



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

This will be a teleconference meeting without a physical location.

Tuesday, December 1, 2020

5:30 PM

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

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

In accordance with 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 comment on an item on the agenda may do so in the following ways:

- 1) E-mail comments by 4:30 p.m. on Tuesday, December 1 to the Council at citycouncil@cupertino.org. These e-mail comments will also be forwarded to Councilmembers by the City Clerk's office before the meeting and posted to the City's website after the meeting.**
- 2) E-mail comments during the times for public comment during the meeting to the City Clerk at cityclerk@cupertino.org. The City Clerk will read the emails into the record, and display any attachments on the screen, for up to 3 minutes (subject to the Mayor's discretion to shorten time for public comments). Members of the public that wish to share a document must email cityclerk@cupertino.org prior to speaking.**

3) Teleconferencing Instructions

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

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

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

Online

Register in advance for this webinar:

https://cityofcupertino.zoom.us/webinar/register/WN_MQuUIYgLT5CeDWy59HsXGA

Phone

Dial: (888) 788 0099 and enter Webinar ID: 944 3810 2594 (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)

162.255.36.11 (US East)

213.19.144.110 (Amsterdam Netherlands)

213.244.140.110 (Germany)

103.122.166.55 (Australia)

69.174.57.160 (Canada)

Meeting ID: 944 3810 2594

SIP: 94438102594@zoomcsrc.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.”
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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.

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

NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino City Council is hereby called for Tuesday, December 01, 2020, commencing at 5:30 p.m. for a study session. In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting." The regular meeting items will be heard at 6:45 p.m.

SPECIAL MEETING

ROLL CALL - 5:30 PM

STUDY SESSION

1. Subject: Study Session on Climate Action Plan 2.0 initial draft goals and vision statement
Recommended Action: Provide input and direction on the Climate Action Plan 2.0 initial draft goals and vision statement
[Staff Report](#)
[A - Carbon Neutrality, Interim Target, and Zero Waste Goals from Comparison Cities](#)

ADJOURNMENT

PLEDGE OF ALLEGIANCE - 6:45 PM

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

POSTPONEMENTS

1. Subject: Municipal Code Amendments to update existing Mobile Vending regulations, including but not limited to regulations in Chapter 5.48, and potential conforming edits to other chapters in the Municipal Code, including in Titles 5, 11, 13 and 19. Application No(s): MCA-2020-004; Applicant(s): City of Cupertino; Location: citywide. This item has been continued to December 15.
2. Subject: Approving City of Cupertino 2020 Transportation Impact Fee Nexus Study Update, increasing the Transportation Impact Fees, and amending Schedule B of the 2020-21 Fee Schedule to incorporate the increased fees. This has been continued to December 15.

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 November 17 City Council minutes
Recommended Action: Approve the November 17 City Council minutes
[A - Draft Minutes](#)
6. Subject: Approve the November 19 City Council minutes
Recommended Action: Approve the November 19 City Council minutes
[A - Draft Minutes](#)

7. Subject: Set hearing date on January 19, 2021 to declare a public nuisance (from weeds) and to consider objections for proposed removal; declare properties as having potential fire hazards from weeds or other potential nuisances for the Cupertino Weed Abatement Program.
Recommended Action: Adopt Resolution No. 20-136 declaring properties as having potential fire hazards from weeds or other potential nuisances; and set hearing on January 19, 2021 to declare a public nuisance and to consider objections for proposed removal.
[Staff Report](#)
[A - Draft Resolution](#)
[B – 2021 Cupertino Commencement Report](#)
8. Subject: Mitigation Fee Act - Annual & Five-Year Report - Fiscal Year 2019-2020
Recommended Action: 1. Accept the Annual & Five-Year Review of the City of Cupertino's Development Impact Fees (Government Code Section 66000 et seq.); and 2. Adopt Resolution No 20-137 entitled "A Resolution of the Cupertino City Council Approving the Annual & Five-Year Development Impact Fee Report for FY Ending June 30, 2020 and Making Required Findings."
[Staff Report](#)
[A - 2020 Developer In-Lieu Fee Report - Annual and Five-Year](#)
[B - Draft Resolution](#)
9. Subject: Consider changes to the part-time salary schedules for classifications and job series impacted by minimum wage adjustments.
Recommended Action: Adopt Resolution No. 20-138 establishing changes to part-time salary schedules for classifications impacted by minimum wage adjustments and realign wage increases with position advancement.
[Staff Report](#)
[A - Draft Resolution](#)
[B - Part-Time Salary Survey](#)
[C - Proposed Adjustments to 2021 Part-Time Salary Schedule \(Redline\)](#)
[D - 2021 Part-Time Salary Schedule \(Clean\)](#)

SECOND READING OF ORDINANCES

10. Subject: Second reading of Ordinance No. 20-2216 to amend Cupertino Municipal Code Chapter 2.40 (concerning the Disaster Council and the emergency management program).
Recommended Action: Conduct the second reading and enact Ordinance No. 20-2216: "An ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Chapter 2.40 (concerning the Disaster Council and the Emergency Management Program)."
[A - Draft Ordinance](#)

PUBLIC HEARINGS

11. Subject: Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design. (Application No. MCA-2019-003 and MCA-2019-004; Applicant: City of Cupertino; Location: City-wide)
- Recommended Action: That the City Council:
1. Find the proposed actions are exempt from CEQA; and,
 2. Conduct the first reading of Ordinance No. 20-2217 "An Ordinance of the City Council of the City of Cupertino Amending City Code to Add Chapter 19.102: Glass and Lighting Standards and to Amend Chapter 19.08 Definitions, Chapter 19.40 Residential Hillside (RHS) Zones, Chapter 19.60 General Commercial (GC) Zones, Chapter 19.72 Light Industrial (ML) and Industrial Park (MP) Zones, and Chapter 19.124 Parking Regulations to Implement Bird-Safe and Dark Sky Policies." (Attachment A)
- [Staff Report](#)
[A - Draft Ordinance for MCA-2019-03 and MCA-2019-004](#)
[B - Comparison of Bird-Safe Regulations](#)
[C - Comparison of Lighting and Dark Sky Regulations](#)
[D - Public Comments](#)
[E - Planning Commission Resolution No. 6914](#)
[F - Redline Document for Proposed Modifications to Title 19](#)
[G - Draft String Lighting Regulations](#)

ORDINANCES AND ACTION ITEMS

12. Subject: Updated Administrative Procedures Within the Community Funding Grant Policy.
- Recommended Action: Review and adopt updated administrative procedures within the Community Funding Grant Policy, including an earlier submission date for applications, program funding range, and affirmation that all qualified applicant materials will be brought to City Council.
- [Staff Report](#)
[A - Current Community Funding Policy](#)
[B - Updated Community Funding Policy \(Redline Version\)](#)
[C - Updated Community Funding Policy \(Clean Version\)](#)

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

ADJOURNMENT

The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a final decision of the City Council must be brought within 90 days after a decision is

announced unless a shorter time is required by State or Federal law.

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

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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

20-8307

Agenda Date: 12/1/2020
Agenda #: 1.

Subject: Study Session on Climate Action Plan 2.0 initial draft goals and vision statement

Provide input and direction on the Climate Action Plan 2.0 initial draft goals and vision statement



CITY MANAGER'S OFFICE

CITY HALL
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CITY COUNCIL STUDY SESSION

Meeting: December 1, 2020

Subject

Climate Action Plan 2.0 initial draft goals and vision statement

Recommended Action

Provide input and direction on the Climate Action Plan 2.0 initial draft goals and vision statement

Background

Cupertino's current Climate Action Plan (CAP) was adopted by City Council in 2015 and outlines greenhouse gas (GHG) emission targets and goal areas of reducing energy use, encouraging alternative transportation, conserving potable water, reducing solid waste, and expanding green infrastructure. Since then, new legislation as well as new technology has emerged. For example, the California Air Resource Board (ARB) developed a 2017 Scoping Plan that recommends that local governments use emissions intensity metrics to develop GHG targets for 2030 and beyond, and that local governments define both absolute emissions and emissions intensity targets for their GHG reduction analyses.¹ This guidance also suggests that local governments that had been using a 2020 target and planning horizon should update to targets that are focused on the 2030 and 2050 state goals. In addition, in September 2018, the City Council adopted a Climate Emergency Declaration which directs staff to continue with the aggressive implementation of the CAP goals, policies, and programs, calling for an emergency mobilization effort to end citywide greenhouse gas emissions as quickly as possible and education for residents about climate change.

As part of the Fiscal Year 2020-2021 City Work Program, the City will be updating the CAP, to be known as CAP 2.0, and adding an adaptation planning component. Gaining leadership guidance through considering goals and a vision statement to guide the process is a key component.

¹ California Air Resources Board. The 2017 Climate Change Scoping Plan, page 99

Discussion

The purpose of this study session is to inform the Council on our recent progress, give an overview of the State policies and guidelines driving our update, and a review of recent CAP updates from peer agencies. The City is seeking Council and public feedback for these questions:

- How aggressive or conservative should we set our target date for a carbon neutral Cupertino, relative to the statewide targets?
- What are the vision statements that should guide the technical analysis and public engagement process for the remainder of this project?

The goals and vision statement of the CAP 2.0 will guide the technical analysis and community outreach for the remainder of this fiscal year. Specifically, setting target dates for carbon emissions goals will show alignment with California state targets, as discussed further on in this report.

Further analysis and updates to the Cupertino greenhouse gas forecast is underway to evaluate the cost and impact of the mitigation and adaptation strategies under consideration. CAP targets and goals will be revisited with the Council as necessary when this study has advanced. There are many uncertainties today, getting public and leadership input on these draft targets provides valuable input on direction, urgency, and approach.

Climate Action Plan 2.0: Draft Goals and Vision

The proposed goals and vision statement are outlined below and following sections go into these approaches in greater detail that the Council can consider when providing feedback and valuable local context to the guidance provided by the state. On October 15, 2020, the Sustainability Commission provided input. On November 19, the Commission recommended these goals and vision statement to the Council.

1. Achieve community-wide carbon neutrality no later than the year 2040
2. Achieve negative net carbon emissions after the year 2045
3. Achieve carbon neutrality in city-owned facilities and operations no later than the year 2030
4. Establish a mid-term 2030 carbon emissions target of 50% below a 2010 baseline
5. Establish a Zero Waste Community target date of 2035
6. Adopt the following vision to guide the update process:
 - a. **Equity:** Activate and celebrate the multiracial character of Cupertino. Take every effort to include traditionally under-represented voices and those who might be displaced by climate hazards in the planning and selection of strategies, as well as business, faith groups, neighborhoods, and schools. Create a plan that reflects the diversity of the city and sets us on a path towards a more welcoming and inclusive City.

- b. **Innovation:** Develop measures in short-term and long-term action plans that position Cupertino as a leader in climate innovation and technological development, new ways of working and studying, and commit to educating the community on innovative strategies at least once a year.
- c. **Urgency and Flexibility:** Establish a frequent cadence of updates to the near-term action plans, with the aim to both focus community resources and stay flexible in a fast-moving world. Work with haste commensurate with the Climate Emergency Declaration that Council adopted in 2018 and the unprecedented opportunity that climate and waste plans present to our community by taking bold steps in the early planning horizon.
- d. **Resilience and Adaptation:** Establish climate adaptation measures such as green infrastructure and protecting biodiversity that keeps Cupertino residents and businesses safe, productive, and happy while climate risks accelerate.

Carbon Neutrality and Negative Net Emissions

The proposed goals #1 through 3 relate to Governor Brown's Executive Order (EO) B-55-18, which calls for carbon neutrality by 2045 and for the state to maintain net negative emissions thereafter. This executive order introduces the concept of balancing carbon emissions and carbon sequestration within the state. A carbon-neutral city is defined in the EO as achieving net-zero annual emissions by first reducing emissions as much as possible, then balancing any remaining emissions with removal of carbon dioxide from the air. The Sustainability Commission considered the state-wide goal of a carbon-neutral California by 2045 and recommends that Cupertino adopt a goal of community-wide carbon neutrality by 2040 (5 years in advance of the state goal), negative emissions after 2045 (the same as the state goal), and a carbon-free municipal operation by 2030. The Commission recommended setting an aggressive new carbon goal for City operations to set a positive example for the rest of the community and to generate interest in innovative partnerships.

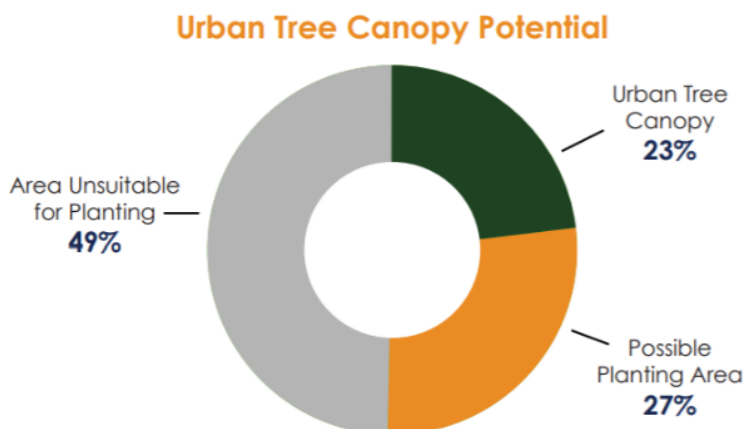
In January 2020, the Lawrence Livermore National Laboratory (LLNL) released a study finding that, not only is carbon neutrality possible, but that California can once again be a global climate leader by demonstrating how to remove significant amounts of CO₂ from the atmosphere.²

Acknowledging that some sources of GHG emissions will be difficult or impossible to decarbonize completely, California needs negative emissions to achieve its goal of carbon neutrality by 2045. Negative emissions involve the removal of CO₂ from the atmosphere through methods such as plants storing CO₂ as biomass or machines concentrating CO₂ for underground storage.

² https://www-gs.llnl.gov/content/assets/docs/energy/Getting_to_Neutral.pdf

During the CAP 2.0 update, the City plans to engage with a technical consultant to understand which strategies Cupertino could pursue. Example strategies to develop negative emissions sources include expanding the urban forest and riparian areas and managing our natural assets as carbon sinks.

As an illustrative example, the Cupertino urban tree canopy study identifies 1,983 acres of additional plantable space. A rough estimate of the negative emissions from doubling the urban tree canopy would remove approximately 6,300 tonnes of CO₂e per year from the air.³



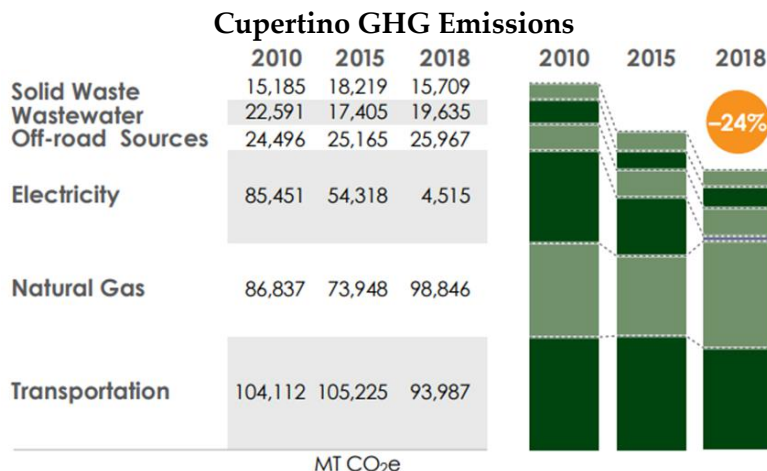
Mountain View and Menlo Park have established carbon-neutrality goals by 2045 and 2030 respectively. Palo Alto also has set a carbon-neutrality strategy which relies in part on purchasing carbon offsets for their natural gas supply. A table of comparison cities is included in Attachment A.

Mid-term 2030 Carbon Emissions Target of 50% Below a 2010 Baseline

The City's 2015 Climate Action Plan has goals of reducing GHGs 15% by 2020, 49% by 2035 and 83% by 2050. These goals were set by aligning with the State Air Resources Board (ARB) guidance from 2008. However, the ARB updated their guidance in 2017 and the proposed CAP 2.0 goal #4 to reduce emissions 50% below 2010 levels by 2030 would be needed to remain in alignment with those updates. As of the 2018 GHG inventory, Cupertino has exceeded the 2020 goal with a 24% reduction, as shown in the following chart. Based on past performance, the 2030 goal appears achievable in Cupertino, however significant changes in technology, land use, and behavior will likely be necessary. Analysis is currently underway to align these figures with ARB guidelines and create a per-capita emissions calculation.⁴

³ Estimated using the Cupertino Tree Grow application. <https://pg-cloud.com/Cupertino/>

⁴ Setting a per-capita emissions calculation is recommended by the 2017 ARB guidelines, and a step in creating a target aligned with both science-based targets and the Paris Agreement. <https://iclei.usa.org/localizing-the-paris-agreement/>



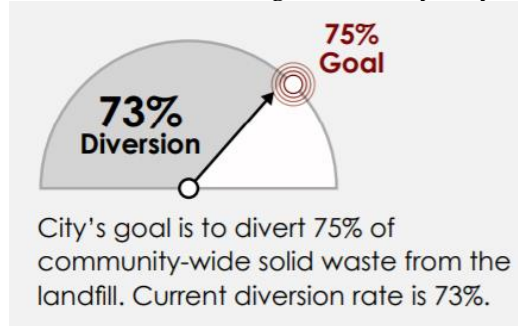
For comparison, the City of San Jose has targeted a 6.5% reduction in emissions each year until 2050. Sunnyvale has a goal to reduce emissions 56% below 1990 levels by 2030. Palo Alto has a goal to reduce emissions 90% below 2005 levels by 2030. Menlo Park set a goal to reduce emissions 90% below 2005 levels by 2030, but due to complications from the COVID-19 pandemic, funding cuts scaled back the needed actions to reach that goal. More examples from other cities can be found in Attachment A.

Current initiatives in our region and large-scale trends will impact Cupertino's ability to achieve the next emissions reduction targets. Below are some examples of the technology and policy drivers that will impact the next decade of emissions in Cupertino. There are many uncertainties, however it appears the policy in California will remain focused on developing solutions to the next set of challenges for reducing emissions.

- Building Decarbonization Action Plan, from Silicon Valley Clean Energy (SVCE)
- Community-Wide Electrification Streamlining project, from SVCE
- State-wide and regional incentive programs for homeowners and business
- Cupertino's all-electric code for new construction
- Hydrogen and battery technology and market advances
- The introduction of biofuels into the natural gas pipeline
- The status of PG&E as the investor-owned utility
- New housing developments close to jobs in Cupertino
- Large-scale trends in employee commutes
- Uncertainty in the negative carbon emission sources that can be developed in Cupertino
- Transit services and regional transit connections
- Governor Newsom's executive orders on zero-emission vehicles and land conservation (October 2020)

Zero Waste Communities

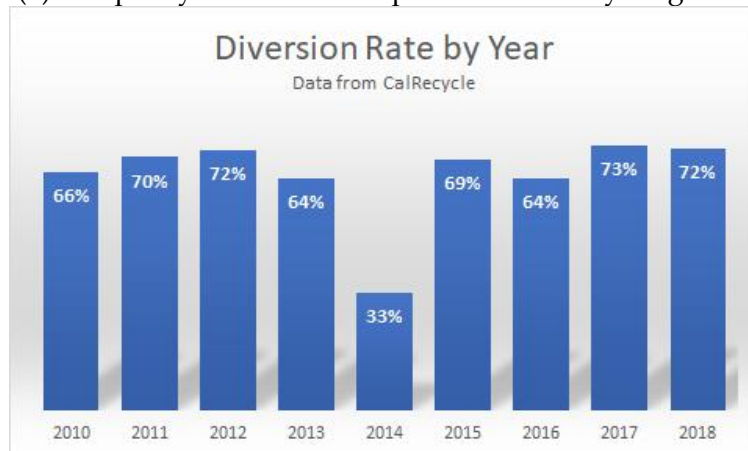
The proposed goal #5 calls for Cupertino to be a Zero Waste Community by 2035. A Zero Waste Community is defined by CalRecycle as one that diverts 90% or more of its waste from landfills and incinerators. Council adopted a Zero Waste Policy in 2017 which states that the City will reach 75% waste reduction by 2025. This goal is reasonable and will give the City 10 years to achieve the remaining 15% reduction.



The City tracks how much Cupertino waste goes to the landfill versus recycling and composting. Methane, a potent GHG, is released when food scraps, paper, and other organic materials rot in a landfill. The City offers organics collection service to divert food, food soiled paper, and yard waste from the landfill and to reduce emissions. In 2018 and 2019, a city-wide waste characterization study found nearly 80% food waste was not being diverted. The results indicated organic food waste was consistently the top material being misplaced. The City is using the results of this study to adjust its programming and outreach efforts.

A recent study by Cascadia Consultants indicated that the greatest opportunity for Cupertino is not for residents to recycle more - they are already recycling nearly as much as is possible - but to:

- (1) Increase the capture rate for compostables, specifically for food scraps and soiled paper; and to a lesser degree
- (2) Keep recyclable material placed in the recycling cart free from contamination.



Cupertino's 2018 CAP progress report shows that the City has achieved a 73% diversion rate based on CalRecycle pounds per person per day, against a goal of 75%. This places

Cupertino is in reach of achieving the targets set out in the 2017 Zero Waste Policy, and shows that a 2035 goal for Zero Waste is a conservative target that will serve as a guidepost. Some of the uncertainties that were considered include:

- In residences, 90% of currently recyclable materials are already recycled, achieving the last 10% will be difficult.
- Without a feasibility study including statistical evidence, conservative goals are recommended.
- 17% of materials are not currently recyclable. Additional time is necessary for innovative technologies to be proven for hard to manage materials before the City could divert those problem materials.
- Extended producer responsibility policies, which are passed at the state level, can take time to implement.

Equity and Environmental Justice

It is proposed to include equity in the CAP 2.0 vision statement. Equity is when all individuals have access to the opportunities necessary to satisfy their essential needs, advance their well-being and achieve their full potential. We have a shared fate as individuals within a community and communities within society. All communities need the ability to shape their own present and future. Equity is both the means to healthy communities and an end that benefits us all.

Climate equity ensures the just distribution of the benefits of climate protection efforts and alleviates unequal burdens created by climate change. This requires intentional policies and projects that simultaneously address the effects of and the systems that perpetuate both climate change and inequity. Some of the results of structural inequity include a lack of low-carbon, safe transportation options, inefficient or unaffordable housing requiring a super-commute, and the inability to afford healthy food.

Some of the principles of climate equity are below for consideration:

- Create a Community Working Group made up of a diverse group of stakeholders from grassroots groups, business representatives, faith and spiritual communities, and neighborhoods.
- Include in the overall Climate Action Plan vision and vision statement to indicate its importance to consultants and public participants.
- Evaluate each of the strategies in the CAP on whether they help to uplift climate equity and reduce disparities.
- Develop Cupertino-specific climate equity metrics to help track the progress made on these actions and allow Cupertino to report on the targets.

Innovation, Flexibility, and Urgency

It is proposed to include statements of innovation in the CAP 2.0 vision statement. Innovation is a clear goal of the City. Education, innovation, and collaboration are the

hallmarks nourished by the City government, the community, and businesses. Innovation implies that the CAP 2.0 process will study leading-edge strategies and solutions to climate actions that can serve as case studies to advance these methods outside of the City boundaries.

Statements of flexibility and urgency in the vision statement give direction to seek out high-impact measures in the short term, understanding that certain policies will have an impact only over time and can avoid risks and higher costs later. Urgency is meant to link the CAP 2.0 process to the 2018 Climate Emergency Declaration which establishes a clear direction from the City Council to act with speed necessary to the challenge. Flexibility would also give direction to plan for a shorter time between CAP updates to allow for changes. A three-year action plan is the most reasonable time frame for budgeting and focusing on high-impact policy and re-evaluating the list of long-term measures at a regular interval to allow for flexibility to pivot or adapt.

