utilities or similar property, including vehicle pick-up or delivery of construction materials or demolition debris but excluding demolition and grading.

“Daytime” means the period from seven a.m. to eight p.m. on weekdays, and the period from nine a.m. to six p.m. on weekends.

“Decibel (dB)” means a unit for measuring relative sound pressure, logarithmically referenced to a pressure of twenty micronewtons per square meter.

“Demolition” means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

“Emergency” means any occurrence or set of circumstances involving actual or imminent physical danger, crisis, trauma, or property damage which demands immediate action.

“Emergency work” means any work performed for the purpose of preventing or alleviating the physical danger, trauma, or property damage threatened or caused by an emergency, or restoration of conditions and property to their status prior to the emergency.

“Holidays” means the following days: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.

“Industrial area” means industrially-zoned property as defined in the community zoning ordinance.

“Leaf blower” means any portable motorized landscape equipment used to blow leaves, dirt and other debris off sidewalks, driveways, lawns or other surfaces. Certified leaf blower means a leaf blower with a noise level reading of 65 dBA or less measured at a distance of 50 feet by an independent laboratory per American National Standards Institute (ANSI) standard B175.2, as certified by the manufacturer, or an electric leaf blower with a noise level measured at 65 dBA or less at a distance of 50 feet, as certified by the manufacturer.

“Motorized landscape equipment” means a motorized device powered by electricity or fuel used for landscape maintenance. Motorized landscape equipment includes but is not limited to: lawn mowers, leaf blowers, edgers, and chainsaws.

“Muffler” means a device for reducing or dissipating the sound of escaping gases, or other types of noise, from a mechanical device or engine.

“Multiple-family dwelling unit” means a residential structure containing separate living quarters for two or more families, each unit with similar and common access to the outside.

“NCO” means noise control officer.

“Nighttime” means periods of weekdays from eight p.m. to twelve midnight, and from midnight to seven a.m., and periods on weekends from six p.m. to midnight and from midnight to nine a.m.

“Noise” means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

ATTACHMENT 3

“Noise Control Officer (NCO)” means the municipal agency, department or individual having lead responsibility for implementation and enforcement of this chapter, as designated by the City Manager and approved by the City Council.

“Noise disturbance” means any sound which:

1. Endangers or injures the safety or health of humans or animals; or
2. Annoys or disturbs a reasonable person of normal sensitivities; or
3. Endangers or damages personal or real property.

“Noise level” means the same as sound level.

“Nonresidential area” means land zoned for other than residential uses, such as commercial, professional office, industrial or public, as defined in the zoning ordinance, but not including public rights-of-way.

“Person” means any individual, association, partnership, corporation, or public agency, and includes any associated officer, employee or department.

“Property boundary” means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

“Public area” means any property or structures thereon which are owned, utilized, or controlled by a governmental entity.

“Public right-of-way” means any street, avenue, boulevard, highway, parkway, alley or similar place which is owned or controlled by a governmental entity.

“Residential area” means residentially zoned land as defined in the community zoning ordinance.

“Sound” means a rapid variation in air pressure, which, because of its magnitude and frequency, can be heard by a human with average hearing ability.

“Sound level” means the maximum continuous or repeated peak value measured by the use of a sound level meter and the “A” weighting network, as specified in American National Standards Institute specifications for sound level meters (ANSI S 1A - 1971, or the latest revision). The reading obtained in decibels is designated dBA. If the meter response characteristic is not indicated, “SLOW” response shall be used.

“Sound level meter” means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound levels, and meets American National Standards Institute specification S 1.4 - 1971, or latest revision, for Type 1, Type 2 or Type 2A operation.

“Weekday” means any day, Monday through Friday, that is not one of the holidays.

“Weekend” means Saturdays and Sundays that are not holidays.

“Vehicular deliveries or pickups” means the delivery or pickup or the arrival for the delivery or pickup of goods, wares, merchandise and waste material by the use of motor vehicles, including, but not limited to, the operation of motorized commercial ground-sweeping or waste-removal machinery, whether portable or self-propelled.