Resilience and Adaptation

It is proposed to include resilience and quality of life in the CAP 2.0 vision statement as it is a key component in adaptation planning. Climate adaptation planning implies that Cupertino has recognized that risks to the City are already present from climate hazards, such as increased hot days and other extreme events such as drought and flood risk. A regional climate hazards analysis has been completed by the County of Santa Clara known as the Silicon Valley 2.0 tool.

Adaptation is defined in the field of practice broadly by fostering resilience to extreme hazards and changing seasonal patterns exacerbated by climate change, reducing long-term risk of damage/loss from an event, and developing robust emergency management plans and resources.

During the adaptation planning process, the City proposes to study which climate risks Cupertino is faced with and identify strategies to respond to these vulnerabilities and increase resilience. Adaptation planning requires collaboration with the City and County emergency operations professionals and requires a consideration of community safety in the context of climate challenges. Reduction of risk is a far more complex undertaking than reducing emissions as these challenges are interconnected with systems of economy, healthcare, education, transit, and others, as well as the structural inequities present in these systems. Ultimately, no one strategy will undo these challenges, but the implementation of multi-faceted strategies may set Cupertino on the right path.

Below are some proposed objectives of climate adaptation planning for consideration:

- Maintain low levels of heat-related illness and death.
- Reduce wildfire and smoke impacts.

- Maintain electricity reliability and affordability through energy conservation, efficiency, and independence.
- Maintain potable water reliability and affordability through water conservation, efficiency, and independence.
- Demonstrate sustainable resource leadership.
- Institutionalize climate adaptation as a citywide priority.
- Develop regional, state, national, and private climate adaptation partnerships.

Next Steps

The following timeline is proposed for the remainder of the CAP 2.0 and Zero Waste Planning process for consideration and input. The current Work Program item to create CAP 2.0 was split into two phases in order to accommodate budget uncertainties and a Phase 2 is included in the timeline.

Fall 2020	Winter 2020/21	Winter - Spring 2021	Summer - Fall 2021
Commission discussions on goals and vision	Develop 2019 GHG forecast and per-capita emissions rates	Public outreach and engagement events	Draft CAP document for public review
Contract with a consultant to support public engagement	Revisit targets and goals with CARB guidelines as needed	Select and prioritize strategies and measures for CAP 2.0	Council adopts CAP 2.0 and Zero Waste plan
Council study session on CAP goals and vision statement	Subcommittee approves public outreach plan and schedules community events	Present draft 3-year action plan to Sustainability Commission and Council	Begin incorporating into City long-range plans, e.g. updates to General Plan Safety Element
		Develop budget and resources request for phase two of CAP update	
		Develop vulnerability and climate hazard assessments	

Sustainability Impact

As described above, setting these targets would set a trajectory for significant carbon reduction activity in order to achieve carbon-neutrality by 2045. In addition, the zero waste goals will improve waste reduction.

Fiscal Impact

The specific fiscal impacts of these goals will be studied throughout the CAP 2.0 update process and will more fully understood once goals are established and measures to achieve those goals are outlined.

Prepared by: Andre Duurvoort, Sustainability Division Manager
Victoria Morin, Environmental Programs Outreach Coordinator

Reviewed by: Katy Nomura, Assistant to the City Manager
Dianne Thompson, Assistant City Manager

Attachments:

A – Carbon Neutrality, Interim Target, and Zero Waste Goals from Comparison Cities

Attachment A: Carbon Neutrality, Interim Target, and Zero Waste Goals from Comparison Cities

City or County	Carbon Neutral Date	Interim Target Date	Zero Waste Target
San Jose	<i>Not published.</i>	Paris-compliant 2 degree C pathway: 6.5% MT CO ₂ e reduction per year to 2050	<i>Not published.</i>
Sunnyvale	<i>Not published.</i>	56% below 1990 levels by 2030 80% below 1990 levels by 2050 (EO S-3-05)	Reduce landfilled garbage to 1 lb. per person per day by 2030 Reduce landfilled garbage to <1 lb. per person per day by 2050
Cupertino (CAP 1.0)	<i>Not published.</i>	15% below 2010 levels by 2020 (AB 32 equivalent) 49% below 2010 levels by 2035 83% below 2010 levels by 2050	<i>Not published.</i>
Mountain View	2045	15-20% below 2005 levels by 2020 75% below 2005 levels by 2045 80% below 2005 levels by 2050 (emissions per capita)	90% diversion by 2030 listed as driving target of the Zero Waste Policy
Palo Alto	Carbon Neutral Electricity (2013) & Carbon Neutral Natural Gas (2017)	80% below 1990 levels by 2030	90% diversion by 2021 (Zero Waste goal adopted in 2005)
Menlo Park	2030	90% below 2005 levels by 2030 10% direct carbon removal below 2005 levels by 2030	Reduce landfilled garbage to 3.1 lbs. per person per day to achieve 73% waste diversion by 2035
Saratoga	<i>Not published.</i>	<i>Not published.</i>	<i>Not published.</i>
Los Altos	<i>Not published.</i>	17% below 2005 levels by 2020	<i>Not published.</i>
Campbell	<i>Not published.</i>	<i>Not published.</i>	<i>Not published.</i>
Los Gatos	<i>Not published.</i>	15 percent below baseline (2008 or earlier) emissions by 2020.	<i>Not published.</i>

Milpitas	<i>Not published.</i>	15% below 2005 emissions levels by 2020	<i>Not published.</i>
Morgan Hill	<i>Not published.</i>	<i>Not published.</i>	<i>Not published.</i>
Redwood City	<i>Not published.</i>	15% below 2005 levels by 2020	<i>Not published.</i>
San Mateo (City)	<i>Not published.</i>	15% below 2005 by 2020 4.5 MT CO ₂ e per capita by 2030 1.2 MT CO ₂ e per capita by 2050	<i>Not published.</i>
Santa Clara (City)	<i>Not published.</i>	15% below 2008 levels by 2020	<i>Not published.</i>



CITY OF CUPERTINO

Agenda Item

19-5342

Agenda Date: 12/1/2020
Agenda #: 1.

Subject: Municipal Code Amendments to update existing Mobile Vending regulations, including but not limited to regulations in Chapter 5.48, and potential conforming edits to other chapters in the Municipal Code, including in Titles 5, 11, 13 and 19. Application No(s): MCA-2020-004; Applicant(s): City of Cupertino; Location: citywide. This item has been continued to December 15.



CITY OF CUPERTINO

Agenda Item

20-8430

Agenda Date: 12/1/2020
Agenda #: 2.

Subject: Approving City of Cupertino 2020 Transportation Impact Fee Nexus Study Update, increasing the Transportation Impact Fees, and amending Schedule B of the 2020-21 Fee Schedule to incorporate the increased fees. This has been continued to December 15.



CITY OF CUPERTINO

Agenda Item

20-7680

Agenda Date: 12/1/2020
Agenda #: 3.

Subject: City Manager update on emergency response efforts

Receive City Manager update on emergency response efforts



CITY OF CUPERTINO

Agenda Item

19-6424

Agenda Date: 12/1/2020
Agenda #: 4.

Subject: Report on Committee assignments

Report on Committee assignments



CITY OF CUPERTINO

Agenda Item

19-6448

Agenda Date: 12/1/2020
Agenda #: 5.

Subject: Approve the November 17 City Council minutes

Approve the November 17 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Tuesday, November 17, 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, and Councilmembers Liang Chao, Rod Sinks, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

STUDY SESSION

1. Subject: Review the "Regional Housing Needs Allocation Proposed Methodology Report: San Francisco Bay Area, 2023 - 2031," discuss potential comments, and decide whether any comments should be sent on behalf of the City.
Recommended Action: That the City Council review the "Regional Housing Needs Allocation Proposed Methodology Report: San Francisco Bay Area, 2023 - 2031" issued by the Association of Bay Area Governments (ABAG) (Attachment A), discuss potential comments on the RHNA methodology or proposed preliminary draft local RHNA, and decide whether any comments should be sent on behalf of the City.

Written communications for this item included a staff presentation and emails to Council.

Director of Community Development Ben Fu reviewed the staff report.

Planning Manager Piu Ghosh gave a presentation.

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

Jennifer Griffin was concerned about RHNA powers and responsibilities and board member qualifications and funding from super PACs (political action committees).

Planning Commissioner Kitty Moore (representing self) was concerned about a higher proportional cycle increase compared to other cities and the required number of affordable housing units.

Mayor Scharf closed the public comment period.

Councilmembers asked questions and made comments.

Council authorized forming a subcommittee comprised of Scharf and Chao to draft a letter on behalf of the City Council including the following points.

- address the issue of the total allocation for Association of Bay Area Governments (ABAG) region by urging California Department of Housing and Community Development (HCD) to reexamine the 441,000 regional housing needs number based on the studies by Freddie Mac and Embarcadero Institute
- we are concerned that artificially high and unachievable Regional Housing Needs Allocation (RHNA) allocations will result in a situation where affordable housing cannot be built due to a lack of subsidies being provided
- Cupertino has a 15% and 20% inclusionary requirement but the ABAG requirement is 57.44% for low, very low, and moderate so there is a disconnect and Cupertino is not permitted to raise its inclusionary requirement to the required levels under RHNA
- there should be some correlation in the affordable housing requirement percentage and the money to build it

ADJOURNMENT

REGULAR CITY COUNCIL MEETING

At 6:48 p.m. Mayor Steven Scharf called the Regular 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.

CEREMONIAL MATTERS AND PRESENTATIONS

POSTPONEMENTS

Item #16 City of Cupertino 2020 Transportation Impact Fee Nexus Study Update, increasing the Transportation Impact Fees, and amending Schedule B of the 2020-21 Fee Schedule to incorporate the increased fees has been continued to December 1.

Scharf moved and Sinks seconded to reorder the agenda to hear Item No. 20 before Item No. 17. The motion carried unanimously.

ORAL COMMUNICATIONS

Bicycle Pedestrian Commissioner Muni Madhhipatla (representing self) opposed the installation of a proposed small cell site in proximity to residences and supported alternate locations. (Submitted written comments).

Venkat Ranganathan opposed the installation of a proposed small cell site near homes, had health safety concerns, and supported an alternate location.

Peter Chu opposed the installation of a proposed small cell site near homes and supported reviewing Cupertino standards compared to other cities.

Ram Sripathi opposed the installation of a proposed small cell site in proximity to residences, supported alternate sites, and was concerned with long-term health effects.

Sateesh Madhathil opposed the installation of a proposed small cell site near homes and supported alternate locations.

Jennifer Griffin was concerned about local super PACs (political action committees) funding housing bills, loss of local control, and supported greater transparency.

Hongchi Shih opposed the installation of a proposed small cell site in proximity to homes.

Cindy Woo opposed the installation of a proposed small cell site and was concerned about radiofrequency emissions.

Raj Sayana opposed the installation of a proposed small cell site located near a daycare center, supported looking at guidelines of other cities, and was concerned about health effects.

Prashant Deo opposed the installation of proposed Verizon cell sites and was concerned about future carriers also installing sites.

REPORTS BY COUNCIL AND STAFF (10 minutes)

1. Subject: City Manager update on emergency response efforts
Recommended Action: Receive City Manager update on emergency response efforts

City Manager Deborah Feng reported on Santa Clara County's COVID-19 tier assignment status and Cupertino COVID-19 case counts and testing opportunities; Parks and Recreation activities, elections, inclement weather, and homelessness.

Council received the City Manager update on emergency response efforts.

2. Subject: Report on Committee assignments_
Recommended Action: Report on Committee assignments

Councilmembers highlighted the activities of their various committees.

CONSENT CALENDAR

Sinks moved and Scharf seconded to approve the items on the Consent Calendar except for Item No. 6 which was pulled for discussion. Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

3. Subject: Approve the November 2 City Council minutes
Recommended Action: Approve the November 2 City Council minutes
4. Subject: Annual adoption of Pension Trust Investment Policy
Recommended Action: Adopt Resolution No 20-130 accepting the City Investment Policy for the Pension Trust
5. Subject: Annual adoption of Other Post-Employment Benefits ("OPEB") Trust Investment Policy
Recommended Action: Adopt Resolution No. 20-131 accepting the City Investment Policy for the OPEB Trust
6. Subject: Treasurer's Investment Report for period ending September 30, 2020
Recommended Action: Accept staff report and provide recommendations.

Finance Manager Zach Korach reviewed the staff report.

Planning Commissioner Kitty Moore (representing self) requested a status of the financial condition of the City.

Sinks moved and Scharf seconded to accept the staff report. The motion carried unanimously.

7. Subject: Bicycle Pedestrian Commission (BPC) recommendation for appointment of City of Cupertino representative to the Santa Clara County Valley Transportation Authority (VTA) Bicycle & Pedestrian Advisory Committee (BPAC).
Recommended Action: Accept the Bicycle Pedestrian Commission (BPC) recommendation to reappoint Erik Lindskog as the VTA BPAC representative to continue serving a full two-year term ending June 30, 2022.
8. Subject: Application for Alcohol Beverage License for Saccomuro Corporation (dba La Pizzeria), 10088 N. Wolfe Road
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Saccomuro Corporation (dba La Pizzeria), 10088 N. Wolfe Road
9. Subject: Application for Alcohol Beverage License for Pasta Armellino Group LLC (dba Pasta Armellino), 19469 Stevens Creek Boulevard
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Pasta Armellino Group LLC (dba Pasta Armellino), 19469 Stevens Creek Boulevard
10. Subject: Application for Alcohol Beverage License for Supparod FC Inc. (dba Pineapple Thai), 19639 Stevens Creek Boulevard
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Supparod FC Inc. (dba Pineapple Thai), 19639 Stevens Creek Boulevard
11. Subject: Application for Alcohol Beverage License for Bal, Gurjeet Singh (dba Emerald Hills Associates), 21023 Christensen Drive
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Bal, Gurjeet Singh (dba Emerald Hills Associates), 21023 Christensen Drive

12. Subject: Application for Alcohol Beverage License for Golden Harbor Bay LLC (dba Grandma's Kitchen), 19541 Richwood Drive
Recommended Action: Recommend approval to the California Department of Alcoholic Beverage Control of the application for Alcohol Beverage License for Golden Harbor Bay LLC (dba Grandma's Kitchen), 19541 Richwood Drive
13. Subject: Authorize City Manager to award a construction contract with contingency budget for the Linda Vista Trail project.
Recommended Action: 1. Authorize the City Manager to award a construction contract in an amount not to exceed 90% of the appropriated project budget limits to the lowest responsive bidder if there are no unresolved bid protests; and
2. Authorize the Director of Public Works to allow a construction contingency budget of 10% of the construction contract amount to address unforeseen conditions discovered during construction.

Written Communications for this item included emails to Council.

14. Subject: Dedication and waiver of future reimbursement of 10260 Orange Avenue related to the Orange Avenue Sidewalk Improvements Project.
Recommended Action: Adopt Resolution No. 20-132 (Attachment A) accepting the Offer of Dedication and Waiver of Future Reimbursement from the property owner at 10260 Orange Avenue for the construction of the Orange Avenue Sidewalk Improvements Project; and authorize the City Manager to execute the Agreement Regarding Offer of Dedication & Waiver of Future Reimbursement, Right of Entry, and License to Use Property.
15. Subject: Authorize the Director of Public Works to increase the construction contingency budget for the Cupertino Sports Center Seismic Retrofit Project (No. 2020-05)
Recommended Action: Authorize the Director of Public Works to increase the construction contingency budget from \$116,516 (15% of construction amount) to \$223,735 (29% of construction amount) for the Cupertino Sports Center Seismic Retrofit Project.

SECOND READING OF ORDINANCES

PUBLIC HEARINGS

16. Subject: Approving City of Cupertino 2020 Transportation Impact Fee Nexus Study Update, increasing the Transportation Impact Fees, and amending Schedule B of the 2020-21 Fee Schedule to incorporate the increased fees.
Recommended Action: Adopt Resolution No. 20-133, approving City of Cupertino 2020 Transportation Impact Fee Nexus Study Update, increasing the Transportation Impact Fees, and amending Schedule B of the 2020-21 Fee Schedule to incorporate the increased fees.

Written communications for this item included an email to Council.

Under Postponements, this item was continued to December 1.

Council heard Item No. 20 before Item No. 17.

20. Subject: Regnart Creek Trail private fencing allocations and authorization of construction award for Project.
Recommended Action: 1. Receive information report on Regnart Creek Trail private fencing allocations and projected expenditures; and
2. Authorize the City Manager to award a construction contract in an amount not to exceed 90% of the appropriated project budget limit to the lowest responsive bidder if there are no unresolved bid protests; and
3. Authorize a construction contingency budget of 10% of the construction contract amount to address unforeseen conditions discovered during construction.

Written communications for this item included a staff presentation and emails to Council.

Transportation Manager David Stillman gave a presentation.

Councilmembers asked questions and made comments.

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

Joel Wolfe supported construction of Regnart Creek Trail.

Byron Rovegno supported construction of Regnart Creek Trail.

Connie Cunningham supported construction of Regnart Creek Trail and opposed additional funding for private fencing.

Ramola Gokhale and Arnav Gokale supported construction of Regnart Creek Trail.

Helen Wiant supported construction of Regnart Creek Trail.

Christian Lei supported construction of Regnart Creek Trail.

Samil Lindskog supported construction of Regnart Creek Trail.

Jennifer Shearin supported construction of Regnart Creek Trail. (Submitted written comments.)

Ming-Hui Huang supported construction of Regnart Creek Trail.

Emma Shearin supported construction of Regnart Creek Trail and opposed additional funding for private fencing.

Lawrence Fan supported construction of Regnart Creek Trail and opposed increasing the budget.

Saloni Mahajan supported construction of Regnart Creek Trail and opposed delays or a budget increase.

Winfred Lin supported construction of Regnart Creek Trail.

Brock Carpenter supported construction of Regnart Creek Trail and opposed delays or a budget increase.

Tom Scannell supported construction of Regnart Creek Trail and opposed delays or a budget increase.

Geoff Paulsen supported construction of Regnart Creek Trail.

Dino Sakkas supported construction of Regnart Creek Trail.

Alyssa Sakkas supported construction of Regnart Creek Trail and opposed delays.

Neil Park-McClintick supported construction of Regnart Creek Trail.

Anne Ng supported construction of Regnart Creek Trail.

Sami Laine supported construction of Regnart Creek Trail.

Matt Widmann supported construction of Regnart Creek Trail and opposed delays or a budget increase.

Shaurya Nair supported construction of Regnart Creek Trail.

Bike Ped Commissioner Erik Lindskog (representing self) supported construction of Regnart Creek Trail and opposed an additional vote or funding.

Helene Davis supported construction of Regnart Creek Trail and opposed an additional vote or funding.

Katriina Laihia supported construction of Regnart Creek Trail and opposed additional funding.

Meenakshi Biyani supported construction of Regnart Creek Trail opposed delays or an additional vote.

Dolly Sandoval supported construction of Regnart Creek Trail and opposed delays.

Jano Banks supported construction of Regnart Creek Trail.

Kelly Tung supported construction of Regnart Creek Trail.

Jasmin Varma, on behalf of the Youth Environmental Power Initiative, supported construction of Regnart Creek Trail and opposed delays or a budget increase.

Prashi Kale supported construction of Regnart Creek Trail and opposed delays or a budget increase.

Prashi Kale's sister supported construction of Regnart Creek Trail and opposed delays or a budget increase.

Lourdes Diaz supported construction of Regnart Creek Trail and opposed delays.

Janet Van Zoeren supported construction of Regnart Creek Trail and opposed delays or additional funds for fencing.

Sue Ranney asked about graffiti abatement.

Revathy Narasimhan supported construction of Regnart Creek Trail and opposed delays or an increase in budget for privacy concerns.

Larry Dean supported construction of Regnart Creek Trail.

Ari Feinsmith supported construction of Regnart Creek Trail.

Dennis Cunningham supported construction of Regnart Creek Trail.

Teresa Olson supported construction of Regnart Creek Trail.

Brenda Boyle and her husband ceded their time to Suraj Dalvi.

John Geis supported construction of Regnart Creek Trail and opposed additional funding.

Jian supported construction of Regnart Creek Trail.

June Wang supported construction of Regnart Creek Trail and opposed delays.

Suraj Dalvi supported proper allocation of fence funds for the homes along the trail and commented on the fencing cost breakdown. (Submitted written comments).

Jeonghee supported equitable distribution of budget funds for those abutting the trail and a budget increase from Measure B funding.

Bicycle Pedestrian Commissioner Ilango Ganga (representing self) supported using Measure B funds for privacy and security and was concerned about the project approval process.

J.R. Fruen supported a final decision on the fencing allocation and moving forward on the Regnart Creek Trail project.

Dinyar Dastoor supported transparency in the cost breakdown and amount for fencing.

Juliet Shearin, on behalf of the Youth Environmental Power Initiative, supported construction of Regnart Creek Trail and opposed an increase in budget.

Timothy Oey supported construction of Regnart Creek Trail.

Seema Lindskog supported construction of Regnart Creek Trail and opposed additional funding for fencing. (Submitted written comments).

Mayor Scharf closed the public comment period.

Sinks moved and Scharf seconded to:

1. Receive information report on Regnart Creek Trail private fencing allocations and projected expenditures; and
2. Authorize the City Manager to award a construction contract in an amount not to exceed 90% of the appropriated project budget limit to the lowest responsive bidder if there are no unresolved bid protests; and
3. Authorize a construction contingency budget of 10% of the construction contract amount to address unforeseen conditions discovered during construction.

The motion carried unanimously.

Council recessed from 10:33 p.m. to 10:40 p.m.

ORDINANCES AND ACTION ITEMS

17. Subject: Accept the First Quarter Financial Report for Fiscal Year 2020-21 and City Work Program Updates; consider approving a Budget Modification increasing appropriations and revenues by \$1,873,298 and \$1,662,300 respectively; consider approving the conversion of limited-term Senior Transportation Planner to permanent
- Recommended Action: 1. Accept the City Manager's First Quarter Financial Report for Fiscal Year 2020-21 and City Work Program Updates.
2. Adopt Resolution No. 20-134 approving Budget Modification #2021-106 increasing appropriations and revenues by \$1,873,298 and \$1,662,300, respectively.
3. Approve the conversion of limited-term Senior Transportation Planner to permanent.

Written communications for this item included a staff presentation.

Finance Manager Zach Korach gave a presentation on the First Quarter Financial Report.

Geographic Information Systems (GIS) Manager Teri Gerhardt gave a demonstration on the City Work Program dashboard.

Councilmembers asked questions and made comments.

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

Scharf moved and Paul seconded to:

1. Accept the City Manager's First Quarter Financial Report for Fiscal Year 2020-21 and City Work Program Updates.
2. Adopt Resolution No. 20-134 approving Budget Modification #2021-106 increasing appropriations and revenues by \$1,873,298 and \$1,662,300, respectively.
3. Approve the conversion of limited-term Senior Transportation Planner to permanent.

The motion carried unanimously.

18. Subject: Proposed amendments to Chapter 2.40 (Disaster Council) of the Cupertino Municipal Code to better reflect the Emergency Management Program
Recommended Action: Conduct the first reading of Ordinance No. 20-2216: "An Ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Chapter 2.40 (concerning the Disaster Council and the Emergency Management Program)."

Written communications for this item included a staff presentation.

Emergency Services Coordinator Thomas Chin 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.

City Clerk Kirsten Squarcia read the title of Ordinance No. 20-2216: "An Ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Chapter 2.40 (concerning the Disaster Council and the Emergency Management Program)."

Paul moved and Sinks seconded to read the title of Ordinance No. 20-2216 by title only and that the City Clerk's reading would constitute the first reading thereof.

Ayes: Scharf, Paul, Chao, Sinks, and Willey. Noes: None. Abstain: None. Absent: None.

19. Subject: Cupertino participation in Stevens Creek Corridor Transit Study
Recommended Action: Receive presentation and provide input on proposed Stevens Creek Corridor Transit Study with a required Cupertino contribution of \$88,983 as scoped, or \$588,983 to include I-280 in the Study.

Written communications for this item included a staff presentation, and amended staff report, and emails to Council.

Senior Transit & Transportation Planner Chris Corrao gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin did not support the Study.

Mayor Scharf closed the public comment period.

Council received the presentation and there was no consensus to participate in the proposed Stevens Creek Corridor Transit Study.

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Added a future agenda item to discuss expanding the responsibilities of the Housing Commission to include social services (Chao/Scharf).

ADJOURNMENT

At 12:38 a.m., Mayor Scharf adjourned the meeting.

Kirsten Squarcia, City Clerk



CITY OF CUPERTINO

Agenda Item

20-8431

Agenda Date: 12/1/2020
Agenda #: 6.

Subject: Approve the November 19 City Council minutes

Approve the November 19 City Council minutes



DRAFT MINUTES
CUPERTINO CITY COUNCIL
Thursday, November 19, 2020

SPECIAL CITY COUNCIL MEETING

At 6:00 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, and Councilmembers Liang Chao, Rod Sinks, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

City Clerk Kirsten Squarcia announced that Item No. 2 regarding the Anderson Dam Matter was removed from the agenda.

ORAL COMMUNICATIONS – None

ORDINANCES AND ACTION ITEMS

1. Subject: Emergency Assistance Funds to assist unhoused members of the encampments located along Wolfe Road near Interstate 280 (Wolfe Road Encampment) to mitigate safety hazards including COVID-19; related budget modification.
Recommended Action: That the City Council:
Adopt Resolution No. 20-135 approving Budget Modification #2021-107 transferring \$200,000 in existing appropriations from the General Fund to the Below Market Rate (BMR) Housing Special Revenue Fund; approving the allocation of \$200,000 in BMR Affordable Housing Funds (AFH) for emergency assistance to assist unhoused members of the Wolfe Road encampment, and authorizing the City Manager to negotiate and execute any contracts necessary to facilitate the emergency assistance.

Written communications for this item included a staff presentation and emails to Council.

City Manager Deborah Feng gave a presentation.

Councilmembers asked questions and made comments.

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

Jennifer Griffin supported emergency assistance funds for the item and the County helping to move the encampment at Calvert and Stevens Creek Boulevard.

Troy Alterman, encampment member, supported the emergency assistance funds for members and made comments and asked questions about the plan.

David D, encampment member, said he was not contacted by the task force and was concerned about addressing the specific needs of encampment members.

Jim Moore was concerned some residents were unaware of the task force or the plan, about notifications facilitating the move, and managing bikes with the hotel residency.

Housing Commissioner Connie Cunningham (representing self) supported the task force and plan for assisting homeless and more housing.

Danessa Techmanski supported a homeless commission as part of the Housing Commission and was concerned how many people would be housed at the new site.

Library Commissioner Liana Crabtree (representing self) was concerned about the number of people being housed at the new location, providing adequate services, and input from residents.

Mayor Scharf closed the public comment period.

Paul moved and Scharf seconded to:

Adopt Resolution No. 20-135 approving Budget Modification #2021-107 transferring \$200,000 in existing appropriations from the General Fund to the Below Market Rate (BMR) Housing Special Revenue Fund, approving the allocation of \$200,000 in BMR Affordable Housing Funds (AFH) for emergency assistance to assist unhoused members of the Wolfe Road encampment and authorizing the City Manager to negotiate and execute any contracts necessary to facilitate the emergency assistance. In addition, I move that we authorize the City Manager to conduct follow-up to this meeting based upon comments from the public and Council provided for this agenda item, and to bring back any further recommended action to Council at a future date.

The motion carried unanimously.

2. Subject: Proposed consent to Shute, Mihaly & Weinberger, LLP's (SMW) representation of the County of Santa Clara (County) in connection with matters related to the Santa Clara Valley Water District's proposed modifications to the Anderson Dam to address seismic issues (Anderson Dam Matter).

Recommended Action: Consent to SMW's representation of the County in connection with the Anderson Dam Matter and authorize the City Manager to execute a consent to SMW's concurrent representation of the City and the County and waiver of potential conflicts of interest that might arise out of such concurrent representation (Attachment A).

This item was removed from the agenda.

ADJOURNMENT

At 7:20 p.m., Mayor Scharf adjourned the meeting.

Kirsten Squarcia, City Clerk



CITY OF CUPERTINO

Agenda Item

20-8351

Agenda Date: 12/1/2020
Agenda #: 7.

Subject: Set hearing date on January 19, 2021 to declare a public nuisance (from weeds) and to consider objections for proposed removal; declare properties as having potential fire hazards from weeds or other potential nuisances for the Cupertino Weed Abatement Program.

Adopt Resolution No. 20-136 declaring properties as having potential fire hazards from weeds or other potential nuisances; and set hearing on January 19, 2021 to declare a public nuisance and to consider objections for proposed removal.



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: December 1, 2020

Subject

Set hearing date on January 19, 2021 to declare a public nuisance (from weeds) and to consider objections for proposed removal; declare properties as having potential fire hazards from weeds or other potential nuisances for the Cupertino Weed Abatement Program.

Recommended Action

Adopt Resolution No. 20-___ declaring properties as having potential fire hazards from weeds or other potential nuisances; and set hearing on January 19, 2021 to declare a public nuisance and to consider objections for proposed removal.

Discussion

The Cupertino Weed Abatement Program is in place to prevent fire hazards and other nuisances posed by vegetative growth (weeds) and the accumulation of combustible materials. This program is managed by the Santa Clara County Department of Agriculture. Cupertino Municipal Code Chapter 9.08 requires property owners to remove or destroy weeds on their property for fire and public health protection. The weed abatement process is in place to notify the property owners of this responsibility, authorize the County to remove the weeds if the property owner doesn't, and allow the County to recover the costs of abatement.

Process for Weed Abatement Program Outlined

The process consists of eight steps that begin in November and go through August of each year, as shown on the following list. At this time the process is at Step No. 2. On October 29, 2020, the County filed with the City the report of properties that have been identified as being noncompliant with the abatement program requirements (Attachment B).

The attached Resolution declares these properties as being a potential fire hazard due to weeds and/or combustible materials, or a potential nuisance due to weeds that are noxious, dangerous, or pose health risks. If Council wishes to adopt it, property owners on the report will receive notices from the County and the City indicating that their property must be abated, and that the City Council will conduct a public hearing on January 19, 2021 in order to consider objections to the proposed abatement.

During the public hearing on January 19, the Council will be asked to approve the Weed Abatement Program report and to declare a public nuisance. If approved, the County will be authorized to perform an inspection of the properties on the report to determine if the property has met the Weed Abatement Program requirements. Property owners will have until April 30, 2021 to abate their property.

1. County prepares a report of all properties that have been non-compliant in removing weeds in the last three years and provides that report to the City (Nov) (Attachment B).
2. City Council adopts a resolution declaring properties as having potential fire hazards or other potential nuisances from weeds and sets hearing to declare public nuisance and to consider objections for proposed removal (Nov-Dec) (Attachment A).
3. County sends notice to the property owners on the report notifying them of the hearing date and explaining that they must remove weeds by the abatement deadline of April 30 or it will be done for them, and with cost of the abatement plus administrative costs assessed to their property (Dec).
4. City Council holds the hearing to consider objections by property owners and adopts a resolution declaring weeds a public nuisance and ordering abatement (Jan-Feb).
5. County sends a courtesy letter to property owners listed on the report, notifying them again of the abatement deadline, and noting that they will work with the property owner to be sure the weeds are removed (Jan-Feb).
6. After April 30, the properties are inspected by the County to verify that weeds were removed and proceeds with abatement if the inspection fails. County makes a report of all costs associated with the abatement and provides that report to the City (June-July).
7. City notifies the property owners listed on the assessment report, notifying them of the hearing date. (July-Aug).
8. City Council holds a hearing, notes any disputes, and adopts a resolution placing a lien assessment on the properties to allow the County to recover the cost of weed and/or brush abatement (July-Aug).

Prepared by: Lauren Sapudar, Deputy City Clerk

Reviewed by: Kirsten Squarcia, City Clerk

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A - Draft Resolution

B – 2021 Cupertino Commencement Report

RESOLUTION NO. 20-

A RESOLUTION OF THE CUPERTINO CITY COUNCIL DECLARING WEEDS ON CERTAIN DESCRIBED PROPERTY TO BE A POTENTIAL FIRE HAZARD OR OTHER POTENTIAL NUISANCES AND SETTING A HEARING TO DECLARE PUBLIC NUISANCE AND FOR OBJECTIONS TO PROPOSED REMOVAL

WHEREAS, weeds as described in Chapter 9.08 of the Cupertino Municipal Code are growing in the City of Cupertino upon certain streets, sidewalks, highways, roads and private property; and

WHEREAS, said weeds are undesirable, noxious, and dangerous and/or due to their rapid growth are or may become a fire menace; as such, said weeds constitute a potential public nuisance under state law and Chapter 9.08 of the Cupertino Municipal Code; and

WHEREAS, property owners and other persons occupying or having charge or control of any building, lot, or premises within the City are required to remove weeds in accordance with the provisions of Chapter 9.08 of the Cupertino Municipal Code;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cupertino as follows:

1. Weeds growing upon any private property or in any street or alley within the City in violation of Cupertino Municipal Code, Chapter 9.08 constitute a public nuisance;
2. The weeds found on the streets, sidewalks, highways, roads and private property, which properties are identified by common names or by reference to the tract, block, lot, code area, and parcel number on the report prepared by the County Agricultural Commissioner and attached hereto as Exhibit A, are declared as having potential fire hazards or other potential nuisances due to weeds that are noxious, dangerous, or pose health risks;
3. That the 19th day of January, 2021, at the hour of 6:45 p.m., or as soon thereafter as the matter can be heard, in a teleconference meeting with no physical location to help stop the spread of COVID, with details on how to attend the meeting appearing on the City Council Agenda for that date, is

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hereby set as the time and place to declare weeds on these properties to be a public nuisance and where all property owners having any objections to the proposed removal of such weeds may be heard;

4. That the Agricultural Commissioner is hereby designated and ordered to give notice of the adoption of this resolution, in the manner and form provided in Chapter 9.08 of the Cupertino Municipal Code.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 1st day of December 2020 by the following vote:

Vote Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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Reserved for Exhibit A

**2021 WEED ABATEMENT PROGRAM
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Exhibit A

Situs			APN			CITY/STATE			
1	10175	MC LAREN	316-21-049	CHAO, LIANG FANG	10175 MC LAREN PL	CUPERTINO	CA	95014-2335	13-
2	10531	N PORTAL	316-30-102	TANG, GEORGE AND TSAO, JUNG	10531 PORTAL AVN	CUPERTINO	CA	95014-2447	13-
3	19641	DRAKE	316-32-028	EDBERG, JEREMY AND YOUNG,	19641 DRAKE DR	CUPERTINO	CA	95014-2433	13-
4	19661	DRAKE	316-32-030	KAN, LAWRENCE K AND CANDY L	19661 DRAKE DR	CUPERTINO	CA	95014-2433	13-
5	20111	APPLE TREE	316-33-091	MA, RUI	20111 APPLE TREE LN	CUPERTINO	CA	95014-2001	13-
6	20094	MERRITT	316-33-105	KOURU, VIJAYA AND YELLAMILLI,	20094 MERRITT DR	CUPERTINO	CA	95014-2011	13-
7	10675	FLORA VISTA	326-08-013	MAHAMONGKOL, HATTHAYA AND	10675 FLORA VISTA AV	CUPERTINO	CA	95014-1610	13-
8	10047	CRESCENT RD	326-16-027	Grand Success LLC	10047 CRESCENT RD	CUPERTINO	CA	95014-1050	13-
9	10036	CRESCENT	326-17-065	HENGYE LLC	10559 FELTON WY	CUPERTINO	CA	95014-4305	13-
10	10395	N STELLING	326-28-094	CHEN, ZHIFENG TRUSTEE & ET AL	10395 STELLING RDN	CUPERTINO	CA	95014-1613	13-
11	20860	GARDEN GATE	326-30-034	ELLIOTT, JULIE TRUSTEE	204 EAGLE LN	BRENTWOOD	CA	94513	13-
12	20985	GARDEN GATE	326-30-087	WU, RICHARD W ET AL	12181 COUNTRY SQUIRE LN	SARATOGA	CA	95070-3467	13-
13	10467	GLENCOE DR	326-30-106	DAMASK ROBERT T	PO BOX 2421	CUPERTINO	CA	95015	13-
14	20710	GARDEN GATE	326-33-015	LO, ANGELINE TRUSTEE	PO BOX 2935	CUPERTINO	CA	95015	13-
15	10490	CASTINE	326-41-032	WONG, LAWRENCE W AND HEIDI Y	5094 GLENTREE DR	SAN JOSE	CA	95129-2125	13-
16	10692	PEBBLE	326-43-042	CHEN, SHUO-HAO AND LIOU, SU-	10692 PEBBLE PL	CUPERTINO	CA	95014-1333	13-
17	10712	PEBBLE	326-43-044	WINGET, CHARLES M AND	10712 PEBBLE PL	CUPERTINO	CA	95014-1333	13-
18		STEVENS BL	342-13-012	DEANE AND DEANE INC	4040 MOORPARK #116	SAN JOSE	CA	95117-1851	13-
19	10744	SANTA LUCIA	342-16-073	BANGALORE, MANJUNATH S AND	10744 SANTA LUCIA RD	CUPERTINO	CA	95014-3940	13-
20	22645	SAN JUAN	342-17-067	MULLEN, EVA JO TRUSTEE	PO BOX 835	CUPERTINO	CA	95015-0835	13-
21	10690	CORDOVA	342-17-083	WONG, KEITH TAI	10690 CORDOVA RD	CUPERTINO	CA	95014-3912	13-
22	22577	SAN JUAN	342-17-084	DHUEY, MICHAEL J	22577 SAN JUAN RD	CUPERTINO	CA	95014-3932	13-
23	22661	SAN JUAN	342-17-110	TURNER, PAUL J TRUSTEE & ET AL	10550 MIRA VISTA RD	CUPERTINO	CA	95014	13-
24	0	EL CERRITO	342-21-004	ITEM, WERNER AND GLORIA E	22670 SAN JUAN RD	CUPERTINO	CA	95014-3933	13-

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25	22765	SAN JUAN	342-22-031	NEHAWANDIAN, NASIM	22765 SAN JUAN RD	CUPERTINO	CA	95014-3934	13-
26	10625	CORDOVA	342-22-103	BREINBERG, STEVEN A AND DANNA	10625 CORDOVA RD	CUPERTINO	CA	95014-3911	13-
27	23026	VOSS	342-50-016	TSAI, VICKY TSAY-HSAI TRUSTEE &	PO BOX 977	CUPERTINO	CA	95015-0977	13-
28	0	(LAND ONLY)	342-50-019	CHAMBERLAIN, JACK T TRUSTEE	655 SKYWAY 230	SAN CARLOS	CA	94070	13-
29	0	STEVENS	351-10-043	PARKSIDE TRAIL LLC	P.O BOX 320667	LOS GATOS	CA	95032	13-
30	22483	RIVERSIDE	356-03-041	CHANG, YU-MING AND LEE, CHIH-	1140 CANYON GREEN DR	SAN RAMON	CA	94582-4617	13-
31	0	MC CLELLAN	356-05-005	LOWENTHAL, RICHARD AND ELLEN	21602 VILLA MARIA CT	CUPERTINO	CA	95014	13-
32	10750	RAE	356-07-076	CHANG, CHRIS ET AL	580 ALBERTA AV	SUNNYVALE	CA	94087-0000	13-
33	21885	HYANNISPORT DR	356-13-050	Jacqueline Bergman	1660 GATON DR APT MO3	SAN JOSE	CA	95125-4514	13-
34	21906	HYANNISPORT	356-14-057	XU, HAO AND WANG, XUE	21906 HYANNISPORT DR	CUPERTINO	CA	95014-4016	13-
35	21662	COLUMBUS	356-18-049	CHANG, ERIC AND CECILIA KAN	21662 COLUMBUS AV	CUPERTINO	CA	95014-4711	13-
36	11235	BUBB	356-21-054	KARP, STEPHANIE J	11235 BUBB RD	CUPERTINO	CA	95014-4940	13-
37	21576	LA PLAYA	356-23-015	SAHA, ANGSHUMAN AND	PO BOX 2918	CUPERTINO	CA	95015-2918	13-
38	21987	LINDY	356-25-031	KANG, PING QI AND LIANG, YU JUAN	2408 CLEMENT ST	SAN FRANCISCO	CA	94121	13-
39		NO SITUS	356-25-033	KANG, PINGQI ET AL	2793 RANDERS CT	PALO ALTO	CA	94303-0000	13-
40	22041	LINDY	356-27-012	ARAMOONIE, PHILIP	22041 LINDY LN	CUPERTINO	CA	95014-4851	13-
41	11395	CANYON VIEW	356-27-022	HOPKINS, JOHN N AND CAROLYN S	11395 CANYON VIEW CL	CUPERTINO	CA	95014-0000	13-
42	11450	CANYON VIEW	356-27-023	CHANG, CHIAO-FU AND SUE-FAY	20832 HANFORD DR	CUPERTINO	CA	95014-1824	13-
43	22032	LINDY	356-27-025	DE, KALPAJIT AND MAJUMDER,	22032 LINDY LN	CUPERTINO	CA	95014-4811	13-
44	22310	PALM	357-04-023	VAN BLOMMESTEIN, ROBERT AND	1144 BRACE AV	SAN JOSE	CA	95125-3200	13-
45	840	ROSE	359-04-019	LIAN, HAO AND WANG, JING	840 ROSE BLOSSOM DR	CUPERTINO	CA	95014-4214	13-
46	10040	BIANCHI	359-07-021	LIN, JASON C AND FANG, YING HO	10228 STELLING RDN	CUPERTINO	CA	95014-1643	13-
47	20940	STEVENS	359-07-022	LIN, CHING-CHEN	10228 STELLINGRDN	CUPERTINO	CA	95014	13-
48	20592	MC CLELLAN	359-18-010	CHANG, LANCE C AND MELODY F	20592 MC CLELLAN RD	CUPERTINO	CA	95014-2955	13-

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49	20616	MC CLELLAN	359-18-048	HARDEMAN, MELODY F ET AL	20616 MCCLELLAN RD	CUPERTINO	CA	95014-2955	13-
50	20840	CHERRYLAND	359-20-042	HODA, MD MYNUL AND BEGUM,	20840 CHERRYLAND DR	CUPERTINO	CA	95014-0000	13-
51	0	BUBB	362-01-025	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747	13-
52		BUBB	DR 362-02-048	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747	13-
53		BUBB	DR 362-04-058	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747	13-
54		RAINBOW	362-09-026	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747	130
55			362-16-037	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747	13-
56		RAINBOW	362-19-033	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747	13-
57	1103	S STELLING	362-22-006	KABRA, GOVIND AND ZAWAR,	1103 STELLING RDS	CUPERTINO	CA	95014-5020	13-
58	1161	STELLING	RD 362-22-018	LEPAGE-WOODIE, CASEY R TRUSTEE	1504 GUIZOT ST	SAN DIEGO	CA	92107	13-
59	7585	RAINBOW	362-24-003	WANG, TAO AND LI, WEI	7585 RAINBOW DR	CUPERTINO	CA	95014-5235	13-
60	20666	CLEO	362-31-001	XU, BIN ET AL	20666 CLEO AV	CUPERTINO	CA	95014-5033	13-
61	20652	CLEO	362-31-002	BURROW, BRADLEY J AND JUANITA S	20652 CLEO AV	CUPERTINO	CA	95014-5033	13-
62		NO SITUS	362-31-030	ALMASI, AZITA TRUSTEE & ET AL	965 LAUREL GLEN DR	PALO ALTO	CA	94304-1323	13-
63	11841	UPLAND	366-03-062	VEMPATY, NAGESHWARA R AND	13304 GLEN BRAE DR	SARATOGA	CA	95070-4431	13-
64	0	S STELLING	366-09-028	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747	13-
65	0	STAUFFER	LN 366-09-053	UNION PACIFIC CORPORATION	10031 FOOTHILLS BLVD	ROSEVILLE	CA	95747	13-
66	7690	PEACH	366-11-114	DOLL, CYNTHIA A TRUSTEE	4801 CAMERON RD	ELK	CA	95432	13-
67	21608	RAINBOW	366-38-031	LAU, PHYLLIS ANN CHOY TRUSTEE	P O BOX 2726	CUPERTINO	CA	95015	13-
68	22045	REGNART	366-46-004	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979	13-
69	22045	REGNART	366-46-005	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979	13-
70		NO SITUS	366-46-006	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979	13-
71		NO SITUS	366-46-007	BIGLER, ROBERT A AND PUNITA P	11230 BUBB RD	CUPERTINO	CA	95014-4979	13-
72	10295	VICKSBURG	369-07-015	XU, GUANGJUN AND YANG, QI	10295 VICKSBURG DR	CUPERTINO	CA	95014-3358	13-

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73	10301	VICKSBURG	369-07-016	MUNTZ, DANIEL A AND KUNO,	10301 VICKSBURG DR	CUPERTINO	CA	95014-3358	13-
74	10140	RICHWOOD	369-08-033	ORTIZ, ALFREDO TRUSTEE	PO BOX 40	CUPERTINO	CA	95015	13-
75	10441	OAKVILLE	369-12-035	VRCELJ, MICHAEL J	10441 OAKVILLE AV	CUPERTINO	CA	95014-4520	13-
76	10530	PINEVILLE	369-13-029	PISUPATI, BHANU N AND	10530 PINEVILLE AV	CUPERTINO	CA	95014-4529	13-
77	10300	VICKSBURG	369-14-008	TANABE, THOMAS M TRUSTEE & ET	10300 VICKSBURG DR	CUPERTINO	CA	95014-3320	13-
78	866	BETTE	369-24-047	TUNG, KA-WAH ET AL	866 BETTE AV	CUPERTINO	CA	95014	13-
79	879	BETTE	369-27-050	CHANG, JUI PO	1198 EAGLE RIDGE WAY	MILPITAS	CA	95035	13-
80	20011	PACIFICA	369-28-042	SWAMINATHAN, RAM AND	20011 PACIFICA DR	CUPERTINO	CA	95014-3110	13-
81	10450	CORTE DE	375-05-005	10450 CORTE DE MADRID	22330 SANTA PAULA AV	CUPERTINO	CA	95014	13-
82	19397	PHIL	375-05-032	PONGURLEKAR, JITENDRA AND	19397 PHIL LN	CUPERTINO	CA	95014-3429	13-
83	19160	STEVENS	375-07-001	STEVENS CREEK L P	1400 PARKMOOR AV STE 190	SAN JOSE	CA	95126-0000	13-
84	10039 S	TANTAU	375-07-005	MEIER-LIM, FRANCES W AND	1710 HOLT AV	LOS ALTOS	CA	94024-6924	13-
85	10067 S	TANTAU	375-07-007	WU, HUNGJEN HENRY	10067 TANTAU AVS	CUPERTINO	CA	95014-3541	13-
86	19131	LOREE	375-07-029	KONG, FAN PENG AND CHEN, MING	19131 LOREE AV	CUPERTINO	CA	95014-3539	13-
87	19160	STEVENS	375-07-061	STEVENS CREEK L P	1400 PARKMOOR AV STE 190	SAN JOSE	CA	95126-0000	13-
88	10251 S	TANTAU	375-08-004	TAO, BANG NHON AND WEN,	10251 TANTAU AVS	CUPERTINO	CA	95014-0000	13-
89	18930	TILSON	375-09-049	LIU, ZHENG AND CHEN, AIDONG	18930 TILSON AV	CUPERTINO	CA	95014-3655	13-
90	10200	STERN AV	375-12-002	MC GRATH, PATRICK W	PO BOX 2422	PALO ALTO	CA	94309-2422	13-
91	10104	STERN	375-12-011	SUNG, ROBERTO	10683 STELLING RDN	CUPERTINO	CA	95014-1647	13-
92	18880	ARATA	375-13-005	YI, QINGHONG AND ZHOU, JIE	18880 ARATA WY	CUPERTINO	CA	95014-3634	13-
93	18844	ARATA	375-13-008	DSOUZA, SANTHOSH A AND SABITHA	18844 ARATA WY	CUPERTINO	CA	95014-3634	13-
94	10271	MENHART	375-15-028	YAMAMOTO, KEI AND KANG, KELLY	10271 MENHART LN	CUPERTINO	CA	95014-3629	13-
95	10337	MENHART	375-15-039	HORIO, LELAND S ET AL	5878 MACADAM CT	SAN JOSE	CA	95123-4332	13-
96	10391	MENHART	375-15-048	HU, YUGEN AND YINGHE	48236 ARCADIANT ST	FREMONT	CA	94539	13-