[CMC Chapters 10.48.011 Through 10.48.050 Not Edited]

10.48.051 Landscape Maintenance Activities.

~~—The use of motorized equipment for landscape maintenance activities shall be limited to the hours of 8:00 a.m. to 8:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on weekends and holidays, with the exception of landscape maintenance activities for public schools, public and private golf courses, and public facilities, which are allowed to begin at 7:00 a.m. The~~

ATTACHMENT 3

~~use of motorized equipment for landscape maintenance activities during these hours is exempted from the limits of Section 10.48.040; provided, that reasonable efforts are made by the user to minimize the disturbances to nearby residents by, for example, installation of appropriate mufflers or noise baffles, running equipment only the minimal period necessary, and locating equipment so as to generate minimum noise levels on adjoining properties.~~

A. The use of motorized landscape equipment for landscape maintenance activities shall be limited as follows:

	<u>Weekdays</u>	<u>Weekends and Holidays</u>
<u>At public schools, public and private golf courses, and public facilities</u>	<u>7:00 a.m. – 8:00 p.m.</u>	<u>7:00 a.m. – 6:00 p.m.</u>
<u>All others</u>	<u>8:00 a.m. – 8:00 p.m.</u>	<u>9:00 a.m. – 6:00 p.m.</u>

B. The use of motorized landscape equipment for landscape maintenance activities during the hours indicated in subsection A is exempted from the limits of Section 10.48.040; provided that reasonable efforts are made by the user to minimize the disturbances to nearby residents by, for example, installation of appropriate mufflers, ~~or~~ noise baffles, or extension tubes supplied by the manufacturer, running equipment only the minimal period necessary, and locating equipment so as to generate minimum noise levels on adjoining properties.

A.C. After November 5, 2022, the following regulations shall apply to leaf blowers:

1. The use of any leaf blower other than a certified leaf blower is prohibited.
2. Certified leaf blowers shall only be used in a manner consistent with Section 10.48.080(A) and (B) and as provided in the table below:

	<u>Certified Gas-powered Leaf Blowers</u>	<u>Certified Electric Leaf Blowers</u>
<u>Residential (single family homes, duplexes and triplexes)</u>	<u>Prohibited</u>	<u>Permitted</u>
<u>Non-Residential and Multi-family or mixed-use developments</u>	<u>Permitted</u>	<u>Permitted</u>
<u>City Property (Parks, streets, medians, public facilities, etc.)</u>	<u>Permitted</u>	<u>Permitted</u>

[CMC Chapters 10.48.052 Through 10.48.070 Not Edited]



CITY OF CUPERTINO

Agenda Item

20-8116

Agenda Date:
10/20/2020 Agenda #:
11.

Subject: Minor, cleanup amendments to the Cupertino Municipal Code

Conduct the first reading of Ordinance No. 20-2214: "An Ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Section 2.04.010 (concerning regular meetings of the City Council); Section 2.28.040 (concerning powers and duties of the City Manager); Section 8.01.090 (concerning animals in City buildings); Chapter 11.08 (concerning bicycle licensing and registration); and Section 13.04.190 (concerning activities prohibited in City parks)."



CITY MANAGER'S OFFICE

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 20, 2020

Subject

Minor, cleanup amendments to the Cupertino Municipal Code

Recommended Action

Conduct the first reading of Ordinance No. 20-____: "An Ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Section 2.04.010 (concerning regular meetings of the City Council); Section 2.28.040 (concerning powers and duties of the City Manager); Section 8.01.090 (concerning animals in City buildings); Chapter 11.08 (concerning bicycle licensing and registration); and Section 13.04.190 (concerning activities prohibited in City parks)."

Discussion

The City periodically adopts a number of cleanup amendments to the Cupertino Municipal Code to reflect changes in law, provide clarification to the community, and provide for improved customer service and administration of City business.