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97	10408	MENHART	375-16-004	BARDSLEY, BRENT G	10408 MENHART LN	CUPERTINO	CA	95014-3631	13-
98	10272	MENHART	375-17-017	SF19G LLC	26880 ALISO VIEJO PKWY 100	ALISO VIEJO	CA	92656	13-
99	10335	CALVERT	375-17-022	SRINIVASAN, MAHESHWARAN AND	10335 CALVERT DR	CUPERTINO	CA	95014-3807	13-
100	10405	CALVERT	375-17-029	LUO, VINSON ET AL	45536 CHEROKEE LN	FREMONT	CA	94539	13-
101	10425	CALVERT	375-17-031	YEUNG, LORRAINE TRUSTEE	PO BOX 31	LOS GATOS	CA	95031	13-
102	10435	CALVERT	375-17-032	MCKEE, ELLEN D TRUSTEE	10435 CALVERT DR	CUPERTINO	CA	95014-3835	13-
103	10490	WUNDERLICH	375-17-055	LU, ANNE	10490 WUNDERLICH DR	CUPERTINO	CA	95014-3648	13-
104	10240	CALVERT	375-18-022	XING, PEI AND WANG, NADIA J	10240 CALVERT DR	CUPERTINO	CA	95014-3808	13-
105	10281	JOHNSON	375-18-031	SHETTY, ANILKUMAR DODDANNA	10281 JOHNSON AV	CUPERTINO	CA	95014-3811	13-
106	10361	JOHNSON AV	375-18-039	MC GRATH, PATRICK W	PO BOX 2422	PALO ALTO	CA	94309-2422	13-
107	10409	JOHNSON	375-18-044	RECUPERO, MARILYN A TRUSTEE	1190 BASCOM AVS 108	SAN JOSE	CA	95128	13-
108	18655	LOREE	375-19-008	LIANG, WAN HAR CINDY TRUSTEE	18655 LOREE AV	CUPERTINO	CA	95014-3837	13-
109	10424	STERLING	375-24-003	ATTIA, MAGED AND BEDAIR, GHADA	10424 STERLING BL	CUPERTINO	CA	95014-3832	13-
110	10356	STERLING	375-24-011	DEE, JOSEFINA	395 KINCORA CT	SAN JOSE	CA	95136-3916	13-
111	10308	STERLING	375-24-017	HAO, STEVE MIN AND SUN, QING	6962 BOLLINGER RD	SAN JOSE	CA	95129-2847	13-
112	18671	PRING	375-25-039	HUANG, CHANG-KAI AND TSENG,	18671 PRING CT	CUPERTINO	CA	95014-3822	13-
113	18661	CRABTREE	375-25-047	SUBAINATI, MOHAMAD K AND JULIE	18661 CRABTREE AV	CUPERTINO	CA	95014-3864	13-
114	18621	BARNHART	375-26-035	KOO, SANDRA S ET AL	18621 BARNHART AV	CUPERTINO	CA	95014-3801	13-
115	10456	JOHNSON	375-26-045	CHO, SUNGJU AND CHOI, IHNAEE	10456 JOHNSON AV	CUPERTINO	CA	95014-3814	13-
116	10610	WUNDERLICH	375-27-019	NIE, XIAOQIONG	10610 WUNDERLICH DR	CUPERTINO	CA	95014-3652	13-
117	18781	TUGGLE	375-27-025	NULL	P O BOX 5345	SAN JOSE	CA	95150-5345	13-
118	10590	WUNDERLICH	375-27-026	CHOONG, PHILIP T AND HSIA S	27769 EDGERTON RD	LOS ALTOS HILLS	CA	94022-3235	13-
119	10540	WUNDERLICH	375-27-037	OH, SEUNGSEOK AND RYU, SUNA	10540 WUNDERLICH DR	CUPERTINO	CA	95014-3650	13-
120	10740	GASCOIGNE	375-29-016	FAULKNER, BARBARA J TRUSTEE	714 CANTERBURY AV	LIVERMORE	CA	94550-6226	13-

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121	10840	JOHNSON	375-30-024	ATCHISON, JOHN D	P.O. BOX 698	CUPERTINO	CA	95015-0698	13-
122	10784	JOHNSON	375-31-003	WANG, YINAN	PO BOX 946	CUPERTINO	CA	95014	13-
123	10740	JOHNSON	375-31-007	CHA, CATHY Y TRUSTEE	10740 JOHNSON AV	CUPERTINO	CA	95014-3818	13-
124	10730	JOHNSON	375-31-008	LEE, MING-TZUNG AND YU-MING	10730 JOHNSON AV	CUPERTINO	CA	95014-3818	13-
125	10711	GASCOIGNE	375-31-018	TSAL, CHIH JUNG AND LAI, HUI WEN	10711 GASCOIGNE DR	CUPERTINO	CA	95014-3845	13-
126	10731	GASCOIGNE	375-31-020	NEJAT, FRANK F	PO BOX 700702	SAN JOSE	CA	95170	13-
127	10801	GASCOIGNE	375-31-027	AGARWAL, SANJAY TRUSTEE & ET	10801 GASCOIGNEDR	CUPERTINO	CA	95014	13-
128	10831	JOHNSON	375-31-065	HUO, XIPING AND SONG,	5023 CAPISTRANO AV	SAN JOSE	CA	95129-1025	13-
129	10841	JOHNSON	375-31-066	LI, YONGNA AND SONG, NING	10841 JOHNSON AV	CUPERTINO	CA	95014-3819	13-
130	10630	CARVER	DR 375-32-020	MC GRATH, PATRICK W	PO BOX 2422	PALO ALTO	CA	94309-2422	13-
131	10616	CARVER	375-32-021	YETTAW, JACKIE A AND JERRI L	10616 CARVER DR	CUPERTINO	CA	95014-3607	13-
132	18870	TUGGLE	375-32-024	DELA CRUZ, SHERWIN PETER L	18870 TUGGLE AV	CUPERTINO	CA	95014-3626	13-
133	18850	TUGGLE	375-32-026	ZHU, XINGLEI AND YIN, WENYUAN	18850 TUGGLE AV	CUPERTINO	CA	95014-3626	13-
134	18871	PENDERGAST	375-33-027	LUI, DAVID K AND ANGIE E	18871 PENDERGAST AV	CUPERTINO	CA	95014-3620	13-
135	18881	PENDERGAST	375-33-028	CHENG, XINWU AND SHI, WEN	18881 PENDERGAST AV	CUPERTINO	CA	95014-3620	13-
136	18931	PENDERGAST	375-33-033	KAWASAKI, ELAINE T TRUSTEE	18931 PENDERGAST AV	CUPERTINO	CA	95014-3622	13-
137	18880	PENDERGAST	375-33-044	YAP, KOOI AND THORISA	18880 PENDERGAST AV	CUPERTINO	CA	95014-3621	13-
138	18911	TUGGLE	375-33-064	FLAUGHER, LOU ANN	18911 TUGGLE AV	CUPERTINO	CA	95014-3625	13-
139	10657	MORENGO	375-34-013	ORTIZ, ROSA F ET AL	10657 MORENGO DR	CUPERTINO	CA	95014-3513	13-
140	10673	MORENGO	375-34-015	SHARMA, SUBHASH C AND MAMTA	10673 MORENGO DR	CUPERTINO	CA	95014-3513	13-
141	18930	TUGGLE	375-34-045	SHEN & TIAN LLC	16230 AZALEA WY	LOS GATOS	CA	95032-3622	13-
142	18940	NEWSOM	375-35-011	NGUYEN, CHINH MANH AND PHAM,	18940 NEWSOM AV	CUPERTINO	CA	95014-3618	13-
143	5991	BOLLINGER	375-35-025	NALAVDE, TANMAY S AND VAIDYA,	5991 BOLLINGER RD	CUPERTINO	CA	95014-3536	13-
144	10627	CULBERTSON	DR 375-36-027	MC GRATH, PATRICK W	1184 VALELAKE CT	SUNNYVALE	CA	94089-2032	13-

**2021 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF CUPERTINO**

CC 12-01-20
55 of 395

Exhibit A

Situation				APN	Property Address	City/State	County	Parcel ID	Record ID
145	899	S	TANTAU	375-38-045	ZWEIG, JONATHAN M AND GRACE 899 TANTAU AVS	CUPERTINO	CA	95014-4648	13-
146	928		HYDE	375-39-004	SAIKUMAR, GURUPRASAD AND 928 HYDE AV	CUPERTINO	CA	95014-4663	13-
147	19210		TILSON	375-40-060	SINGH, TAJINDER AND SANDHU, 19210 TILSON AV	CUPERTINO	CA	95014-3529	13-
148	698		MILLER	375-42-011	LIN, JOHN YAW HWA AND MICHELLE 698 MILLER AV	CUPERTINO	CA	95014-4640	13-
149	678		MILLER	375-42-012	JEN, KO-TA AND CHRISTINA N 678 MILLER AV	CUPERTINO	CA	95014-4640	13-



CITY OF CUPERTINO

Agenda Item

20-8319

Agenda Date: 12/1/2020
Agenda #: 8.

Subject: Mitigation Fee Act - Annual & Five-Year Report - Fiscal Year 2019-2020

1. Accept the Annual & Five-Year Review of the City of Cupertino's Development Impact Fees (Government Code Section 66000 *et seq.*); and
2. Adopt Resolution No 20-137 entitled "A Resolution of the Cupertino City Council Approving the Annual & Five-Year Development Impact Fee Report for FY Ending June 30, 2020 and Making Required Findings."



PUBLIC WORKS DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: December 1, 2020

Subject

Mitigation Fee Act - Annual & Five-Year Report – Fiscal Year 2019-2020.

Recommended Actions

1. Accept the Annual & Five-Year Review of the City of Cupertino's Development Impact Fees (Government Code Section 66000 *et seq.*); and
2. Adopt Draft Resolution No.20-____ entitled "A Resolution of the Cupertino City Council Approving the Annual & Five-Year Development Impact Fee Report for FY Ending June 30, 2020 and Making Required Findings."

Discussion

The Mitigation Fee Act (Government Code Section 66000 *et seq.*) requires public agencies to account for and make findings when imposing development impact fees as a condition of development approval. Government Code Section 66006(b) also requires that public agencies annually review and make available to the public a report accounting for development impact fees held by the agency. Additional reporting is required at least every five years pursuant to Government Code Section 66001(d).

There are several impact fees that the City has required as a condition of development approval in lieu of requiring construction of certain public improvements. These fees are subject to annual and five-year reporting requirements. Most of these fees were imposed to mitigate development impacts and were based on the development's fair share of a larger public improvement project.

Pursuant to Section 66006(b), the City is required to make available to the public the following information concerning development impact fees each fiscal year:

- A brief description of the type of fee in the account or fund.
- Amount of the fee.
- Beginning and ending balances of the account or fund.
- The amount of fees collected and interest earned.

- Identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with in-lieu fees.
- Identification of an approximate date by which the construction of the public improvement will commence, if the local agency determines that sufficient funds have been collected to complete the public improvement and the public improvement remains incomplete.
- A description of each inter-fund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended. In the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.
- The amount of any refunds made pursuant to Government Code section 66001(e) and any allocations made pursuant to Government Code section 66001(f).

Under Section 66001(d), the City also must make certain findings regarding unfinished improvements every five years following the first deposit of impact fees into a fund. The agency must identify the purpose for which the fee was expended and demonstrate a reasonable relationship between the fee and the purpose for which it was used. The agency also must identify all sources and amounts of funding anticipated to complete the financing of incomplete improvements and to designate approximate dates when this funding is expected to be deposited into the account. Fees received through a development agreement are exempt from the five-year report.

The attached report includes the annual report for the fiscal year ending June 30, 2020 and a five-year report for all fees. All construction projects listed have or will commence within the next five years, as shown in the report. Since the City provided a five-year report last fiscal year, a new five-year report is not required. However, the five-year report provides additional detail, so the City voluntarily provides such data to better inform the public.

Sustainability Impact

No sustainability impact.

Fiscal Impact

The subject fees were collected for specific purposes of design and construction of certain public improvements. Accepting these Annual and Five-Year Reports will program the fees and ensure they are retained by the City until used.

Prepared by: Chad Mosley, City Engineer

Reviewed by: Roger Lee, Director of Public Works

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A – Annual and Five-Year Report for the fiscal year ending June 30, 2020

B – Draft Resolution

City of Cupertino
AB 1600 - Mitigation Fee Act
Annual & Five Year Report for the fiscal year ending June 30, 2019

Dept.: Community Development

Project: Below Market Rate (BMR) Housing Mitigation Fee

Local Authority:

Information on the City's BMR Housing Mitigation Fee is provided as a courtesy. The City of Cupertino has collected BMR mitigation fees from commercial and residential developments since 1992 based on nexus studies conducted at that time. On May 5, 2015, the City Council adopted Resolution 15-036, accepting three reports from Keyser Marston Associates, Inc. (KMA) Summary and Recommendations BMR Housing Mitigation Program, Non-Residential Jobs-Housing Nexus Analysis, and Residential BMR Housing Nexus Analysis) which collectively form the City's Nexus Study justifying the current residential and non-residential Housing Mitigation Fees. Per Resolution 17-052, the City Council adopted the updated BMR residential and non-residential (office, research and development, industrial, hotel, retail and commercial) Housing Mitigation Fees. On May 19, 2020, the City Council adopted Resolution 20-056, which increased the Housing Mitigation Fees for hotels and for offices to levels lower than the maximum amount needed to fully mitigate the burdens created by new development on the need for affordable housing as determined in the KMA Reports, based in part on an Economic Feasibility Analysis prepared by Strategic Economics concluding that increased fees would be feasible. On April 21, 2020, the City Council adopted Resolution 20-037, amending the BMR Housing Mitigation Fees to adopt fee categories and amounts for self-storage and warehouse uses based in part on a report from KMA dated January 2020 and entitled "Supplement to the Non-Residential Jobs-Housing Nexus Study" evaluating the impact of self-storage and warehouse land uses on demand for affordable housing in the City and determining the maximum amount of a fee needed to fully mitigate the burdens on affordable housing created by these types of development. The fiscal year 2019-20 BMR Housing Mitigation Fee amounts are being reported below.

Voluntary Five Year Reporting & Findings Requirement:

1. The purpose of the BMR Housing Mitigation Fee is to help mitigate the need for affordable housing as a result of new residential and non-residential development within the City of Cupertino. The requirements for applicability to the BMR Housing Mitigation Fees are set forth in the City's adopted BMR Housing Mitigation Program Procedural Manual. The BMR Housing Mitigation Fee schedule is as follows:

Residential (per sq. ft.) -

Detached Single Family Residence	\$18.45
Small Lot Single Family Residence or Townhome	\$20.29
Multi-Family Attached Townhome or Condo	\$24.60
Multi-Family Rental Apartment (1 to 35 du/ac)	\$24.60
Multi-Family Rental Apartment (over 35 du/ac)	\$30.75

Non-Residential (Per sq.ft.) -

Office, Research & Development, or Industrial	\$24.60
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Hotel	\$12.30
Commercial or Retail	\$12.30

BMR Housing Mitigation Fees were used to fund staff and administrative time, legal and professional services, BMR housing placement services, rental mediation, contract services, Nexus Study update and a Consolidated Plan.

The fees in the BMR Fund include funds paid to the City as conditions of development agreements. When applicable, these fees are included in the tables below; however, there is no requirement to prepare a five-year report regarding fees obtained through a development agreement.

2. A reasonable relationship exists between the BMR Housing Mitigation Fee and the purpose for which the fee was charged. The need for the BMR Housing Mitigation fees, as they were identified when the fee was enacted, remains. *See*, Strategic Economics December 16, 2019 Economic Feasibility Study of Inclusionary Requirements.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost*	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Below Market Rate Housing Mitigation fee	\$160,300,000	\$6,551,494	100%	Additional Developer Contributions State and Federal tax credits, loans and grants	<i>As projects develop/redevelop</i>	<i>Ongoing</i>	<i>Ongoing</i>

* Based on RHNA allocation and affordability gaps estimated in the nexus study: Very-low income units (356) x \$241,000/unit = \$87.8 million. Low income units (207) x \$213,000/unit = \$44.1 million. Moderate income units (231) x \$123,000/unit = \$28.4 million. Total = \$160.3 million.

Annual Report

Amount of Fee: Based on adopted Fee Schedule

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure
Balance at 7/1/2019	\$6,759,440	
Fees Collected	\$41,957 *	
Interest	\$269,174	
	(\$90,119)	Staff and administration
	(\$174,249)	Legal and professional services
Expended	(\$190,986)	Housing placement services
	(\$50,229)	Rental mediation services/contract services
	(\$13,495)	Economic Feasibility House Study
Subtotal	(\$519,078)	
Refunded	0	
Unrestricted balance at 6/30/2020	\$6,551,494	

*- Includes funds collected by Development Agreement

Dept.: Public Works

Project: Park Dedication In-Lieu Fee

Local Authority:

City of Cupertino: Municipal Code, Chapter 13.08

Five Year Reporting & Findings Requirement:

1. The purpose of the Park Dedication Fee is to help mitigate the need for additional outdoor recreational area for new residential development within the City of Cupertino. The requirements for applicability to the Park Dedication Fees are set forth in the City's Municipal Code, Chapter 13.08, and the fee was adopted under the provisions of the Mitigation Fee Act. The Parkland Dedication Fee is based on the fair market value of land within the City of Cupertino. Land values are appraised bi-annually, and the Park Dedication Fees are updated accordingly. Park Dedication Fees are used to fund parkland acquisitions and improvements to park and recreational facilities.

The fees in the Park Dedication table below include funds paid to the City as a condition of development agreements. Although these fees are included in the tables below, there is no requirement to prepare a five-year report regarding fees obtained through a development agreement. In addition, this table includes adopted fees imposed as a condition of development.

2. A reasonable relationship exists between the Park Dedication Fee and the purpose for which the fee is charged, as additional parkland and facilities are needed to offset the increase in population that additional residential units impacts. The need for the Park Dedication fees, as they were identified when the fee was enacted, remains, as the City's current park area per resident does not yet meet the park acreage standard in the Park Dedication Fee ordinance and as development continues to occur.
3. The sources and amounts of funding anticipated to complete the financing of the Park Dedication are identified below:
 - Developer Fair-Share Contributions from all projects that add residences.
4. The approximate dates on which the funding for the needed park acquisition and improvements is expected to be deposited into the appropriate account are identified in the Five-Year Report on the next page.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Lawrence-Mitty Park	\$8,270,994	\$11,674,477	100%	Project is fully funded	Winter 2020	Spring 2015	Summer 2023

Annual Report

Amount of Fee: Based on Fair-Market Value of land, through land appraisal

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure
Balance at 7/1/2019	\$2,741,517	
Fees Collected	\$246,000 *	
Interest	\$467,000	
Expended	(\$2,314)	Staff and Administration
	(\$48,720)	Contract Services
Subtotal	(\$51,034)	
Refunded	0	
Reserved	(\$8,270,994)	Reserved for purchase and construction of Lawrence-Mitty Park
Balance at 6/30/2030	\$3,403,484	

*- Includes funds collected by Development Agreement and other developments

Dept.: Public Works

Project: Transportation Impact Fee

Local Authority:

City of Cupertino: Municipal Code, Chapter 14.02

Five Year Reporting & Findings Requirement:

1. The purpose of the Transportation Impact Fee is to help mitigate the impact to the City's existing transportation infrastructure due to new development, additions to existing structures or changes in use within the City of Cupertino. The requirements for applicability to the Transportation Impacts Fees are set forth in the City's Municipal Code, Chapter 14.02, and the fee was adopted under the provisions of the Mitigation Fee Act. The Transportation Impact Fee is based on the Transportation Impact Fee Nexus Study. Transportation Impact Fees are used to fund capital improvements to the City's transportation infrastructure.
2. A reasonable relationship exists between the Transportation Impact Fee and the purpose for which the fee is charged, as additional transportation infrastructure is needed to offset the increased demand that new development, additions to existing structures and changes in use create on the roadway network. The need for the Traffic Impact fees, as identified in the Nexus Study remain, as the infrastructure improvements have not yet been constructed.
3. The sources and amounts of funding anticipated to complete the financing of the Transportation Impact Fee are identified below:
 - Developer Fair-Share Contributions from all projects that create new vehicle trips.
4. The approximate dates, on which the funding for the needed transportation impact improvements is expected to be deposited, are identified in the Five-Year Report on the next page.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Projects in the Transportation Impact Fee Nexus Study	\$59,780,125	\$241,119	100%	Additional Developer Contributions, State and Federal grants, General Fund	Fall 2024	Winter 2019	Summer 2025

Annual Report

Amount of Fee: Based on Transportation Impact Fee Nexus Study

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure
Balance at 7/1/2019	\$197,584	
Fees Collected	\$34,588	
Interest	\$8,948	
Expended	0	
Subtotal	0	
Refunded	0	
Balance at 6/30/2020	\$241,119	

Dept.: Public Works

Project: N. Stelling/I-280 Bridge Pedestrian Lighting & Upgrades

Local Authority:

EXC-2007-06: Condition of Approval No. 21

TM-2007-02: Condition of Approval No. 24

Five Year Reporting & Findings Requirement:

1. The purpose of the N. Stelling/I-280 Bridge Pedestrian Lighting & Upgrades fee is to enhance the pedestrian walkway along the east and west side of the North Stelling Road bridge that crosses over Interstate 280. Public facilities to be funded with the fees were described in:
 - a. Villa Serra Apartments: ASA-2007-03: Condition of Approval No. 21, dated July 13, 2007 for Architectural Site Approval (\$25,000 collected)
 - b. Las Palmas Subdivision: TM-2007-02: Condition of Approval No. 24, dated July 18, 2007 for Tentative Map Application (\$25,000 collected)
2. A reasonable relationship exists between the North Stelling fee and the purpose for which the fee was charged in that new development in the vicinity of the bridge increases pedestrian traffic across the bridge. The need for improvements to the bridge, that were identified during the review of the two projects, remains, as the bridge experiences increased pedestrian traffic due to the two projects.
3. The sources and amounts of funding anticipated to complete the financing of the bridge improvements are identified below:
 - It is anticipated that the City of Cupertino General Fund will be used to supplement revenue from fees.
4. The approximate dates on which the funding for the bridge improvements is expected to be deposited into the appropriate account are identified in the Five-Year Report below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Pedestrian Lighting & Upgrades – N. Stelling/ 1280 Bridge	\$100,000	\$51,578	50%	Anticipated that City will fund the remaining cost of the project	Spring/2022	Summer/2022	Fall/2022

Annual Report

Amount of Fee: 25% Contribution to the total cost, based on estimated four projects contributing to improvement.