Attachment A presents the proposed Code changes. The following changes to the Cupertino Municipal Code are recommended:

1. Cancellation of Regular Meeting of the City Council by Majority Vote of the Council

Current Cupertino Municipal Code Section 2.04.010 establishes the schedule of regular meetings of the City Council. The Code does not currently provide for the cancellation of a future Council meeting if, for instance, it is known that a quorum will not be present on that date or if Council has previously decided to cancel the meeting for summer vacations. Currently, if a regular meeting must be canceled, the City Clerk will assign someone to stand outside of Community Hall at 6:45 p.m. on the canceled meeting date, confirm that there is no quorum and adjourn the meeting to the next regular meeting. The proposed amendment would amend the Code to provide that the City Council may cancel a future regular meeting by a vote of a majority of the Council.

2. City Manager's Power to Sign Purchase Orders, Contracts, Conveyances, and Other Instruments

Section 40602 of the state Government Code provides that the mayor shall sign all purchase orders, written contracts and conveyances, and instruments requiring the city seal, unless the City Council authorizes another officer to sign these documents. Gov. Code § 40602(a)-(c). This authorization occurs in several places in the Municipal Code for most documents and by the Council on-a-case by case basis as it takes action on other documents.

For clarity and ease of reference, the proposed amendment would amend the Code to authorize the City Manager to sign all types of documents listed in Government Code Section 40602, or to delegate to another officer such authority to sign, whenever such documents have been approved by the Council for execution by the City Manager or their delegee by ordinance, resolution, motion, minute order, or other appropriate action. The proposed amendment also provides that a Purchasing Officer as provided in the Municipal Code may sign documents that they have authority to approve or award.

3. Service Animals in City Buildings

Current Cupertino Municipal Code Section 8.01.090 prohibits animals in most City-owned or managed buildings, except guide dogs used by persons who are blind or hearing-impaired, or as expressly authorized by the City Manager. The proposed amendment would conform the City Code to the Americans with Disabilities Act, which provides that public entities shall allow individuals with disabilities to be accompanied by "service animals" in all areas of a public entity's facilities where the public is allowed to go. "Service animal" means any dog that is trained to work for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

4. Bicycle Licensing and Registration

In 1987, the City of Cupertino amended Cupertino Municipal Code Chapter 11.08: Bicycles to create the bicycle licensing and registration requirements. This amendment authorized the City Manager to register and issue bicycle licenses with the intent to aid law enforcement in the recovery of lost or stolen bikes.

In Santa Clara County, the cities of Cupertino, Gilroy, Los Altos, Milpitas, and Palo Alto have bicycle licensing and registration requirements in their municipal code. However, none of these cities are actively enforcing the requirements because they are outdated and are no longer being used for the intended purpose of recovering lost or stolen bicycles.

The cities of San Jose, Santa Clara, and Saratoga have repealed their bicycle licensing and registration mandates over the past decade due to a lack of community participation, the fact that fees collected did not cover the cost of administration, and new technology provided an alternative method of meeting the goals of bicycle licensing and registration. Instead, these cities encourage their residents to register their bicycles on free online registries.

The Santa Clara County's Sheriffs Office has said that they have never used a local bicycle registration system during an investigation. Instead they use CalBike¹, a statewide database, which is more efficient.

The proposed amendments would remove the bicycle licensing registration requirement. Instead, the City of Cupertino can encourage residents to utilize the free online bicycle registry.

5. Parks and Recreation Director's Discretion to Allow City-Sponsored Programs During Park Curfew Hours

Current Cupertino Municipal Code Section 13.04.190 prohibits use of City parks during park curfew hours (10 p.m. – 6 a.m.), including overnight camping and vehicle parking. The Code provides that the City Council may designate alternate curfew hours by minute order or resolution. For the past two years (canceled this year, due to the pandemic), the Department of Parks and Recreation has hosted Cupertino Campout, an overnight family camping experience in Creekside Park. The proposed amendment would amend the Code to empower the Director of Parks and Recreation to waive the park curfew, on a park-by-park basis, for Cupertino Campout or other official City programming.

Environmental Review

The proposed ordinance is not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment, either directly or ultimately. Even if the proposed ordinance were found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment. CEQA applies only to projects which have the potential of causing a significant effect on the environment.