FY 2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$ 50,926			Amount \$ -
Fees Collected	0		\$ 50,000	Repayment Date (est.) na
Interest	\$652		\$5,128	
Expended	0		(\$3,550)	
Refunded	0		0	
Balance at 6/30/2020	\$ 51,578		\$ 51,578	

Dept.: Public Works

Project: De Anza/McClellan/Pacifica signal modification

Local Authority:

TM-2002-02: Condition of Approval No. 23

Five Year Reporting & Findings Requirement:

1. The purpose of the De Anza/McClellan/Pacifica signal modification is to study and redesign the traffic signal to improve the efficiency of the intersection. Public facilities to be funded with the fees were described in:
 - a. Cupertino Town Square: TM-2002-02: Condition of Approval No. 2, dated July 15, 2003 for Tentative Map application (\$145,700 collected)
2. A reasonable relationship exists between the De Anza/McClellan/Pacifica signal modification contribution and the purpose for which the fee was charged, in that the new development introduces additional vehicular and pedestrian traffic to the intersection. The need for improvements to the intersection and the traffic signal, as they were identified during the review of the project, remains. The intersection continues to run less efficiently than other intersections in the area.
3. The sources and amounts of funding anticipated to complete financing of the intersection improvements are identified below:
 - Developer Fair-Share Contributions from other projects that contribute traffic to the intersection.
 - It is anticipated that the City of Cupertino General Fund will be used to supplement revenue from fees.
 - Vehicle Emissions Reductions Based at Schools (VERBS) Grant funding.
4. The approximate dates on which the funding for the bridge improvements is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Traffic Signal & Intersection Improvements De Anza Blvd/McClellan Rd/Pacifica Ave	\$1,200,000	\$165,213	10%	Developer Contributions, General Fund, and VERBS Grants	<i>Funding has been provided. Summer/ 2019</i>	<i>Spring 2021</i>	<i>Summer 2022</i>

Annual Report

Amount of Fee: 12.5% Contribution to the total cost based on estimated contribution of four projects.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date		Loans/Transfers
Balance at 7/1/2019	\$163,125			Amount	\$ -
Fees Collected	0		\$ 145,700	Repayment Date (est.)	na
Interest	\$2,088		\$19,513		
Expended	0		0		
Refunded	0		0		
Balance at 6/30/2020	\$165,213		\$165,213		

Dept.: Public Works

Project: Stevens Creek Blvd. and Bandley Drive Signal Improvements

Local Authority:

ASA-2011-12: Condition of Approval No. 43

Five Year Reporting & Findings Requirement:

1. The purpose of the Stevens Creek Blvd and Bandley Drive Traffic Signal Improvement fee is to partially fund upgrades to the traffic signal in order to improve the efficiency of the intersection. Public facilities to be funded with the fees were described in:
 - a. Cupertino Crossroads: ASA-2011-12: Condition of Approval No. 43 dated November 17, 2011 for Architectural Site Approval (\$25,000 collected)
2. A reasonable relationship exists between the Stevens Creek Blvd. and Bandley Drive Signal Improvements fee and the purpose for which the fee was charged, in that the new development has a driveway that connects directly to the signalized intersection and the development will introduce additional vehicular and pedestrian traffic to the intersection. The need for the improvements to the intersection, which were identified during the review of the project, remains.
3. The sources and amounts of funding anticipated to complete financing of the signal upgrades improvements are identified below:
 - Developer Fair-Share Contributions from other projects in the vicinity of the intersection.
 - It is anticipated that the City of Cupertino General Fund will be used to supplement revenue from fees.
4. The approximate dates on which the funding for the signal improvements is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Stevens Creek Blvd and Bandley Drive Signal Improvements	\$185,000	\$13,398	5%	Developer Contributions, and General Fund.	<i>Funding has been provided. Summer/ 2019</i>	<i>Spring/2020</i>	<i>Fall/2021</i>

Annual Report

Amount of Fee: Contribution from expected nearby developments, based on estimated addition of traffic to intersection.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$13,229		Amount	\$ -
Fees Collected	0		\$ 25,000	Repayment Date (est.) na
Interest	\$169		\$1,524	
Expended	0	Kimley Horn Contract	(\$13,126)	
Refunded	0		0	
Balance at 6/30/2020	\$13,398		\$ 13,398	

Dept.: Public Works

Project: Traffic Mitigation at Homestead Rd and Lawrence Expressway

Local Authority:

TM-2012-04: Condition of Approval No. 87

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Traffic Mitigation at Homestead Rd and Lawrence Expressway fee is to fund improvements to the intersection in order to address traffic impacts from the project. Public facilities to be funded with the fees were described in:
 - a. Main Street Cupertino: TM-2012-04: Condition of Approval No. 87, dated September 20, 2012 for Tentative Map application (\$400,000 collected)
2. A reasonable relationship exists between the Traffic Mitigation at Homestead Rd and Lawrence Expressway fee and the purpose for which the fee was charged, in that the development, in the vicinity of the intersection, introduces additional traffic to the intersection. The County of Santa Clara has estimated a cost to upgrade the intersection, and the Environmental Impact Report assessed a fair share contribution from the project to address its portion of the impact. The need for improvements to the intersection, as they were identified during the review of the project, remains.
3. The sources and amounts of funding anticipated to complete financing of the intersection improvements are to be identified by the County of Santa Clara.
4. The approximate dates on which the funding for the intersection improvements is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Traffic Mitigation at Homestead Rd and Lawrence Expressway Bridge	\$4,000,000	\$425,542	100%	To be determined by the County of Santa Clara	When adequate funds have been acquired by the County to begin the project. Anticipated Summer/2021	Fall/2021	Summer/2022

Annual Report

Amount of Fee: Based on Fair-Share Contribution assessed by Environmental Impact Report

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date		Loans/Transfers
Balance at 7/1/2019	\$420,164			Amount	\$ -
Fees Collected	0		\$400,000	Repayment Date (est.)	na
Interest	\$5,378		\$25,542		
Expended	0		0		
Refunded	0		0		
Balance at 6/30/2020	\$425,542		\$425,542		

Dept.: Public Works

Project: Traffic Calming to Mitigate Impacts from Main Street Cupertino

Local Authority:

TM-2012-04: Condition of Approval No. 93

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Traffic Calming to Mitigate Impacts from Main Street Cupertino fee is to help mitigate traffic impacts in the adjacent neighborhoods resulting from the project, for a period of 5 years following project occupancy. Public facilities to be funded with the fees were described in:
 - a. Main Street Cupertino: TM-2012-04: Condition of Approval No. 93 dated 9/20/2012 for Tentative Map application (\$100,000 collected).
2. A reasonable relationship exists between the Traffic Calming fee and the purpose for which the fee was charged, in that the development introduces additional traffic to the surrounding neighborhoods. The City will utilize the funds as needed to address traffic impacts to the surrounding neighborhoods, for a period of 5-years after occupancy.
5. The sources and amounts of funding anticipated to complete financing of the traffic calming mitigations were collected with the project (\$100,000).
3. The approximate dates on which the funding for the improvements is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Traffic Calming along Rodrigues Ave. and Pacifica Dr.	\$100,000	\$106,386	100%	Project fully funded	<i>Fees have been collected. Anticipated initiation of project is Summer/2021</i>	<i>Fall/2021</i>	<i>Summer/2022</i>

Annual Report

Amount of Fee: Estimated Full Cost of the Study and potential improvements.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date		Loans/Transfers
Balance at 7/1/2019	\$105,041			Amount	\$ -
Fees Collected	0		\$100,000	Repayment Date (est.)	na
Interest	\$1,345		\$6,386		
Expended	0		0		
Refunded	0		0		
Balance at 6/30/2020	\$106,386		\$106,386		

Dept.: Public Works

Project: Creek Trail Improvements along Calabazas Creek

Local Authority:

TM-2012-04: Condition of Approval No. 47

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Creek Trail Improvements along Calabazas Creek contribution is to administer a creek trail plan, the necessary approvals and improvements for a new trail along Calabazas Creek from Vallco Parkway to Interstate 280. Public facilities to be funded with the fees were described in:
 - a. Main Street Cupertino: TM-2012-04: Condition of Approval No. 47 dated September 20, 2012 for Tentative Map application (\$65,000 collected)
2. A reasonable relationship exists between the Creek Trail Improvements along Calabazas Creek Fee and the purpose for which the fee was charged in that development in the vicinity of the proposed creek trail introduces additional pedestrian traffic to the area, causing the need to provide additional and alternative means of pedestrian access and recreation to new residents and visitors to the development. The need for a new creek trail, as it was identified during the review of the project, remains.
3. The sources and amounts of funding anticipated to complete financing of the project are identified below:
 - Developer Fair-Share Contributions from other projects in the vicinity of the proposed creek trail location
4. The approximate dates on which the funding for the trail improvements is expected to be deposited into the appropriate account are identified in the Five-Year Report on the next page.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Creek Trail Improvements along Calabazas Creek	\$195,000	\$69,152	100%	Additional Developer Contributions are needed to complete the project	<i>Developer contributions obtained when adjacent properties redevelop. Anticipated Summer/2022</i>	Spring/2023	Summer/2023

Annual Report

Amount of Fee: Contribution equivalent to 1/3 of the estimated cost of creek trail plan

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$ 68,278		Amount	\$ -
Fees Collected	0		\$ 65,000	Repayment Date (est.) na
Interest	\$874		\$4,152	
Expended	0		0	
Refunded	0		0	
Balance at 6/30/2020	\$ 69,152		\$69,152	

Dept.: Public Works

Project: Parking Conversion Fund along Vallco Parkway

Local Authority:

TM-2012-04: Condition of Approval No. 67

Five Year Reporting & Findings Requirement:

1. The purpose of the Parking Conversion Fund along Vallco Parkway is to enable the City to convert the angled parking spaces along the south side of Vallco Parkway to parallel parking spaces and an additional east-bound traffic lane. Public facilities to be funded with the fees were described in:
 - a. Main Street Cupertino: TM-2012-04: Condition of Approval No. 67 dated 9/20/2012 for Tentative Map application (\$450,000 collected)
2. A reasonable relationship exists between the Parking Conversion Fund along Vallco Parkway and the purpose for which the fund was collected in that new development is adjacent to this section of Vallco Parkway, and the development reduced the number of east-bound lanes a part of their project. The Fund will permit the City to reestablish the east-bound lane that was lost, due to the development, should it be found that the additional lane is necessary to serve the public. The fund is based on the estimated cost to perform the work. The need for the funds, that were identified when the funds was imposed, remain, as the development project has not yet been completed, and the full impact of traffic to this portion of road has not yet materialized.
3. The sources and amounts of funding anticipated to complete financing of the conversion were collected with the project (\$450,000).
4. The approximate dates on which the funding for the conversion is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Parking Conversion Fund along Vallco Parkway	\$450,000	\$478,734	100%	No additional funds needed at this time.	<i>Fees have been collected. Project completed June 2018</i>	<i>June 2018</i>	<i>June 2023</i>

Annual Report

Amount of Fee: Estimated Full Cost of the potential improvements.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date		Loans/Transfers
Balance at 7/1/2019	\$472,684			Amount	\$ -
Fees Collected	0		\$450,000	Repayment Date (est.)	na
Interest	\$6,050		\$28,734		
Expended	0		0		
Refunded	0		0		
Balance at 6/30/2020	\$478,734		\$478,734		

Dept.: Public Works

Project: Funding of Neighborhood Cut-through Traffic and Parking Intrusion Monitoring

Local Authority:

TM-2011-03: Condition of Approval No. 49

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Funding of Neighborhood Cut-through Traffic and Parking Intrusion Monitoring Fee is to monitor and address traffic and parking intrusion, in neighborhoods adjacent to the project site, due to the practices of employees who will work at the project site. Public facilities to be funded with the fees were described in:
 - a. Apple Campus 2: Ordinance 13-2114: Resolution Approving Apple Campus 2 Development Agreement – Section 3.13 and TM 2011-03: Condition of Approval No. 49 dated 10/15/2013 for Tentative Map Application (\$850,000 collected)
2. A reasonable relationship exists between the Funding of Neighborhood Cut-through Traffic and Parking Intrusion Monitoring fee and the purpose for which the fee was charged in that the traffic from the development, for which the fee is to be used to monitor, has not yet materialized because the development has not been fully constructed or occupied. The City will begin monitoring activities in the fall of 2017. The \$850,000 fee was based on an estimate of the cost to perform the monitoring and make minor modifications to address traffic and parking intrusion concerns. The need for traffic and parking intrusion monitoring, as it was identified during the review of the project, remains. The traffic, for which the fees are to be used to monitor, has not yet materialized.
3. The sources and amounts of funding anticipated to complete monitoring and improvements were collected with the project (\$850,000).
4. The approximate dates on which the funding for the monitoring is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Funding of Neighborhood Cut-through Traffic and Parking Intrusion Monitoring	\$869,223	\$861,897	100%	No additional funds needed at this time.	Fall/ 2017	Summer/2017	Winter/2021

Annual Report

Amount of Fee: Estimated Full Cost of the Study and potential improvements.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date		Loans/Transfers
Balance at 7/1/2019	\$851,004			Amount	\$ -
Fees Collected	0		\$850,000	Repayment Date (est.)	na
Interest	\$10,893		\$53,375		
Expended	0	IDAX & Stantec Consulting Contracts	(\$41,478)		
Refunded	0		0		
Balance at 6/30/2020	\$861,897		\$861,897		

Dept.: Public Works

Project: Implement a Traffic-Adaptive Traffic Signal System along De Anza Blvd

Local Authority:

TM-2011-03: MitigationTRANS-13c

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Traffic-Adaptive Traffic Signal System along De Anza Blvd fee is to implement traffic-adaptive technology to the traffic signals along DeAnza Blvd within the jurisdiction of the City of Cupertino. Public facilities to be funded with the fees were described in:
 - a. Apple Campus 2: Ordinance 13-2114: Resolution Approving Apple Campus 2 Development Agreement – Section 3.13 and TM-2011-03: Mitigation TRANS-13c, dated 10/15/2013 for Tentative Map application (\$50,000 collected)
2. A reasonable relationship exists between the traffic-adaptive traffic signal system along De Anza Blvd fee and the purpose for which the fee was charged in that new development will introduce additional traffic to DeAnza Boulevard, and more efficient traffic signal timing will be needed to address the additional traffic. The fee was based on a fair-share contribution of the estimated total cost to install the traffic-adaptive technology. The need for traffic-adaptive technology, as it was identified during the review of the project, remains.
3. The sources and amounts of funding anticipated to complete the traffic-adaptive technology upgrades will be provided through fair-share contributions from other developers that impact the corridor.
4. The approximate dates on which the funding for the traffic adaptive technology is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Traffic-Adaptive Traffic Signal System along De Anza Blvd	\$250,000	\$53,193	100%	Fair share contributions from other developers that impact the corridor	<i>Developer contributions obtained when adjacent properties redevelop. Anticipated Summer/2020</i>	<i>Fall/2019</i>	<i>Summer/2022</i>

Annual Report

Amount of Fee: Based on Fair-Share Contribution assessed by engineer's cost estimate

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$ 52,521		Amount	\$ -
Fees Collected	0		\$ 50,000	Repayment Date (est.) na
Interest	\$672		\$3,193	
Expended	0		0	
Refunded	0		0	
Balance at 6/30/2020	\$ 53,193		\$53,193	

Dept.: Public Works

Project: Interstate 280/Junipero Serra Channel Trail Improvements

Local Authority:

TM-2011-03: Mitigation PLAN-3

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Interstate 280/Junipero Serra Channel Trail Improvements fee is to partially fund a feasibility study for a new trail along I-280/Junipero Serra Channel from N. De Anza Blvd to Calabazas Creek. Public facilities to be funded with the fees were described in:
 - a. Apple Campus 2: Ordinance 13-2114: Resolution Approving Apple Campus 2 Development Agreement – Section 3.13 and TM-2011-03: Mitigation PLAN-3, dated 10/15/2013 for Tentative Map application (\$250,000 collected)
 - b. Cupertino Property Development – Hyatt House – 10380 Perimeter Rd: DP-2014-04: Condition of Approval No. 21, dated October 21, 2014, for Development Permit application (\$66,000 collected).
2. A reasonable relationship exists between the I-280/Junipero Serra Channel Trail Improvements fee, and the purpose for which the fee was charged, in that the development in the vicinity of the proposed trail will introduce additional pedestrian and bicycle traffic between the new campus and the existing campus, causing the need to provide additional and alternative routes between the developments. The need for a new trail study, as it was identified during the review of the project, remains, as the study has not yet completed.
3. The sources and amounts of funding anticipated to complete financing of the study are identified below:
 - Developer Fair-Share Contributions from other projects in the vicinity of the proposed trail location.
4. The approximate dates on which the funding for the bridge improvements is expected to be deposited into the appropriate account are identified on the next page.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Interstate 280/Junipero Serra Channel Trail Improvements	\$500,000	\$65,812	100%	Additional Developer Contributions are needed to complete the project	<i>Developer contributions obtained when adjacent properties redevelop. Ongoing.</i>	<i>Fall/2017</i>	<i>Winter/2023</i>

Annual Report

Amount of Fee: Contribution equivalent to approximately 60% of the estimated cost of implementation

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$64,980			Amount \$ -
Fees Collected	0		\$ 316,000	Repayment Date (est.) na
Interest	\$832		\$14,137	
Expended	0	Callander Assoc. Contract	(\$264,325)	
Refunded	0		0	
Balance at 6/30/2020	\$65,812		\$65,812	

Dept.: Public Works

Project: Contribution towards Stevens Creek Blvd. Bicycle Lane Improvements

Local Authority:

ASA-2018-01: Condition of Approval No. 43

Five Year Reporting & Findings Requirement:

5. The purpose of the Stevens Creek Blvd. Bicycle Lane Improvement fee is to partially fund upgrades to the bicycle lanes on Stevens Creek Blvd in order to improve the enhance the safety of the bicycle lanes. Public facilities to be funded with the fees were described in:
 - a. Target Improvements: ASA-2018-01: Condition of Approval No. 22 dated August 14, 2018 for Architectural Site Approval (\$75,000 collected)
6. A reasonable relationship exists between the Stevens Creek Blvd. Bicycle Lane Improvements fee and the purpose for which the fee was charged, in that the new development abuts Stevens Creek Blvd., and will introduce additional traffic to the area. The need for the improvements to the bicycle lanes, which were identified during the review of the project, remains.
7. The sources and amounts of funding anticipated to complete financing of the signal upgrades improvements are identified below:
 - Developer Fair-Share Contributions from other projects along Stevens Creek Blvd.
 - It is anticipated that the City of Cupertino General Fund will be used to supplement revenue from fees.
8. The approximate dates on which the funding for the signal improvements is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Stevens Creek Bicycle Lane Improvements (Wolfe Rd to Hwy 85)	\$2,800,000	\$77,175	2%	Developer Contributions, and General Fund.	Winter/ 2021	Spring/2021	Summer/2021

Annual Report

Amount of Fee: Contribution from developments, based on estimated costs to construct facilities along property frontages.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$76,200		Amount	\$ -
Fees Collected	0		\$ 75,000	Repayment Date (est.) na
Interest	\$975		\$2,175	
Expended	0		0	
Refunded	0		0	
Balance at 6/30/2020	\$77,175		\$ 77,175	

RESOLUTION NO. _____

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
APPROVING THE ANNUAL & FIVE-YEAR DEVELOPMENT IMPACT FEE
REPORT FOR FY ENDING JUNE 30, 2020 AND MAKING REQUIRED
FINDINGS**

WHEREAS, the Mitigation Fee Act (Government Code Section 66000 et seq.) requires that an annual report regarding development impact fees be submitted to the City Council at a regularly scheduled public meeting pursuant to Section 66006; and

WHEREAS, Government Code Section 66001(d) further provides that the City must, on a five-year basis, make certain findings with respect to unexpended development impact fees; and

WHEREAS, the City of Cupertino - AB 1600 - Mitigation Fee Act Annual & Five-Year Report for the fiscal year that ending June 30, 2020 (the "Annual and Five-Year Report"), comprises the annual report required under Government Code Section 66006(b) and five-year report required under Government Code Section 66001(d) of the Mitigation Fee Act. Said report is included as Attachment A and incorporated into this Resolution by this reference.

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

1. Acknowledge the foregoing recitals are true and correct and incorporated into this resolution by this reference.
2. Approves the Annual and Five-Year Report for FY ending June 30, 2020 in accordance with the Mitigation Fee Act and incorporates by reference said Report (Attachment A).
3. Adopts the findings required by Government Code 66001(d) as stated in the Five-Year Reporting and Findings Requirement section of the Annual and Five-Year Report (Attachment A), which demonstrate that, for each account or fund:
 - a. The purpose of each fund is described in the Annual and Five-Year Report.

Resolution No. _____

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- b. A reasonable relationship exists between the fee charged to development projects and the purpose for which it is charged, based on the substantial evidence contained in the Annual and Five-Year Report.
- c. For each fund, the Annual and Five-Year Report identifies all sources and amounts of funding anticipated to complete the financing of incomplete improvements.
- d. For each fund, the Annual and Five-Year Report designates the approximate date on which the funding needed is expected to be deposited into the fund.

BE IT FURTHER RESOLVED that this Resolution 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. In the event that this Resolution is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, approving the report would have no or only a de minimis effect on the environment. The foregoing determination is made by the City Council in its independent judgment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 1st day of December, 2020, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

Resolution No. _____

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<p>SIGNED:</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>

1311869.1

City of Cupertino
AB 1600 - Mitigation Fee Act
Annual & Five Year Report for the fiscal year ending June 30, 2019

Dept.: Community Development

Project: Below Market Rate (BMR) Housing Mitigation Fee

Local Authority:

Information on the City's BMR Housing Mitigation Fee is provided as a courtesy. The City of Cupertino has collected BMR mitigation fees from commercial and residential developments since 1992 based on nexus studies conducted at that time. On May 5, 2015, the City Council adopted Resolution 15-036, accepting three reports from Keyser Marston Associates, Inc. (KMA) Summary and Recommendations BMR Housing Mitigation Program, Non-Residential Jobs-Housing Nexus Analysis, and Residential BMR Housing Nexus Analysis) which collectively form the City's Nexus Study justifying the current residential and non-residential Housing Mitigation Fees. Per Resolution 17-052, the City Council adopted the updated BMR residential and non-residential (office, research and development, industrial, hotel, retail and commercial) Housing Mitigation Fees. On May 19, 2020, the City Council adopted Resolution 20-056, which increased the Housing Mitigation Fees for hotels and for offices to levels lower than the maximum amount needed to fully mitigate the burdens created by new development on the need for affordable housing as determined in the KMA Reports, based in part on an Economic Feasibility Analysis prepared by Strategic Economics concluding that increased fees would be feasible. On April 21, 2020, the City Council adopted Resolution 20-037, amending the BMR Housing Mitigation Fees to adopt fee categories and amounts for self-storage and warehouse uses based in part on a report from KMA dated January 2020 and entitled "Supplement to the Non-Residential Jobs-Housing Nexus Study" evaluating the impact of self-storage and warehouse land uses on demand for affordable housing in the City and determining the maximum amount of a fee needed to fully mitigate the burdens on affordable housing created by these types of development. The fiscal year 2019-20 BMR Housing Mitigation Fee amounts are being reported below.

Voluntary Five Year Reporting & Findings Requirement:

1. The purpose of the BMR Housing Mitigation Fee is to help mitigate the need for affordable housing as a result of new residential and non-residential development within the City of Cupertino. The requirements for applicability to the BMR Housing Mitigation Fees are set forth in the City's adopted BMR Housing Mitigation Program Procedural Manual. The BMR Housing Mitigation Fee schedule is as follows:

Residential (per sq. ft.) -

Detached Single Family Residence	\$18.45
Small Lot Single Family Residence or Townhome	\$20.29
Multi-Family Attached Townhome or Condo	\$24.60
Multi-Family Rental Apartment (1 to 35 du/ac)	\$24.60
Multi-Family Rental Apartment (over 35 du/ac)	\$30.75

Non-Residential (Per sq.ft.) -

Office, Research & Development, or Industrial	\$24.60
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Hotel	\$12.30
Commercial or Retail	\$12.30

BMR Housing Mitigation Fees were used to fund staff and administrative time, legal and professional services, BMR housing placement services, rental mediation, contract services, Nexus Study update and a Consolidated Plan.

The fees in the BMR Fund include funds paid to the City as conditions of development agreements. When applicable, these fees are included in the tables below; however, there is no requirement to prepare a five-year report regarding fees obtained through a development agreement.

2. A reasonable relationship exists between the BMR Housing Mitigation Fee and the purpose for which the fee was charged. The need for the BMR Housing Mitigation fees, as they were identified when the fee was enacted, remains. *See*, Strategic Economics December 16, 2019 Economic Feasibility Study of Inclusionary Requirements.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost*	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Below Market Rate Housing Mitigation fee	\$160,300,000	\$6,551,494	100%	Additional Developer Contributions State and Federal tax credits, loans and grants	<i>As projects develop/redevelop</i>	<i>Ongoing</i>	<i>Ongoing</i>

* Based on RHNA allocation and affordability gaps estimated in the nexus study: Very-low income units (356) x \$241,000/unit = \$87.8 million. Low income units (207) x \$213,000/unit = \$44.1 million. Moderate income units (231) x \$123,000/unit = \$28.4 million. Total = \$160.3 million.

Annual Report

Amount of Fee: Based on adopted Fee Schedule

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure
Balance at 7/1/2019	\$6,759,440	
Fees Collected	\$41,957 *	
Interest	\$269,174	
	(\$90,119)	Staff and administration
	(\$174,249)	Legal and professional services
Expended	(\$190,986)	Housing placement services
	(\$50,229)	Rental mediation services/contract services
	(\$13,495)	Economic Feasibility House Study
Subtotal	(\$519,078)	
Refunded	0	
Unrestricted balance at 6/30/2020	\$6,551,494	

*- Includes funds collected by Development Agreement

Dept.: Public Works

Project: Park Dedication In-Lieu Fee

Local Authority:

City of Cupertino: Municipal Code, Chapter 13.08

Five Year Reporting & Findings Requirement:

1. The purpose of the Park Dedication Fee is to help mitigate the need for additional outdoor recreational area for new residential development within the City of Cupertino. The requirements for applicability to the Park Dedication Fees are set forth in the City's Municipal Code, Chapter 13.08, and the fee was adopted under the provisions of the Mitigation Fee Act. The Parkland Dedication Fee is based on the fair market value of land within the City of Cupertino. Land values are appraised bi-annually, and the Park Dedication Fees are updated accordingly. Park Dedication Fees are used to fund parkland acquisitions and improvements to park and recreational facilities.

The fees in the Park Dedication table below include funds paid to the City as a condition of development agreements. Although these fees are included in the tables below, there is no requirement to prepare a five-year report regarding fees obtained through a development agreement. In addition, this table includes adopted fees imposed as a condition of development.

2. A reasonable relationship exists between the Park Dedication Fee and the purpose for which the fee is charged, as additional parkland and facilities are needed to offset the increase in population that additional residential units impacts. The need for the Park Dedication fees, as they were identified when the fee was enacted, remains, as the City's current park area per resident does not yet meet the park acreage standard in the Park Dedication Fee ordinance and as development continues to occur.
3. The sources and amounts of funding anticipated to complete the financing of the Park Dedication are identified below:
 - Developer Fair-Share Contributions from all projects that add residences.
4. The approximate dates on which the funding for the needed park acquisition and improvements is expected to be deposited into the appropriate account are identified in the Five-Year Report on the next page.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Lawrence-Mitty Park	\$8,270,994	\$11,674,477	100%	Project is fully funded	Winter 2020	Spring 2015	Summer 2023

Annual Report

Amount of Fee: Based on Fair-Market Value of land, through land appraisal

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure
Balance at 7/1/2019	\$2,741,517	
Fees Collected	\$246,000 *	
Interest	\$467,000	
Expended	(\$2,314)	Staff and Administration
	(\$48,720)	Contract Services
Subtotal	(\$51,034)	
Refunded	0	
Reserved	(\$8,270,994)	Reserved for purchase and construction of Lawrence-Mitty Park
Balance at 6/30/2030	\$3,403,484	

*- Includes funds collected by Development Agreement and other developments

Dept.: Public Works

Project: Transportation Impact Fee

Local Authority:

City of Cupertino: Municipal Code, Chapter 14.02

Five Year Reporting & Findings Requirement:

1. The purpose of the Transportation Impact Fee is to help mitigate the impact to the City's existing transportation infrastructure due to new development, additions to existing structures or changes in use within the City of Cupertino. The requirements for applicability to the Transportation Impacts Fees are set forth in the City's Municipal Code, Chapter 14.02, and the fee was adopted under the provisions of the Mitigation Fee Act. The Transportation Impact Fee is based on the Transportation Impact Fee Nexus Study. Transportation Impact Fees are used to fund capital improvements to the City's transportation infrastructure.
2. A reasonable relationship exists between the Transportation Impact Fee and the purpose for which the fee is charged, as additional transportation infrastructure is needed to offset the increased demand that new development, additions to existing structures and changes in use create on the roadway network. The need for the Traffic Impact fees, as identified in the Nexus Study remain, as the infrastructure improvements have not yet been constructed.
3. The sources and amounts of funding anticipated to complete the financing of the Transportation Impact Fee are identified below:
 - Developer Fair-Share Contributions from all projects that create new vehicle trips.
4. The approximate dates, on which the funding for the needed transportation impact improvements is expected to be deposited, are identified in the Five-Year Report on the next page.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Projects in the Transportation Impact Fee Nexus Study	\$59,780,125	\$241,119	100%	Additional Developer Contributions, State and Federal grants, General Fund	Fall 2024	Winter 2019	Summer 2025

Annual Report

Amount of Fee: Based on Transportation Impact Fee Nexus Study

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure
Balance at 7/1/2019	\$197,584	
Fees Collected	\$34,588	
Interest	\$8,948	
Expended	0	
Subtotal	0	
Refunded	0	
Balance at 6/30/2020	\$241,119	

Dept.: Public Works

Project: N. Stelling/I-280 Bridge Pedestrian Lighting & Upgrades

Local Authority:

EXC-2007-06: Condition of Approval No. 21

TM-2007-02: Condition of Approval No. 24

Five Year Reporting & Findings Requirement:

1. The purpose of the N. Stelling/I-280 Bridge Pedestrian Lighting & Upgrades fee is to enhance the pedestrian walkway along the east and west side of the North Stelling Road bridge that crosses over Interstate 280. Public facilities to be funded with the fees were described in:
 - a. Villa Serra Apartments: ASA-2007-03: Condition of Approval No. 21, dated July 13, 2007 for Architectural Site Approval (\$25,000 collected)
 - b. Las Palmas Subdivision: TM-2007-02: Condition of Approval No. 24, dated July 18, 2007 for Tentative Map Application (\$25,000 collected)
2. A reasonable relationship exists between the North Stelling fee and the purpose for which the fee was charged in that new development in the vicinity of the bridge increases pedestrian traffic across the bridge. The need for improvements to the bridge, that were identified during the review of the two projects, remains, as the bridge experiences increased pedestrian traffic due to the two projects.
3. The sources and amounts of funding anticipated to complete the financing of the bridge improvements are identified below:
 - It is anticipated that the City of Cupertino General Fund will be used to supplement revenue from fees.
4. The approximate dates on which the funding for the bridge improvements is expected to be deposited into the appropriate account are identified in the Five-Year Report below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Pedestrian Lighting & Upgrades – N. Stelling/ 1280 Bridge	\$100,000	\$51,578	50%	Anticipated that City will fund the remaining cost of the project	Spring/2022	Summer/2022	Fall/2022

Annual Report

Amount of Fee: 25% Contribution to the total cost, based on estimated four projects contributing to improvement.

FY 2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$ 50,926		Amount	\$ -
Fees Collected	0		\$ 50,000	Repayment Date (est.) na
Interest	\$652		\$5,128	
Expended	0		(\$3,550)	
Refunded	0		0	
Balance at 6/30/2020	\$ 51,578		\$ 51,578	

Dept.: Public Works

Project: De Anza/McClellan/Pacifica signal modification

Local Authority:

TM-2002-02: Condition of Approval No. 23

Five Year Reporting & Findings Requirement:

1. The purpose of the De Anza/McClellan/Pacifica signal modification is to study and redesign the traffic signal to improve the efficiency of the intersection. Public facilities to be funded with the fees were described in:
 - a. Cupertino Town Square: TM-2002-02: Condition of Approval No. 2, dated July 15, 2003 for Tentative Map application (\$145,700 collected)
2. A reasonable relationship exists between the De Anza/McClellan/Pacifica signal modification contribution and the purpose for which the fee was charged, in that the new development introduces additional vehicular and pedestrian traffic to the intersection. The need for improvements to the intersection and the traffic signal, as they were identified during the review of the project, remains. The intersection continues to run less efficiently than other intersections in the area.
3. The sources and amounts of funding anticipated to complete financing of the intersection improvements are identified below:
 - Developer Fair-Share Contributions from other projects that contribute traffic to the intersection.
 - It is anticipated that the City of Cupertino General Fund will be used to supplement revenue from fees.
 - Vehicle Emissions Reductions Based at Schools (VERBS) Grant funding.
4. The approximate dates on which the funding for the bridge improvements is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Traffic Signal & Intersection Improvements De Anza Blvd/McClellan Rd/Pacifica Ave	\$1,200,000	\$165,213	10%	Developer Contributions, General Fund, and VERBS Grants	<i>Funding has been provided. Summer/ 2019</i>	<i>Spring 2021</i>	<i>Summer 2022</i>

Annual Report

Amount of Fee: 12.5% Contribution to the total cost based on estimated contribution of four projects.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date		Loans/Transfers
Balance at 7/1/2019	\$163,125			Amount	\$ -
Fees Collected	0		\$ 145,700	Repayment Date (est.)	na
Interest	\$2,088		\$19,513		
Expended	0		0		
Refunded	0		0		
Balance at 6/30/2020	\$165,213		\$165,213		

Dept.: Public Works

Project: Stevens Creek Blvd. and Bandley Drive Signal Improvements

Local Authority:

ASA-2011-12: Condition of Approval No. 43

Five Year Reporting & Findings Requirement:

1. The purpose of the Stevens Creek Blvd and Bandley Drive Traffic Signal Improvement fee is to partially fund upgrades to the traffic signal in order to improve the efficiency of the intersection. Public facilities to be funded with the fees were described in:
 - a. Cupertino Crossroads: ASA-2011-12: Condition of Approval No. 43 dated November 17, 2011 for Architectural Site Approval (\$25,000 collected)
2. A reasonable relationship exists between the Stevens Creek Blvd. and Bandley Drive Signal Improvements fee and the purpose for which the fee was charged, in that the new development has a driveway that connects directly to the signalized intersection and the development will introduce additional vehicular and pedestrian traffic to the intersection. The need for the improvements to the intersection, which were identified during the review of the project, remains.
3. The sources and amounts of funding anticipated to complete financing of the signal upgrades improvements are identified below:
 - Developer Fair-Share Contributions from other projects in the vicinity of the intersection.
 - It is anticipated that the City of Cupertino General Fund will be used to supplement revenue from fees.
4. The approximate dates on which the funding for the signal improvements is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Stevens Creek Blvd and Bandley Drive Signal Improvements	\$185,000	\$13,398	5%	Developer Contributions, and General Fund.	<i>Funding has been provided. Summer/ 2019</i>	<i>Spring/2020</i>	<i>Fall/2021</i>

Annual Report

Amount of Fee: Contribution from expected nearby developments, based on estimated addition of traffic to intersection.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$13,229		Amount	\$ -
Fees Collected	0		\$ 25,000	Repayment Date (est.) na
Interest	\$169		\$1,524	
Expended	0	Kimley Horn Contract	(\$13,126)	
Refunded	0		0	
Balance at 6/30/2020	\$13,398		\$ 13,398	

Dept.: Public Works

Project: Traffic Mitigation at Homestead Rd and Lawrence Expressway

Local Authority:

TM-2012-04: Condition of Approval No. 87

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Traffic Mitigation at Homestead Rd and Lawrence Expressway fee is to fund improvements to the intersection in order to address traffic impacts from the project. Public facilities to be funded with the fees were described in:
 - a. Main Street Cupertino: TM-2012-04: Condition of Approval No. 87, dated September 20, 2012 for Tentative Map application (\$400,000 collected)
2. A reasonable relationship exists between the Traffic Mitigation at Homestead Rd and Lawrence Expressway fee and the purpose for which the fee was charged, in that the development, in the vicinity of the intersection, introduces additional traffic to the intersection. The County of Santa Clara has estimated a cost to upgrade the intersection, and the Environmental Impact Report assessed a fair share contribution from the project to address its portion of the impact. The need for improvements to the intersection, as they were identified during the review of the project, remains.
3. The sources and amounts of funding anticipated to complete financing of the intersection improvements are to be identified by the County of Santa Clara.
4. The approximate dates on which the funding for the intersection improvements is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Traffic Mitigation at Homestead Rd and Lawrence Expressway Bridge	\$4,000,000	\$425,542	100%	To be determined by the County of Santa Clara	When adequate funds have been acquired by the County to begin the project. Anticipated Summer/2021	Fall/2021	Summer/2022

Annual Report

Amount of Fee: Based on Fair-Share Contribution assessed by Environmental Impact Report

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date		Loans/Transfers
Balance at 7/1/2019	\$420,164			Amount	\$ -
Fees Collected	0		\$400,000	Repayment Date (est.)	na
Interest	\$5,378		\$25,542		
Expended	0		0		
Refunded	0		0		
Balance at 6/30/2020	\$425,542		\$425,542		

Dept.: Public Works

Project: Traffic Calming to Mitigate Impacts from Main Street Cupertino

Local Authority:

TM-2012-04: Condition of Approval No. 93

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Traffic Calming to Mitigate Impacts from Main Street Cupertino fee is to help mitigate traffic impacts in the adjacent neighborhoods resulting from the project, for a period of 5 years following project occupancy. Public facilities to be funded with the fees were described in:
 - a. Main Street Cupertino: TM-2012-04: Condition of Approval No. 93 dated 9/20/2012 for Tentative Map application (\$100,000 collected).
2. A reasonable relationship exists between the Traffic Calming fee and the purpose for which the fee was charged, in that the development introduces additional traffic to the surrounding neighborhoods. The City will utilize the funds as needed to address traffic impacts to the surrounding neighborhoods, for a period of 5-years after occupancy.
5. The sources and amounts of funding anticipated to complete financing of the traffic calming mitigations were collected with the project (\$100,000).
3. The approximate dates on which the funding for the improvements is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Traffic Calming along Rodrigues Ave. and Pacifica Dr.	\$100,000	\$106,386	100%	Project fully funded	<i>Fees have been collected. Anticipated initiation of project is Summer/2021</i>	<i>Fall/2021</i>	<i>Summer/2022</i>

Annual Report

Amount of Fee: Estimated Full Cost of the Study and potential improvements.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date		Loans/Transfers
Balance at 7/1/2019	\$105,041			Amount	\$ -
Fees Collected	0		\$100,000	Repayment Date (est.)	na
Interest	\$1,345		\$6,386		
Expended	0		0		
Refunded	0		0		
Balance at 6/30/2020	\$106,386		\$106,386		

Dept.: Public Works

Project: Creek Trail Improvements along Calabazas Creek

Local Authority:

TM-2012-04: Condition of Approval No. 47

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Creek Trail Improvements along Calabazas Creek contribution is to administer a creek trail plan, the necessary approvals and improvements for a new trail along Calabazas Creek from Vallco Parkway to Interstate 280. Public facilities to be funded with the fees were described in:
 - a. Main Street Cupertino: TM-2012-04: Condition of Approval No. 47 dated September 20, 2012 for Tentative Map application (\$65,000 collected)
2. A reasonable relationship exists between the Creek Trail Improvements along Calabazas Creek Fee and the purpose for which the fee was charged in that development in the vicinity of the proposed creek trail introduces additional pedestrian traffic to the area, causing the need to provide additional and alternative means of pedestrian access and recreation to new residents and visitors to the development. The need for a new creek trail, as it was identified during the review of the project, remains.
3. The sources and amounts of funding anticipated to complete financing of the project are identified below:
 - Developer Fair-Share Contributions from other projects in the vicinity of the proposed creek trail location
4. The approximate dates on which the funding for the trail improvements is expected to be deposited into the appropriate account are identified in the Five-Year Report on the next page.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Creek Trail Improvements along Calabazas Creek	\$195,000	\$69,152	100%	Additional Developer Contributions are needed to complete the project	<i>Developer contributions obtained when adjacent properties redevelop. Anticipated Summer/2022</i>	Spring/2023	Summer/2023

Annual Report

Amount of Fee: Contribution equivalent to 1/3 of the estimated cost of creek trail plan

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$ 68,278		Amount	\$ -
Fees Collected	0		\$ 65,000	Repayment Date (est.) na
Interest	\$874		\$4,152	
Expended	0		0	
Refunded	0		0	
Balance at 6/30/2020	\$ 69,152		\$69,152	

Dept.: Public Works

Project: Parking Conversion Fund along Vallco Parkway

Local Authority:

TM-2012-04: Condition of Approval No. 67

Five Year Reporting & Findings Requirement:

1. The purpose of the Parking Conversion Fund along Vallco Parkway is to enable the City to convert the angled parking spaces along the south side of Vallco Parkway to parallel parking spaces and an additional east-bound traffic lane. Public facilities to be funded with the fees were described in:
 - a. Main Street Cupertino: TM-2012-04: Condition of Approval No. 67 dated 9/20/2012 for Tentative Map application (\$450,000 collected)
2. A reasonable relationship exists between the Parking Conversion Fund along Vallco Parkway and the purpose for which the fund was collected in that new development is adjacent to this section of Vallco Parkway, and the development reduced the number of east-bound lanes a part of their project. The Fund will permit the City to reestablish the east-bound lane that was lost, due to the development, should it be found that the additional lane is necessary to serve the public. The fund is based on the estimated cost to perform the work. The need for the funds, that were identified when the funds was imposed, remain, as the development project has not yet been completed, and the full impact of traffic to this portion of road has not yet materialized.
3. The sources and amounts of funding anticipated to complete financing of the conversion were collected with the project (\$450,000).
4. The approximate dates on which the funding for the conversion is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Parking Conversion Fund along Vallco Parkway	\$450,000	\$478,734	100%	No additional funds needed at this time.	<i>Fees have been collected. Project completed June 2018</i>	<i>June 2018</i>	<i>June 2023</i>

Annual Report

Amount of Fee: Estimated Full Cost of the potential improvements.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date		Loans/Transfers
Balance at 7/1/2019	\$472,684			Amount	\$ -
Fees Collected	0		\$450,000	Repayment Date (est.)	na
Interest	\$6,050		\$28,734		
Expended	0		0		
Refunded	0		0		
Balance at 6/30/2020	\$478,734		\$478,734		

Dept.: Public Works

Project: Funding of Neighborhood Cut-through Traffic and Parking Intrusion Monitoring

Local Authority:

TM-2011-03: Condition of Approval No. 49

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Funding of Neighborhood Cut-through Traffic and Parking Intrusion Monitoring Fee is to monitor and address traffic and parking intrusion, in neighborhoods adjacent to the project site, due to the practices of employees who will work at the project site. Public facilities to be funded with the fees were described in:
 - a. Apple Campus 2: Ordinance 13-2114: Resolution Approving Apple Campus 2 Development Agreement – Section 3.13 and TM 2011-03: Condition of Approval No. 49 dated 10/15/2013 for Tentative Map Application (\$850,000 collected)
2. A reasonable relationship exists between the Funding of Neighborhood Cut-through Traffic and Parking Intrusion Monitoring fee and the purpose for which the fee was charged in that the traffic from the development, for which the fee is to be used to monitor, has not yet materialized because the development has not been fully constructed or occupied. The City will begin monitoring activities in the fall of 2017. The \$850,000 fee was based on an estimate of the cost to perform the monitoring and make minor modifications to address traffic and parking intrusion concerns. The need for traffic and parking intrusion monitoring, as it was identified during the review of the project, remains. The traffic, for which the fees are to be used to monitor, has not yet materialized.
3. The sources and amounts of funding anticipated to complete monitoring and improvements were collected with the project (\$850,000).
4. The approximate dates on which the funding for the monitoring is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Funding of Neighborhood Cut-through Traffic and Parking Intrusion Monitoring	\$869,223	\$861,897	100%	No additional funds needed at this time.	Fall/ 2017	Summer/2017	Winter/2021

Annual Report

Amount of Fee: Estimated Full Cost of the Study and potential improvements.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date		Loans/Transfers
Balance at 7/1/2019	\$851,004			Amount	\$ -
Fees Collected	0		\$850,000	Repayment Date (est.)	na
Interest	\$10,893		\$53,375		
Expended	0	IDAX & Stantec Consulting Contracts	(\$41,478)		
Refunded	0		0		
Balance at 6/30/2020	\$861,897		\$861,897		

Dept.: Public Works

Project: Implement a Traffic-Adaptive Traffic Signal System along De Anza Blvd

Local Authority:

TM-2011-03: MitigationTRANS-13c

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Traffic-Adaptive Traffic Signal System along De Anza Blvd fee is to implement traffic-adaptive technology to the traffic signals along DeAnza Blvd within the jurisdiction of the City of Cupertino. Public facilities to be funded with the fees were described in:
 - a. Apple Campus 2: Ordinance 13-2114: Resolution Approving Apple Campus 2 Development Agreement – Section 3.13 and TM-2011-03: Mitigation TRANS-13c, dated 10/15/2013 for Tentative Map application (\$50,000 collected)
2. A reasonable relationship exists between the traffic-adaptive traffic signal system along De Anza Blvd fee and the purpose for which the fee was charged in that new development will introduce additional traffic to DeAnza Boulevard, and more efficient traffic signal timing will be needed to address the additional traffic. The fee was based on a fair-share contribution of the estimated total cost to install the traffic-adaptive technology. The need for traffic-adaptive technology, as it was identified during the review of the project, remains.
3. The sources and amounts of funding anticipated to complete the traffic-adaptive technology upgrades will be provided through fair-share contributions from other developers that impact the corridor.
4. The approximate dates on which the funding for the traffic adaptive technology is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Traffic-Adaptive Traffic Signal System along De Anza Blvd	\$250,000	\$53,193	100%	Fair share contributions from other developers that impact the corridor	<i>Developer contributions obtained when adjacent properties redevelop. Anticipated Summer/2020</i>	<i>Fall/2019</i>	<i>Summer/2022</i>

Annual Report

Amount of Fee: Based on Fair-Share Contribution assessed by engineer's cost estimate

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$ 52,521		Amount	\$ -
Fees Collected	0		\$ 50,000	Repayment Date (est.) na
Interest	\$672		\$3,193	
Expended	0		0	
Refunded	0		0	
Balance at 6/30/2020	\$ 53,193		\$53,193	

Dept.: Public Works

Project: Interstate 280/Junipero Serra Channel Trail Improvements

Local Authority:

TM-2011-03: Mitigation PLAN-3

Five Year Reporting & Findings Requirement: Provided for information only. Five years have not elapsed since initial deposit.