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

¹ <https://www.calbike.org/register-your-bike/>

Prepared by: Jeff Ordway, Recreation Coordinator
Joseph Petta, Deputy City Attorney

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A – 2020 Code Cleanup Ordinance

1297096.5

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CUPERTINO MUNICIPAL CODE SECTION 2.04.010 (CONCERNING REGULAR MEETINGS OF THE CITY COUNCIL); SECTION 2.28.040 (CONCERNING POWERS AND DUTIES OF THE CITY MANAGER); SECTION 8.01.090 (CONCERNING ANIMALS IN CITY BUILDINGS); CHAPTER 11.08 (CONCERNING BICYCLE LICENSING AND REGISTRATION); AND SECTION 13.04.190 (CONCERNING ACTIVITIES PROHIBITED IN CITY PARKS).

The City Council of the City of Cupertino finds that:

1. The City Code of the City of Cupertino requires periodic updates in order to improve City operations and bring the Code up to date with current law and policy.
2. The City Council of the City of Cupertino held a duly noticed public hearing on October 20, 2020, and after considering all testimony and written materials provided in connection with that hearing introduced this ordinance and waived the reading thereof.
3. This ordinance makes minor revisions to the Cupertino Municipal Code to reflect changes in law, provide clarification to the community, and provide for improved customer service and administration of City business.

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

SECTION 1. Adoption.

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

SECTION 2. Severance Clause.

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 Quality Act of 1970, together with related State CEQA Guidelines (collectively, “CEQA”) because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment. CEQA applies only to activities which have the potential of 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 amendments to the City Code would have no or only a de minimis impact on the environment. The foregoing determination is made by the City Council in its independent judgment.

SECTION 4. Effective Date.

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

SECTION 5. Publication.

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

INTRODUCED at a regular meeting of the Cupertino City Council on October 20, 2020 and ENACTED at a regular meeting of the Cupertino City Council on _____, 2020 by the following vote:

Members of the City Council

AYES:
NOES:
ABSENT:
ABSTAIN:

<p>SIGNED:</p> <p>_____</p> <p>_____</p> <p>Steven Scharf, 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>

APPROVED AS TO FORM:	
<hr/> Heather Minner, City Attorney	<hr/> Date

Exhibit A – 2020 Cupertino Municipal Code Update

The provisions of the Cupertino Municipal Code set forth below are amended or adopted as follows:

*Text added to existing provisions is shown in bold double-underlined text (**example**) and text to be deleted is shown in strikethrough (~~example~~). Text in existing provisions is not amended or readopted by this Ordinance. Text in italics is explanatory and is not an amendment to the code.*

1. Cancellation of Regular Meeting of the City Council by Majority Vote of the Council

Chapter 2.04 – CITY COUNCIL – ELECTION AND MEETINGS

2.04.010 – Regular Meetings

The City Council shall hold regular meetings on the first and third Tuesdays of each month at six forty-five p.m. and may adjourn any regular meeting to a date certain, which shall be specified in the order of adjournment and when so adjourned, such adjourned meeting shall be a regular meeting for all purposes. Such adjourned meetings may likewise be adjourned and any so adjourned meeting shall be a regular meeting for all purposes. **The City Council may cancel a regular meeting by a vote of a majority of the Council.**

On regular meeting days, the City Council shall begin any closed session items at six o'clock p.m.

City Council meetings that fall on legal holidays shall automatically be moved to the following day.

City Council meetings that fall on any Election Tuesday in a regular Cupertino election year shall automatically be moved to the first Monday of the month.

2. City Manager's Power to Sign Purchase Orders, Contracts, Conveyances, and Other Instruments

Chapter 2.28 – CITY MANAGER

2.28.040 – Powers and Duties

The City Manager shall be the administrative head of the City government acting under the direction and control of the City Council except as otherwise provided in this chapter. In addition to his or her general powers as Chief Administrator, and not as a limitation thereon, he or she shall have the powers and duties set forth in the following subsections:

P. To sign documents specified in Section 40602 of the Government Code, or to delegate to another officer such authority to sign, whenever such documents have been approved by the Council for execution by the City Manager or their delegate by ordinance, resolution, motion,

minute order or other appropriate action. The Purchasing Officer given approval or award authority for the documents specified in Section 40602 of the Government Code in or pursuant to Chapter 3.22 may sign those documents.