1. The purpose of the Interstate 280/Junipero Serra Channel Trail Improvements fee is to partially fund a feasibility study for a new trail along I-280/Junipero Serra Channel from N. De Anza Blvd to Calabazas Creek. Public facilities to be funded with the fees were described in:
 - a. Apple Campus 2: Ordinance 13-2114: Resolution Approving Apple Campus 2 Development Agreement – Section 3.13 and TM-2011-03: Mitigation PLAN-3, dated 10/15/2013 for Tentative Map application (\$250,000 collected)
 - b. Cupertino Property Development – Hyatt House – 10380 Perimeter Rd: DP-2014-04: Condition of Approval No. 21, dated October 21, 2014, for Development Permit application (\$66,000 collected).
2. A reasonable relationship exists between the I-280/Junipero Serra Channel Trail Improvements fee, and the purpose for which the fee was charged, in that the development in the vicinity of the proposed trail will introduce additional pedestrian and bicycle traffic between the new campus and the existing campus, causing the need to provide additional and alternative routes between the developments. The need for a new trail study, as it was identified during the review of the project, remains, as the study has not yet completed.
3. The sources and amounts of funding anticipated to complete financing of the study are identified below:
 - Developer Fair-Share Contributions from other projects in the vicinity of the proposed trail location.
4. The approximate dates on which the funding for the bridge improvements is expected to be deposited into the appropriate account are identified on the next page.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Interstate 280/Junipero Serra Channel Trail Improvements	\$500,000	\$65,812	100%	Additional Developer Contributions are needed to complete the project	<i>Developer contributions obtained when adjacent properties redevelop. Ongoing.</i>	<i>Fall/2017</i>	<i>Winter/2023</i>

Annual Report

Amount of Fee: Contribution equivalent to approximately 60% of the estimated cost of implementation

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$64,980			Amount \$ -
Fees Collected	0		\$ 316,000	Repayment Date (est.) na
Interest	\$832		\$14,137	
Expended	0	Callander Assoc. Contract	(\$264,325)	
Refunded	0		0	
Balance at 6/30/2020	\$65,812		\$65,812	

Dept.: Public Works

Project: Contribution towards Stevens Creek Blvd. Bicycle Lane Improvements

Local Authority:

ASA-2018-01: Condition of Approval No. 43

Five Year Reporting & Findings Requirement:

5. The purpose of the Stevens Creek Blvd. Bicycle Lane Improvement fee is to partially fund upgrades to the bicycle lanes on Stevens Creek Blvd in order to improve the enhance the safety of the bicycle lanes. Public facilities to be funded with the fees were described in:
 - a. Target Improvements: ASA-2018-01: Condition of Approval No. 22 dated August 14, 2018 for Architectural Site Approval (\$75,000 collected)
6. A reasonable relationship exists between the Stevens Creek Blvd. Bicycle Lane Improvements fee and the purpose for which the fee was charged, in that the new development abuts Stevens Creek Blvd., and will introduce additional traffic to the area. The need for the improvements to the bicycle lanes, which were identified during the review of the project, remains.
7. The sources and amounts of funding anticipated to complete financing of the signal upgrades improvements are identified below:
 - Developer Fair-Share Contributions from other projects along Stevens Creek Blvd.
 - It is anticipated that the City of Cupertino General Fund will be used to supplement revenue from fees.
8. The approximate dates on which the funding for the signal improvements is expected to be deposited into the appropriate account are identified below.

Five-Year Report

Incomplete Project that Was Identified When Imposing the Fee:

Project Description	Total Estimated Cost	Fund Balance 6/30/2020	% Expected to be Funded by Fees	Sources and Amounts of Funding Anticipated to Complete the Project	Estimated Date for Funding to be Deposited in Fund	Estimated Beginning Date	Estimated Completion Date
Stevens Creek Bicycle Lane Improvements (Wolfe Rd to Hwy 85)	\$2,800,000	\$77,175	2%	Developer Contributions, and General Fund.	Winter/ 2021	Spring/2021	Summer/2021

Annual Report

Amount of Fee: Contribution from developments, based on estimated costs to construct facilities along property frontages.

FY2019-20

Trust Fund Activity	Fiscal Year	Purpose of Expenditure	Inception To Date	Loans/Transfers
Balance at 7/1/2019	\$76,200		Amount	\$ -
Fees Collected	0		\$ 75,000	Repayment Date (est.) na
Interest	\$975		\$2,175	
Expended	0		0	
Refunded	0		0	
Balance at 6/30/2020	\$77,175		\$ 77,175	



CITY OF CUPERTINO

Agenda Item

20-8397

Agenda Date: 12/1/2020
Agenda #: 9.

Subject: Consider changes to the part-time salary schedules for classifications and job series impacted by minimum wage adjustments.

Adopt Resolution No. 20-138 establishing changes to part-time salary schedules for classifications impacted by minimum wage adjustments and realign wage increases with position advancement.



PARKS AND RECREATION DEPARTMENT

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CITY COUNCIL STAFF REPORT

Meeting: December 1, 2020

Subject

Consider changes to part-time salary schedules for classifications and job series impacted by minimum wage adjustments.

Recommended Action

Adopt Resolution No. 20-___ establishing changes to part-time salary schedules for classifications impacted by minimum wage adjustments and realign wage increases with position advancement.

Discussion

Local Minimum Wage Ordinance No. 20-2215 was adopted by City Council on November 2, setting the minimum wage for 2021 at \$15.65 per hour. To prepare for the adjustment, staff reviewed the current part-time salary schedule for classifications impacted by the minimum wage adjustment, including any classifications below the new minimum wage and those aligned in the same job series. As part of this review, staff also conducted a part-time salary survey of nearby cities for those positions that were impacted by the minimum wage increase (Attachment B) to compare current compensations to market.

In analyzing the part-time salary schedule, staff found the salaries of four classifications (Building Attendant, Customer Service Attendant I, Recreation Leader, and Intern II) fall below the newly adopted Cupertino minimum wage. The recommendation is to increase the hourly wage range for these classifications to meet the new requirements. In order to maintain the internal alignment of the classifications and avoid compaction within the job series, staff also recommend an increase to the salaries for Customer Service Attendant II, Senior Recreation Leader, Staff Assistant, Intern III and Intern IV. These classifications are set at a higher level compared to the entry level counterparts with increased responsibilities and duties performed and require additional skills and training. The resulting adjustments would more accurately reflect the advancement in position and avoid possible overlap in wages in the above-mentioned job series. The survey indicates that some of Cupertino's part-time classifications currently fall below market, so the recommended increases will help attract more qualified candidates and improve overall part-time staff retention levels.

The proposed resolution introduces a salary schedule to establish salary rates in response to adjustments in minimum wage. If approved, the resulting adjustments are shown in Attachment C, with a clean version included for reference in Attachment D. Part-time salary schedules will continue to be reviewed and brought before Council for updates as needed.

Sustainability Impact

No sustainability impact.

Fiscal Impact

If approved, the effective date for the salary adjustments and step increases will be January 1, 2021. The fiscal impact in the Fiscal Year 2020-2021 is estimated to be \$45,900.

Prepared by: Kevin Khuu, Management Analyst

Reviewed by: Kristina Alfaro, Director of Administrative Services; Joanne Magrini, Director of Parks and Recreation

Approved for Submission by: Diane Thompson, Assistant City Manager

Attachments:

A – Draft Resolution

B – Part-Time Salary Survey

C – Proposed Adjustments to the 2021 Part-Time Salary Schedule (Redline)

D – 2021 Part-Time Salary Schedule (Clean)

RESOLUTION NO. _____

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
TO ADJUST PART-TIME SALARY SCHEDULES FOR CLASSIFICATIONS
IMPACTED BY MINIMUM WAGE ADJUSTMENTS**

WHEREAS, the Minimum Wage in Cupertino is reviewed and updated on an ongoing basis; and

WHEREAS, the recruitment and hiring of top-quality employees is essential to the efficient operation of the City of Cupertino; and

WHEREAS, it has been determined that increases are necessary to comply with Cupertino's Minimum Wage Ordinance, avoid compaction issues, and attract part-time staff; and

WHEREAS, the following part-time classifications will be impacted annually by the annual minimum wage increase and the City wishes to use the below schedule for these classifications; and

Classification	Step 1	Step 2	Step 3	Step 4	Step 5
Building Attendant	Minimum Wage	Step 1 + \$.50	Step 2 + \$.50	Step 3 + \$.50	Step 4 + \$.50
Customer Service Attendant I	Minimum Wage	Step 1 + \$.50	Step 2 + \$.50	Step 3 + \$.50	Step 4 + \$.50
Customer Service Attendant II	Customer Service Attendant I (Step 5) + \$.50	Step 1 + \$.50	Step 2 + \$.50	Step 3 + \$.50	Step 4 + \$.50
Recreation Leader	Minimum Wage	Step 1 + \$.50	Step 2 + \$.50	Step 3 + \$.50	Step 4 + \$.50
Senior Recreation Leader	Recreation Leader (Step 5) + \$.50	Step 1 + \$.50	Step 2 + \$.50	Step 3 + \$.50	Step 4 + \$.50
Staff Assistant	Senior Recreation Leader (Step 5) + \$.50	Step 1 + \$.50	Step 2 + \$.50	Step 3 + \$.50	Step 4 + \$.50
Intern II	Minimum Wage	Step 1 + \$1	Step 2 + \$1	Step 3 + \$1	Step 4 + \$1
Intern III	Intern II (Step 5) + \$1	Step 1 + \$1	Step 2 + \$1	Step 3 + \$1	Step 4 + \$1
Intern IV	Intern III (Step 5) + \$1	Step 1 + \$1	Step 2 + \$1	Step 3 + \$1	Step 4 + \$1

Resolution No. _____

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WHEREAS, the City Council may choose to update the salary schedules of these classifications as needed.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby approve the salary schedule above for the listed classifications, effective January 1, 2021.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino on December 1, 2020 by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</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>

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Classification	Cupertino's Max Hourly Wage	Median of Max Hourly Wage of Cities Surveyed	% Cupertino Above/Below
Building Attendant	17.00	19.55	-13.04%
Customer Service Attendant I	17.00	18.66	-8.90%
Customer Service Attendant II	18.00	*	
Recreation Leader	17.00	16.40	3.66%
Senior Recreation Leader	19.00	21.11	-10.00%
Staff Assistant	22.00	20.47	7.47%
Intern II	19.00	20.01	-5.05%
Intern III	22.00	25.77	-14.61%
Intern IV	26.00	*	

*Fewer than 4 other cities with comparable positions.

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Building Attendant				
Rank	City	Comparable Classification	Minimum Hourly Wage	Maximum Hourly Wage
1	Morgan Hill	Building Coordinator	17.00	25.00
2	Saratoga	Facility Attendant	17.84	21.68
3	Milpitas	Recreation Attendant	15.40	21.56
4	Los Altos	Facility Attendant	16.00	20.00
5	Palo Alto	Custodial Aide	16.09	19.76
6	Mountain View	Building Attendant	16.53	19.34
7	San Mateo	Facility Specialist I	15.94	17.37
8	Cupertino	Building Attendant	15.00	17.00
9	Los Gatos	Building Attendant	13.13	16.76
10	Sunnyvale	Recreation Attendant	16.05	16.05
11	Menlo Park	Recreation Leader - Facility Atendant	15.00	16.03
	Campbell	N/A		
	Santa Clara	N/A		
Average			15.90	19.36
% Cupertino Above/Below			-5.65%	-12.17%
Median			16.03	19.55
% Cupertino Above/Below			-6.40%	-13.04%
*All calculations exclude Cupertino. Wages are ranked by Maximum Hourly Wage, from highest to lowest.				

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Customer Service Attendant I				
Rank	City	Comparable Classification	Minimum Hourly Wage	Maximum Hourly Wage
1	Palo Alto	Clerical Assistant	19.90	24.43
2	Los Altos	Clerical Assistant I	17.75	22.75
3	Milpitas	Recreation Administrative Assistant	15.40	21.56
4	Sunnyvale	Casual Clerical 2	16.05	19.49
5	Mountain View	Clerical Aide	16.53	19.34
6	Menlo Park	Recreation Leader - Clerical	15.64	18.66
7	Santa Clara	As-Needed Rec Office Assistant	15.40	18.58
8	Morgan Hill	Welcome Desk Assistant I	14.00	18.00
9	Campbell	Customer Service Clerk	14.00	18.00
10	Cupertino	Customer Service Attendant I	15.00	17.00
11	Los Gatos	Clerical Aide	13.13	16.76
12	Saratoga	Customer Service Attendant	14.00	14.00
	San Mateo	N/A		
Average			15.62	19.23
% Cupertino Above/Below			-3.96%	-11.61%
Median			15.40	18.66
% Cupertino Above/Below			-2.60%	-8.90%
*All calculations exclude Cupertino. Wages are ranked by Maximum Hourly Wage, from highest to lowest.				

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Customer Service Attendant II				
Rank	City	Comparable Classification	Minimum Hourly Wage	Maximum Hourly Wage
1	Sunnyvale	Casual Clerical 3	20.46	26.12
2	Morgan Hill	Welcome Desk Coordinator	18.00	23.00
3	Cupertino	Customer Service Attendant II	16.00	18.00
	Palo Alto	N/A		
	Menlo Park	N/A		
	Mountain View	N/A		
	Los Gatos	N/A		
	Milpitas	N/A		
	Campbell	N/A		
	San Mateo	N/A		
	Santa Clara	N/A		
	Saratoga	N/A		
	Los Altos	N/A		
Average			19.23	24.56
% Cupertino Above/Below			-16.80%	-26.71%
Median			19.23	24.56
% Cupertino Above/Below			-16.80%	-26.71%
*All calculations exclude Cupertino. Wages are ranked by Maximum Hourly Wage, from highest to lowest.				

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Recreation Leader				
Rank	City	Comparable Classification	Minimum Hourly Wage	Maximum Hourly Wage
1	Mountain View	Recreation Leader	18.16	21.90
2	Milpitas	Recreation Leader	15.40	21.56
3	Los Gatos	Recreation Leader II	18.00	20.37
4	Saratoga	Recreation Leader	18.00	20.37
5	Palo Alto	Recreation Leader	15.70	19.28
6	Cupertino	Recreation Leader	15.00	17.00
7	Los Altos	Recreation Leader I	15.40	16.75
8	Sunnyvale	Recreation Specialist	16.05	16.05
9	Menlo Park	Recreation Leader	15.00	16.03
10	Morgan Hill	Recreation Leader	13.00	16.00
11	Campbell	Recreation Leader	13.00	15.50
12	San Mateo	Recreation Specialist I	15.45	15.45
13	Santa Clara	Recreation Leader I	15.40	15.40
Average			15.71	17.89
% Cupertino Above/Below			-4.54%	-4.97%
Median			15.43	16.40
% Cupertino Above/Below			-2.76%	3.66%
*All calculations exclude Cupertino. Wages are ranked by Maximum Hourly Wage, from highest to lowest.				

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Senior Recreation Leader				
Rank	City	Comparable Classification	Minimum Hourly Wage	Maximum Hourly Wage
1	Palo Alto	Recreation Leader III	19.29	23.67
2	San Mateo	Recreation Specialist III	19.79	23.59
3	Mountain View	Recreation Leader II	19.10	23.21
4	Los Gatos	Senior Recreation Leader	19.30	21.84
5	Saratoga	Senior Recreation Leader	19.30	21.84
6	Sunnyvale	Site Lead	16.54	21.11
7	Morgan Hill	Senior Recreation Leader	16.00	21.00
8	Menlo Park	Senior Recreation Leader	16.03	19.13
9	Cupertino	Senior Recreation Leader	17.00	19.00
10	Los Altos	Recreation Leader II	16.75	18.75
11	Santa Clara	Recreation Leader II/III	15.40	17.25
12	Campbell	Senior Recreation Leader	13.00	15.50
	Milpitas	N/A		
Average			17.32	20.63
% Cupertino Above/Below			-1.84%	-7.88%
Median			16.75	21.11
% Cupertino Above/Below			1.49%	-10.00%
*All calculations exclude Cupertino. Wages are ranked by Maximum Hourly Wage, from highest to lowest.				

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Staff Assistant				
Rank	City	Comparable Classification	Minimum Hourly Wage	Maximum Hourly Wage
1	San Mateo	Program Assistant	23.62	28.15
2	Milpitas	Staff Assistant	15.40	24.64
3	Sunnyvale	Staff Support 3	18.49	23.60
4	Cupertino	Staff Assistant	20.00	22.00
5	Los Altos	Recreation Leader III	18.75	21.75
6	Menlo Park	Recreation Specialist	17.15	20.47
7	Morgan Hill	Staff Assistant	15.00	20.00
8	Palo Alto	Recreation Aide	15.70	19.28
9	Santa Clara	Recreation Specialist	15.40	18.58
10	Mountain View	Recreation Leader Aide	16.53	18.54
	Los Gatos	N/A		
	Saratoga	N/A		
	Campbell	N/A		
Average			17.34	21.67
% Cupertino Above/Below			15.36%	8.92%
Median			16.53	20.47
% Cupertino Above/Below			20.99%	7.47%
*All calculations exclude Cupertino. Wages are ranked by Maximum Hourly Wage, from highest to lowest.				

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Intern II				
Rank	City	Comparable Classification	Minimum Hourly Wage	Maximum Hourly Wage
1	Morgan Hill	College Work Experience Student	13.00	25.00
2	Milpitas	Student Intern	15.40	24.64
3	Mountain View	Student Intern I, II	16.53	23.41
4	Menlo Park	Intern	18.00	22.00
5	Los Gatos	Intern I	17.07	21.79
6	San Mateo	Student Intern	16.78	20.01
7	Los Altos	Intern	16.00	20.00
8	Cupertino	Intern II	15.00	19.00
9	Santa Clara	Student Intern I	15.40	18.72
10	Sunnyvale	Intern 1	16.05	17.62
11	Campbell	Intern	13.00	15.50
12	Palo Alto	Internship	15.40	15.40
	Saratoga	N/A		
Average			15.69	20.37
% Cupertino Above/Below			-4.42%	-6.73%
Median			16.00	20.01
% Cupertino Above/Below			-6.25%	-5.05%
*All calculations exclude Cupertino. Wages are ranked by Maximum Hourly Wage, from highest to lowest.				

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Intern III				
Rank	City	Comparable Classification	Minimum Hourly Wage	Maximum Hourly Wage
1	Los Gatos	Intern II	21.80	27.81
2	Mountain View	Student Intern III	21.90	27.03
3	Santa Clara	Student Intern II	20.15	24.50
4	Sunnyvale	Intern 2	18.49	23.60
5	Cupertino	Intern III	18.00	22.00
	Palo Alto	N/A		
	Campbell	N/A		
	Los Altos	N/A		
	San Mateo	N/A		
	Menlo Park	N/A		
	Milpitas	N/A		
	Morgan Hill	N/A		
	Saratoga	N/A		
Average			20.59	25.74
% Cupertino Above/Below			-12.56%	-14.51%
Median			20.98	25.77
% Cupertino Above/Below			-14.18%	-14.61%
*All calculations exclude Cupertino. Wages are ranked by Maximum Hourly Wage, from highest to lowest.				

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Intern IV				
Rank	City	Comparable Classification	Minimum Hourly Wage	Maximum Hourly Wage
1	Mountain View	Student Intern IV	26.67	32.38
2	Santa Clara	Student Intern III	23.17	28.18
3	Cupertino	Intern IV	22.00	26.00
	Palo Alto	N/A		
	Campbell	N/A		
	Los Altos	N/A		
	San Mateo	N/A		
	Menlo Park	N/A		
	Sunnyvale	N/A		
	Milpitas	N/A		
	Morgan Hill	N/A		
	Los Gatos	N/A		
	Saratoga	N/A		
Average			24.92	30.28
% Cupertino Above/Below			-11.72%	-14.13%
Median			24.92	30.28
% Cupertino Above/Below			-11.72%	-14.13%
*All calculations exclude Cupertino. Wages are ranked by Maximum Hourly Wage, from highest to lowest.				

Proposed Adjustments to the 2021 Part-Time Employee Salary Schedule

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
Building Attendant	15.65 15.00	16.15 15.50	16.65 16.00	17.15 16.50	17.65 17.00	
Customer Service Attendant I	15.65 15.00	16.15 15.50	16.65 16.00	17.15 16.50	17.65 17.00	
Customer Service Attendant II	18.15 16.00	18.65 16.50	19.15 17.00	19.65 17.50	20.15 18.00	
Swim Instructor/Lifeguard	16.00	16.50	17.00	17.50	18.00	
Assistant Park/Pool Manager	18.00	18.50	19.00	19.50	20.00	
Park/Pool Manager	20.00	21.00	22.00	23.00	24.00	
Recreation Leader	15.65 15.00	16.15 15.50	16.65 16.00	17.15 16.50	17.65 17.00	
Senior Recreation Leader	18.15 17.00	18.65 17.50	19.15 18.00	19.65 18.50	20.15 19.00	
Staff Assistant	20.65 20.00	21.15 20.50	21.65 21.00	22.15 21.50	22.65 22.00	
Class Instructor	22.50	23.50	24.50	25.50	26.50	
Preschool Teacher	22.50	23.50	24.50	25.50	26.50	
Leisure Programs Specialist	20.00	21.00	22.00	23.00	24.00	
Park Ranger	27.60	28.98	30.43	31.95	33.55	
Community Coordinator	32.00	33.00	34.00	35.00	36.00	37.00
Intern II	15.65 15.00	16.65 16.00	17.65 17.00	18.65 18.00	19.65 19.00	
Intern III	20.65 18.00	21.65 19.00	22.65 20.00	23.65 21.00	24.65 22.00	
Intern IV	25.65 22.00	26.65 23.00	27.65 24.00	28.65 25.00	29.65 26.00	

Adjustment due to minimum wage increase from \$15 to \$15.65

Adjustment to maintain alignment of classifications within the job series and avoid wage overlaps

2021 Part-Time Employee Salary Schedule

Classification	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
Building Attendant	15.65	16.15	16.65	17.15	17.65	
Customer Service Attendant I	15.65	16.15	16.65	17.15	17.65	
Customer Service Attendant II	18.15	18.65	19.15	19.65	20.15	
Swim Instructor/Lifeguard	16.00	16.50	17.00	17.50	18.00	
Assistant Park/Pool Manager	18.00	18.50	19.00	19.50	20.00	
Park/Pool Manager	20.00	21.00	22.00	23.00	24.00	
Recreation Leader	15.65	16.15	16.65	17.15	17.65	
Senior Recreation Leader	18.15	18.65	19.15	19.65	20.15	
Staff Assistant	20.65	21.15	21.65	22.15	22.65	
Class Instructor	22.50	23.50	24.50	25.50	26.50	
Preschool Teacher	22.50	23.50	24.50	25.50	26.50	
Leisure Programs Specialist	20.00	21.00	22.00	23.00	24.00	
Park Ranger	27.60	28.98	30.43	31.95	33.55	
Community Coordinator	32.00	33.00	34.00	35.00	36.00	37.00
Intern II	15.65	16.65	17.65	18.65	19.65	
Intern III	20.65	21.65	22.65	23.65	24.65	
Intern IV	25.65	26.65	27.65	28.65	29.65	



CITY OF CUPERTINO

Agenda Item

20-8437

Agenda Date: 12/1/2020
Agenda #: 10.

Subject: Second reading of Ordinance No. 20-2216 to amend Cupertino Municipal Code Chapter 2.40 (concerning the Disaster Council and the emergency management program).

Conduct the second reading and enact Ordinance No. 20-2216: "An ordinance of the City Council of the City of Cupertino amending Cupertino Municipal Code Chapter 2.40 (concerning the Disaster Council and the Emergency Management Program)."