PQ. To perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance, resolution or other action of the City Council.

[No changes in subsections (A) through (O)]

3. Service Animals in City Buildings

Chapter 8.01 – GENERAL PROVISIONS

8.01.090 – Animals in City Buildings

No person having the control or care of any animal or animals shall suffer or permit any such animal to enter or remain in City-owned or managed buildings other than a building used for the purpose of care, detention, space control or treatment of animals, or a building used for training classes, shows or exhibitions, except persons who ~~are blind or deaf and who use~~ **a service animal as defined in the Americans with Disabilities Act** ~~dogs for guidance~~, or persons expressly authorized by the City Manager.

4. Bicycle Licensing and Registration

Chapter 11.08 – BICYCLES

11.08.040 — License Issuance

~~The City Manager is authorized to issue bicycle licenses upon written application, which license, when issued, shall entitle the licensee to operate and use the bicycle.~~

11.08.050 — License Indicia

~~Bicycle license indicia and registration forms, as distributed by the State Department of Motor Vehicles, shall be obtained and issued by the City Manager. Each license indicia shall bear a unique license number and shall be permanently assigned to a bicycle. Bicycle licenses shall be affixed to the front of the seat tube of the bicycle frame. Bicycle licenses shall be renewed on January 1st of the third year following the year of registration. Renewal of a bicycle license shall be indicated by a supplementary adhesive device affixed parallel to and above or below the license indicia, with expiration date shown.~~

11.08.060 — Registration

~~In addition, there shall be issued with the bicycle indicia a registration certificate showing the license number, the serial number of the bicycle, the make and type of the bicycle, and the name and address of the licensee. Records of the foregoing shall be maintained during the period of validity of the license, or until notification that the bicycle no longer is to be operated.~~

11.08.061 ~~License Indicia and Registration Forms~~ **Bicycle Serial Numbers and Identifying**

Marks –Prohibited Acts.

It is unlawful for any person to tamper with, destroy, mutilate or alter any ~~license indicia or registration certificate, or to remove, alter or mutilate the serial number or the~~ manufacturer's identifying marks ~~of the City's identifying symbol, on any bicycle frame licensed under the provisions of this chapter.~~

11.08.070 Existing Licenses and Registration.

~~Bicycle licenses which have been issued pursuant to ordinances of the City in effect prior to January 1, 1976, shall remain valid until their assigned expiration dates, but in no case for a period beyond July 1, 1979. Upon such expiration, such bicycles shall be licensed and registered as provided in this chapter.~~

11.08.080 Sale or Disposition.

A.—~~Whenever any person sells or otherwise disposes of a bicycle, he shall endorse upon the registration certificate previously issued for such bicycle a written transfer of the same, setting forth the name, address and telephone number of the transferee, the date of transfer and the signature of the transferor, and shall deliver the registration certificate, so endorsed, to the City Manager within ten days.~~

B.—~~Any person who purchases or otherwise acquires possession of a bicycle shall, within ten days of acquiring possession, apply for the transfer of the license to his own name.~~

C.—~~In the event that any license indicia or registration certificate issued pursuant to the provisions of this chapter is lost, stolen or mutilated, the licensee of such bicycle shall immediately notify the City for a duplicate license indicia or registration certificate. Thereupon, the City shall issue to such licensee a replacement license indicia or registration certificate, upon payment to the City of the appropriate fee.~~

D.—~~Every license holder shall return his license indicia and registration certificate to the City when the bicycle for which they were issued is destroyed beyond repair.~~

11.08.090 Change of Address.

~~Whenever the owner of a bicycle licensed pursuant to this chapter changes his address, he shall, within ten days, notify the City Manager of the old and new address.~~

11.08.100 Dealers Verification of Registration.

~~Persons engaged in the business of buying secondhand bicycles are required to verify the registration at time of acquisition.~~

11.08.110 Dealers Notification of Registration Requirements.

~~All persons engaged in the business of selling new or secondhand bicycles are required to advise purchaser of registration requirements.~~

~~11.08.120 License and Registration Fees.~~

~~A. The fees required to be paid pursuant to the provisions of this chapter are to be set by the office of the City Manager:~~

- ~~1. For each new bicycle license and registration certificate;~~
- ~~2. For each transfer of registration certificate;~~
- ~~3. For each replacement of a bicycle license or registration certificate;~~
- ~~4. For each bicycle license renewal.~~

~~B. Revenues from license fees shall be retained by the City and shall be used for the support of this chapter.~~

~~In addition, fees collected shall be used to improve bicycle safety programs and establish facilities, including bicycle paths and lanes, within the jurisdiction of the City. The City Council shall, from time to time, by resolution or motion, establish the allocation of fees collected.~~

5. Parks and Recreation Director's Discretion to Allow City-Sponsored Programs During Park Curfew Hours

Chapter 13.04 – PARKS

13.04.190 – Closing Hours – Prohibitions

No person in a park shall do any of the following, **except as authorized by the Director for the purpose of official City programming:**

- A. Remain, stay or loiter in any public park, between the hours of ten p.m. and six a.m. of the following day, or as may otherwise be designated by minute order or resolution of the City Council. The opening and closing hours for each individual park shall be posted therein by the department of parks and recreation for public information;
- B. Set up tents or other temporary shelter for the purpose of overnight camping, nor shall any person park or leave in a park, after closing hours, any vehicle or movable structure to be used, or that could be used, for such purposes, such as a horse trailer, camp trailer, pickup camper, or the like;
- C. Park or leave in a park, after closing hours, any vehicle. Signs shall be posted at all park entrances to notify park visitors of the effects of paragraph C of this section.

End of Amendments



CITY OF CUPERTINO

Agenda Item

20-8203

Agenda Date:
10/20/2020 Agenda #:
12.

Subject: Update Cupertino's annual minimum wage with an ordinance for a one-time adjustment to the City of Cupertino minimum wage to be consistent with the cities of Los Altos, Palo Alto, and Santa Clara such that the minimum wage will be consistent among those cities and the City of Cupertino in 2021 and in subsequent years to achieve a desired uniformity among the cities of Los Altos, Palo Alto, and Santa Clara

Receive an update on regional minimum wage efforts and conduct the first reading of Ordinance No. 20-2215: "An Ordinance of the City of Cupertino to set the minimum wage for 2021 at \$15.65 per hour".



CITY MANAGER'S OFFICE

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 20, 2020

Subject

Update Cupertino's annual minimum wage with an ordinance for a one-time adjustment to the City of Cupertino minimum wage to be consistent with the cities of Los Altos, Palo Alto, and Santa Clara such that the minimum wage will be consistent among those cities and the City of Cupertino in 2021 and in subsequent years to achieve a desired uniformity among the cities of Los Altos, Palo Alto, and Santa Clara

Recommended Action

Receive an update on regional minimum wage efforts and conduct the first reading of Ordinance No. 20-XXXX: An Ordinance of the City of Cupertino to set the minimum wage for 2021 at \$15.65 per hour.

Background

In 2016 the City Council approved Ordinance 16-2151 adopting the City's Minimum Wage Ordinance, in coordination with the Cities Association of Santa Clara County, of increasing the minimum wage to \$15 by 2019 in all cities in Santa Clara County with annual cost of living adjustments thereafter.

In years 2017, 2018, and 2019 Cupertino's minimum wage rate was consistent with the neighboring cities of Los Altos, Palo Alto, and Santa Clara. However, due to a difference in calculation methodology, Cupertino's minimum wage in 2020 was \$15.35 when the other cities had increased to \$15.40.

Discussion

It is in the interest of local businesses and employees to have a consistent minimum wage among Cupertino and its neighboring cities that are on the same adjustment schedule. Having consistency avoids unnecessary competition when hiring workers within the region, especially at franchise stores or national chains with multiple locations.

In order to have a consistent methodology Cupertino together with the cities of Los Altos, Palo Alto, and Santa Clara have asked the City of San Jose Office of Equality Assurance ("OEA," which

administers the City's minimum wage ordinance) to develop implementation guidelines for uniform calculation of the minimum wage among the four cities.

While these guidelines will help ensure uniform implementation going forward, Council action is required to make a one-time adjustment to the City of Cupertino's minimum wage in order to establish consistency with our neighboring cities going forward. The attached ordinance would set the minimum wage for 2021 at \$15.65 per hour consistent with the cities of Los Altos, Palo Alto, and Santa Clara. With common adjustment procedures among the four cities, the minimum wage will remain consistent among the four cities in the future.

Many other cities in Santa Clara County also have established local minimum wages. Because they were adopted at different times and with different approaches than that used by Cupertino, Los Altos, Palo Alto, and Santa Clara those wages are set at different levels. For context, the table below shows the expected rate changes for 2021 in those cities:

	2020	2021
Milpitas	\$15.40 (as of 7/1/2020)	\$15.40 (through 6/30/2021)
Mountain View	\$16.05	\$16.30
Redwood City	\$15.38	\$15.62
San Carlos	\$15.00	\$15.24
San Mateo	\$15.38	\$15.62
South San Francisco	\$15.00	\$15.25
Sunnyvale	\$16.05	\$16.30

Next Steps

Cupertino must notify City of San Jose OEA of its 2021 minimum wage rate. City of Cupertino currently contracts with the City of San Jose OEA for enforcement services through a complaint-driven model.

Additionally, updates of the new minimum wage will be posted on the City's www.cupertino.org/wagewatch webpage, notification mailings will be mailed to all Cupertino-based businesses, and information will be shared through the City's various social media platforms and news outlets.

Sustainability Impact

No impact.

Fiscal Impact

The City would need to amend its salary schedule for part-time employees to comply with the new minimum wage schedule as it typically does on an annual basis.

Costs related to business outreach notifications and enforcement are already included in the City's annual operating budget as a function of the Economic Development Division.

Prepared by: Angela Tsui, Economic Development Manager
Richard Taylor, City Attorney's Office

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A – Draft Minimum Wage Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
REGARDING THE CITY OF CUPERTINO MINIMUM WAGE**

The City Council of the City of Cupertino finds that:

1. In 2016 the City Council approved Ordinance 16-2151 adopting the City's Minimum Wage Ordinance.
2. The nearby cities of Los Altos, Palo Alto, and Santa Clara have also adopted Minimum Wage Ordinances and it is in the interest of local businesses and employees to have a consistent minimum wage among those cities and the City of Cupertino.
3. The Minimum Wage Ordinance provides that the City is authorized to coordinate implementation of the Minimum Wage Ordinance and to adopt guidelines for that purpose. The City is coordinating implementation of the ordinance with the cities of Los Altos, Palo Alto, and Santa Clara such that the minimum wage will be consistent among those cities and the City of Cupertino in 2021 and following years and the City has worked with these cities and adopted guidelines for uniform calculation of the minimum wage.
4. To achieve the desired uniformity among the cities of Los Altos, Palo Alto, and Santa Clara this ordinance makes a one-time adjustment to the City of Cupertino minimum wage.

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

SECTION 1. 2021 Minimum Wage.

The minimum wage for 2021 is set at \$15.65 per hour notwithstanding any other provision of the Cupertino Municipal Code.

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 Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment. CEQA applies only to projects which have the potential of 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 amendments to the City Code would have no or only a de minimis impact on the environment. The foregoing determination is made by the City Council in its independent judgment.

SECTION 4: Effective Date.

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

SECTION 5: Publication.

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

INTRODUCED at a regular meeting of the Cupertino City Council on October 20, 2020 and **ENACTED** at a regular meeting of the Cupertino City Council on November 3, 2020 by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	_____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	_____ Date
APPROVED AS TO FORM: _____ Heather Minner, City Attorney	_____ Date