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING CUPERTINO MUNICIPAL CODE CHAPTER 2.40 (CONCERNING
THE DISASTER COUNCIL AND THE EMERGENCY MANAGEMENT PROGRAM)**

The City Council of the City of Cupertino finds that:

1. The purpose of Chapter 2.40 of the Municipal Code is to provide clear and effective guidance for emergency management activities including the Disaster Service Worker Volunteer Program.
2. This ordinance makes revisions to Chapter 2.40 to reflect emergency management industry best practices, clarifies the role and membership of the Disaster Council, and addresses requirements specified in the California Emergency Services Act.
3. This ordinance clarifies the penalty for violations of Chapter 2.40 can include administrative citations or misdemeanor penalties to facilitate appropriate and efficient enforcement of emergency orders.
4. The City Council of the City of Cupertino held a duly noticed public hearing on November 17, 2020, and after considering all testimony and written materials provided in connection with that hearing introduced this ordinance and waived the reading thereof.

**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: 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

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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.

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INTRODUCED at a regular meeting of the Cupertino City Council on November 17, 2020 and **ENACTED** at a regular meeting of the Cupertino City Council on December 1, 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

Exhibit A – Chapter 2.40 Disaster Council

The sections 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.*

Where the explanatory text indicates that a new section is being added to the City Code, the new section is shown in plain text.

1. Title of Chapter Change from Disaster Council to Emergency Management Program

CHAPTER 2.40: ~~DISASTER COUNCIL~~ EMERGENCY MANAGEMENT PROGRAM*

Section

2.40.010 Purposes.

2.40.020 Definition.

2.40.025 Disaster Council.

2.40.030 Reserved **Compliance with California Emergency Services Act.**

2.40.040 Powers and duties.

2.40.050 Director of Emergency Services–Designated.

2.40.060 Director of Emergency Services–Powers and duties.

2.40.070 Emergency organization–Membership.

2.40.080 Emergency organization–Structure, duties and functions.

2.40.090 Mutual aid.

2.40.100 Expenditures.

2.40.110 Violation–Penalty.

* For the constitutional provision that states that any city may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws, see Calif. Const. Art. 11 § 11; for statutory provisions regarding the establishment and powers of local war or disaster councils, see Gov. Code § 8610 et seq. -- See Title 9, Health and Sanitation.

2. Purpose of Emergency Management Program

2.40.010 Purposes.

The declared purposes of this chapter are to provide for the **design of the citywide emergency management program for the City of Cupertino. The emergency**

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management program includes the preparation and carrying out of plans for the protection of persons and property within this City in the event of an emergency, the direction of the emergency organization, and the coordination of the emergency functions of this City with all other public agencies, corporations, organizations, and affected private persons.

3. Disaster Council Membership

2.40.025 Disaster Council.

Pursuant to California Government Code section 8610, the Cupertino Disaster Council, shall have the following **voting** members:

- A. The ~~Mayor~~ **City Manager**, or his/her **their** designee, shall be chair.
- B. The ~~City Manager~~ **Mayor**, or his/her **their** designee, shall be vice chair.
- C. The ~~Section Chiefs (City Department Heads or their designee) of Emergency Services as are provided for in a current emergency plan of this jurisdiction, adopted pursuant to this ordinance.~~
- D. **In addition to its voting members, the Disaster Council shall include s**Such representatives of civic, business, labor, veterans, professional, or other organizations having an official emergency responsibility, as may be appointed by the chair with the advice and consent of the governing body, **to advise the voting members.** which includes a representative from the following:
 - ~~1. Community Emergency Response Team (CERT).~~
 - ~~2. Medical Reserve Corps (MRC).~~
 - ~~3. Cupertino Amateur Radio Emergency Services (CARES).~~
 - ~~4. Public Safety Commission.~~
 - ~~5. Police.~~
 - ~~6. Fire.~~
 - ~~7. Three to Five Business Members.~~

4. Compliance with California Emergency Services Act

2.40.030 Reserved Compliance with California Emergency Services Act.

The City of Cupertino Disaster Council shall comply with the California Emergency Services Act.

5. Powers and Duties of the Disaster Council

2.40.040 Disaster Council Powers and Duties.

The Disaster Council shall have the following duties, powers and responsibilities, and such other as they may be entrusted with by the City Council from time to time:

- 1. Meet at the discretion of the Chair, but no less than annually.**
- 2. The Disaster Council has the duty and power to develop and Advise on and Recommend for adoption emergency plans and mutual aid agreements based on the Standardized Emergency Management System (SEMS) as defined in the California Code of Regulations, Title 19, Division 2, Sections 2400 - 2450.**
- 3. The Disaster Council will provide guidance to develop disaster exercises and community action plan, support citizen community participation, assist with threat assessments, identify local resources and facilitate multi-agency/inter-agency coordination within its membership and other local governments and special districts.**
- 4. The Disaster Council provides oversight for engaging citizens community members in homeland security, emergency planning and response and promoting community preparedness and family safety in three principal ways; through public education and outreach; through training opportunities; and, through volunteer programs that draw on special skills and interests.**
- 5. Citizen Corps programs overseen by the Disaster Council may include one or more of the following six program components administered by federal agencies: Community Emergency Response Team (CERT); Neighborhood Watch Program; Medical Reserve Corps (MRC); Volunteers in Police Service (VIPS); Operation Terrorist Information and Prevention System (TIPS) and Cupertino Amateur Radio Emergency Services (CARES).**

~~These volunteer efforts will be integrated into a strategic, comprehensive approach that will more effectively utilize the time, talents and interests of volunteers in support of first responders and overall community preparedness.~~

~~The Disaster Council shall provide for the registration of Disaster Service Workers (DSWs) within Cupertino and is thus because of such registration act as an instrumentality of the City in aid of the carrying out of the general governmental functions and policy of the City. It agrees to comply with the rules and regulations governing Disaster Service Workers (DSWs)~~

Provide oversight responsibility for the California State Disaster Service Worker Volunteer Program (DSWVP). The City Office of Emergency Management manages the DSWVP through its Citizen Corps organization as established by the California Emergency Council pursuant to the provisions of California Government Code Section 8585.5.

6. Director of Emergency Services Designated

2.40.050 Director of Emergency Services–Designated.

The City Manager or ~~his/her~~ their designee is designated the Director of Emergency Services for the purposes of disaster management under the Standardized Management System.

7. Director of Emergency Services Powers and Duties

2.40.060 Director of Emergency Services–Powers and Duties.

The Director is empowered to:

- A. Request the City Council to proclaim the existence or threatened existence of a "local emergency" if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a local emergency is proclaimed by the Director, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect;
- B. Request the Governor to proclaim a "state of emergency" when, in the opinion of the Director, the locally available resources are inadequate to cope with the emergency;
- C. Develop emergency plans with the assistance of the emergency ~~service chiefs~~ **organization** for consideration by the Disaster Council and manage the emergency programs of this City;
- D. Control and direct the effort of the emergency organization for this City for the accomplishment of the purposes of this chapter;
- E. Direct cooperation between and coordination of services and staff of the emergency organization of this City; and resolve questions of authority and responsibility that may arise between them;
- F. Represent this City in all dealings with public or private agencies on matters pertaining to emergencies as defined herein;
- G. In the event of the proclamation of a "local emergency" as herein provided, the proclamation of a "state of emergency" by the Governor or the Director of the State Office of Emergency Services, or the existence of a "state of war emergency," the Director is empowered to:
 1. Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;
 2. Obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof and, if required immediately, to commandeer the same for public use;
 3. Require emergency services of any City officer or employee and, in the event of the proclamation of a "state of emergency" in the Santa Clara County Operational Area or the existence of a "state of war emergency," to command the aid of as many citizens of

this community as ~~he~~ **the Director** deems necessary in the execution of ~~his~~ **their** duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by State law for registered disaster services workers;

4. Requisition necessary personnel or material of any City department or agency; and
5. Execute all ~~his~~ **their** ordinary power as City Manager, all of the special powers conferred upon ~~him~~ **them** by this chapter or by resolution or emergency plan pursuant hereto adopted by the City Council, all powers conferred upon ~~him~~ **them** by any statute, by an agreement approved by the City Council, and by any other lawful authority.

8. Emergency Organization Structure, Duties, and Functions

2.40.080 Emergency Organization–Structure, Duties and Functions.

The City Emergency Organization functions under the Standardized Emergency Management System. Representatives of the Emergency Organization have specific duties and responsibilities to train, plan for and participate in the City's emergency management response, as assigned by the Director of Emergency Services. These responsibilities are outlined in the Cupertino Emergency **Operations** Plan.

The structure, duties, and functions of the emergency organization and the order of emergency succession to the position of Director of Emergency Services, shall be adopted by resolution of the City Council.

9. Violation - Penalty

2.40.110 Violation–Penalty.

It shall be a ~~misdemeanor, punishable as provided in Chapter 1.12 of this code,~~ **violation of this Chapter** for any person during an emergency to:

- A. ~~Willfully~~ **Willfully** obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon ~~him~~ **them** by virtue of this chapter;
- B. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of this City, or to prevent, hinder, or delay the defense or protection thereof;
- C. Wear, carry, or display without authority any means of identification specified by the emergency agency of the state.

The City may address violations of this Chapter by issuing administrative citations, fines, and penalties as set forth in Chapter 1.10 of this Code. Alternatively, the City may prosecute any violation of this Chapter as a misdemeanor, punishable as

Ordinance No. _____

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provided in Chapter 1.12 of this Code. Law enforcement officers of the Santa Clara County Sheriff's Office are authorized to enforce this Chapter.



CITY OF CUPERTINO

Agenda Item

20-7560

Agenda Date: 12/1/2020

Agenda #: 11.

Subject: Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design. (Application No. MCA-2019-003 and MCA-2019-004; Applicant: City of Cupertino; Location: City-wide)

That the City Council:

1. Find the proposed actions are exempt from CEQA; and,
2. Conduct the first reading of Ordinance No. 20-2217 "An Ordinance of the City Council of the City of Cupertino Amending City Code to Add Chapter 19.102: Glass and Lighting Standards and to Amend Chapter 19.08 Definitions, Chapter 19.40 Residential Hillside (RHS) Zones, Chapter 19.60 General Commercial (GC) Zones, Chapter 19.72 Light Industrial (ML) and Industrial Park (MP) Zones, and Chapter 19.124 Parking Regulations to Implement Bird-Safe and Dark Sky Policies." (Attachment A)



COMMUNITY DEVELOPMENT DEPARTMENT

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

CITY COUNCIL STAFF REPORT

Meeting: December 1, 2020

SUBJECT

Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items related to Dark Sky and Bird-Safe Design. (Application No. MCA-2019-003 and MCA-2019-004; Applicant: City of Cupertino; Location: City-wide)

RECOMMENDED ACTION

That the City Council:

1. Find the proposed actions are exempt from CEQA; and,
2. Conduct the first reading of Ordinance No. 20-_____ "An Ordinance of the City Council of the City of Cupertino Amending City Code to Add Chapter 19.102: Glass and Lighting Standards and to Amend Chapter 19.08 Definitions, Chapter 19.40 Residential Hillside (RHS) Zones, Chapter 19.60 General Commercial (GC) Zones, Chapter 19.72 Light Industrial (ML) and Industrial Park (MP) Zones, and Chapter 19.124 Parking Regulations to implement Bird-Safe and Dark Sky Policies." (Attachment A)

DISCUSSION

Background

The FY 2019/20 City Council Work Program directed the City to study and incorporate Bird-Safe Development regulations and Dark Sky regulations to the Municipal Code. At a study session held on October 28, 2019, the Planning Commission provided comments to Staff on the areas of regulation related to bird-safe and dark sky development that should be considered.¹ Since there is overlap in the two areas of regulation, this item has been proposed as one item for the City Council's consideration.

¹ Staff Report, Attachments and meeting materials online at:

<https://cupertino.legistar.com/LegislationDetail.aspx?ID=4204155&GUID=A2B97253-972C-41FA-893B-3854BBDEC039&Options=&Search=> and
<https://cupertino.legistar.com/LegislationDetail.aspx?ID=4203814&GUID=918FAEC1-9FE9-48E2-906F-78E7BD2B709A&Options=&Search=>

Cupertino does not currently have bird-safe/bird-friendly design or dark sky standards; however, smaller projects that are not exempt from the California Environmental Quality Act (CEQA) are required to address bird strikes as part of environmental review. Additionally, the City's general plan, General Plan: Community Vision 2015-2040, includes several policies that support protecting environmental resources and ensuring high-quality site design listed below:

- **Goal LU-3:** Ensure that project site planning and building design enhance the public realm through a high sense of identity and connectivity.
 - **Policy LU-3.3: Building Design** – Ensure that building layouts and design are compatible with the surrounding environment and enhance the streetscape and pedestrian activity.
 - **Strategy LU-3.3.1: Attractive Design** – Emphasize attractive building and site design by paying careful attention to building scale, mass, placement, architecture, materials, landscaping, screening of equipment, loading areas, signage and other design considerations.
- **Goal LU-12:** Preserve and protect the City's hillside natural habitat and aesthetic values
 - **Strategy LU-12.1.1: Ordinance and Development Review** – Through building regulations and development review, limit development on ridgelines, hazardous geological areas and steep slopes. Control colors and materials and minimize the illumination of outdoor lighting. Reduce visible building mass with measures including, stepping structures down the hillside, following natural contours, and limiting the height and mass of the wall plane facing the valley floor.
- **Goal ES-5:** Protect the city's urban and rural ecosystems
 - **Policy ES-5.1: Urban Ecosystem** – Manage the public and private development to ensure the protection and enhancement of its urban ecosystem.
 - **Strategy ES-5.2.1: Riparian Corridor Protection** – Require the protection of riparian corridors through the development approval process.

Since these CEQA and city General Plan policies do not provide a clear or defined set of objective standards that specifically address concerns about bird strikes or light pollution, the proposed regulations have been developed.

Bird-Safe Developments: Studies suggest that between 100 million and 1 billion birds are killed each year in the US due to bird strikes (collisions into buildings). Bird-safe development regulations are intended to limit building design and site plan factors that

are hazardous conditions for birds and exacerbate bird collisions, which include the following:

- Large expanses of exposed reflective glass that cause birds to fly into buildings with extensive glazing that reflects the sky, water, or landscaping, believing it is an extension of the outdoor environment
- Large expanses of exposed transparent glass that cause birds to continue flying, since they do not perceive it as a solid barrier
- Bright levels of nighttime lighting that can cause confusion for some migratory birds and affect circadian rhythms. Although most birds migrate during the day, most species of songbirds migrate at night. Inclement weather, such as rain or fog, can force birds to fly below the clouds and navigate through buildings. Since lighting is an attractant for birds, they may fly into beams of light, get disoriented in an urban environment, and collide with surrounding buildings or collapse due to the exhaustion from flying around in confusion (known as “fatal light attraction.”)

Dark Sky: Based on information from the Illuminating and Engineering Society (IES) and International Dark Sky Association (DSA), the issue of light pollution was first recognized as a growing concern in the 1970s when astronomers associated the degradation of the night sky with increased lighting accompanied by growth and development. Through this, the “dark sky” movement rose to help preserve and protect the nighttime environment through environmental responsible outdoor lighting. Dark Sky regulations are intended, among others, to:

- Permit reasonable outdoor lighting for nighttime safety, utility, security and enjoyment while preserving the ambience of night;
- Prevent light pollution and intrusion;
- Curtail and reverse any degradation of the nighttime visual environment and the night sky;
- Minimize glare and obtrusive light by limiting outdoor lighting that is misdirected, excessive or unnecessary; and,
- Help protect the natural environment from damaging effects of night lighting.

The City currently regulates outdoor lighting through development standards within the Cupertino Municipal Code (CMC). Chapter 19.60: General Commercial and Chapter 19.124: Parking Regulations include regulations for new lighting fixtures at any new site construction or building improvements within General Commercial (CG) zoning districts, and parking lots, sidewalks and other areas accessible to pedestrians and automobiles in all other zoning districts. The City’s ordinance requires that exterior lighting be white type light that is either metal halide or a comparable color corrected light, unless otherwise approved as part of a development plan. To minimize the impact of lighting glare, light fixtures must be oriented and designed to preclude any light and

direct glare to adjacent residential properties. Lighting glare may not be visible above three feet at a public right-of-way. In addition, lighting must be designed to illuminate with a uniform and adequate intensity in compliance with the standards identified in the Municipal Code. The Municipal Code allows for critical areas (stairways, ramps, and main walkways) to have a higher level of illumination than other areas. (See CMC tables 19.060.060.E and 19.124.040.)

In addition to CG zoned properties and parking lots in general, the Municipal Code identifies specific lighting standards for properties zoned Residential Hillside (RHS) due to the environmentally sensitive setting in which these properties are located. CMC Table 19.040.060.H.3 requires that all outdoor lights be directed to meet the particular need. Motion-activated security lights cannot exceed 100 watts and must be shielded to avoid all off-site intrusion. In addition, the Municipal Code prohibits high-intensity lighting of tennis courts and other recreational uses.

The Municipal Code does not address interior lighting placed in other types of residential uses (single family, tri-plex, duplex, multi-family etc.), mixed-uses, or other non-residential (office, industrial, quasi-public) buildings.

Planning Commission Study Session

Planning Commission was supportive of implementing guidelines/standards to promote Bird-Safe and Dark Sky policies at a Study Session on October 28, 2019. Staff provided an overview of policy standards based on analysis of various jurisdictions' regulations of Bird-Safe and Dark Sky policies (see attachments B and C). The Planning Commission discussed various ideas and made suggestions, which were considered in the preparation of the draft ordinance, including:

- Using existing professionally accepted bird safe design standards
- Considering a phased implementation of bird-safe design policies
- Importance of educational materials upon adoption of ordinance
- Importance of light impacts on environment and health
- Importance of ensuring adequate security lighting
- Limiting number of public hearings for landscape lighting
- Preventing light trespass

In addition to Planning Commission direction, public comment at the study session included the following:

- Bird-safe treatments should be required citywide to all project types (including small residential projects, retrofits, and other glass features) and should not include exemptions as bird-safe treatments can be cost-effective

- Suggestion that Bird-Safe and Dark Sky regulations should be combined and reviewed together
- Role of the government is to preserve the natural environment
- Education and outreach to teach the public about the dangers of glass
- Bird-safe design is limited to development and is a good first step, but policies should also be development to regulate a variety in landscaping to protect habitat, especially for big birds.

Community Outreach

Postcards were mailed citywide for two outreach meetings to discuss regulations related to bird-safe and dark sky regulations. The outreach meetings were held on February 12, 2020 and February 20, 2020 at the Quinlan Community Center. Identical presentation and materials were used at both meetings. A total of 32 people attended the meetings. Below is a summary of the comments received (see Attachment D):

- Applicability should include all project types throughout the City (new construction, new additions, replaced glazing or glazed features, new and existing municipal buildings, in sensitive areas and to residential and non-residential uses)
- Requirements should be mandatory
- Treatments should be to the exterior and permanent
- Exemption for and against historic buildings, small residential buildings, and commercial storefronts
- Skepticism that decline in bird population is due to glazing and lighting requirements and that bird strikes should be monitored locally before requiring city-wide regulations
- Apply regulations to all structures (existing and proposed)
- Comments regarding applicability to residential, both in favor, and not in favor;
- Lighting should conform to a curfew and/or duration limit;
- Lighting from motion sensors should be treated differently and/or exempted;
- Light color temperature should be regulated;
- Lighting should be appropriate to the use;
- Prohibit lights that flash or blink, flood lights, up lighting, and spotlights;
- Prevent light trespass; and
- Allow holiday lighting

In addition to outreach meetings, staff received comments through email and phone as follows:

- Support for regulations on both issues
- Regulations for Bird-Safe and Dark Sky should be reviewed separately
- Desire to ensure that with a reduction in up-lighting, city lights remain visible to aircrafts, so that airplanes in trouble do not assume it is a safe landing area.

- Not in support of the Work Program items - do not focus on “vanity” projects, focus on city problems (e.g. crime, housing, street cleaning, homelessness etc.)

Planning Commission Meetings

The Planning Commission considered the draft ordinance on August 11, 2020² and October 27, 2020³. At the first meeting, the Commission requested some clarifications and additional information and subsequently, modifications were presented to the Commission at the October 27, 2020 meeting. Modifications included amendments to address the Commission’s concerns related to:

- Applicability of bird-safe regulations,
- Interior lighting standards in residential development,
- Exemptions for affordable housing projects and single-family homes outside Bird Sensitive Areas (defined in the Code),
- Alternative standards for Public Art, subject to review and
- Clarifying language regarding lighting associated with permitted late-night activities.

The Planning Commission adopted Resolution No. 6914 (see Attachment E) recommending approval of the proposed ordinance 4-1-0 (Wang voting no). Planning Commission additionally recommended that staff review string lighting regulations in other communities and present the results for the Council to determine whether string lighting should be allowed for year-round use in both residential and non-residential uses. This topic is discussed later in this staff report.

Analysis

A redline document of all the proposed Municipal Code Amendment is attached as Attachment F. This document reflects new text, deletions of text and also indicates when text has been relocated from one place in the Municipal Code to another.

Bird-Safe Design

Applicability, Exemptions, and Alternative Compliance

Since the City protects the natural environment through its landscaping policies and environmentally sustainable programs, many developments are functionally attractive to birds. The draft ordinance requires bird-safe design and glass treatments be incorporated

² Staff Report and other materials available online at:

<https://cupertino.legistar.com/LegislationDetail.aspx?ID=4609899&GUID=C14A1011-F8FB-4AD3-9829-D3C0ABB72018&Options=&Search=>

³ Staff Report and other materials available online at:

<https://cupertino.legistar.com/LegislationDetail.aspx?ID=4675925&GUID=B63219C0-D4AA-4BAD-B41F-4970F75D6156&Options=&Search=>

in development projects of all types across the City in order to minimize bird collisions except for exemptions discussed further below. Staff recommends that all new buildings, including remodels and additions (standards apply only to the remodeled or added portions), replacement of windows or any existing or new glass features, be required to comply with the proposed Bird-Safe development standards. The standard requires that no more than 10% of the surface area of a façade be untreated glass between the ground and 60 feet above ground and no more than 5% of the surface area of the façade be untreated glass between 60 feet above ground and up.

Exemptions to bird-safe glazing treatment are proposed in the draft ordinance as follows: an exemption for historic structures listed in the General Plan or the State or National Historic Register, an exemption for storefronts up to a height of 15 feet, an exemption for 100% affordable housing developments, and an exemption for residential development in R1 zoning districts outside of Bird-Sensitive Areas. Bird-Sensitive Areas are areas within 300 feet of the city's Wildland Urban Interface, in Residential Hillside Zones, within 300 feet of public and private open spaces, or within 300 feet of a creek.

Since there are various solutions and treatments that can be applied to glass or to the exterior and interior of glass that would provide a visual cue to prevent bird collisions, staff has included section 19.102.020 (B)(3) to allow for flexibility in selecting treatments. This section would allow applicants to propose different solutions suitable for their specific situations. Based on rough estimates obtained by staff discussions with two manufacturers of bird safe treatments, it appears that this type of treatment adds between 2 and 10% to the cost of windows.

The proposed ordinance also allows staff to maintain a list of acceptable bird-safe treatment to help residents and applicants identify bird-safe strategies for their project (in section 19.102.020 (B)(2)). This list will be administratively updated from time to time to list new strategies and reflect technological advances in new materials for glazing treatments that can be used to comply with the ordinance requirements.

In addition to bird safe treatment, the ordinance requires bird safe design in the site planning and design of developments. Minor edits, reflected in the proposed ordinance and the redline document, have been made to Section 19.102.030 (D) since the ordinance was presented to the Planning Commission to clarify the language.

Application Submission Requirements

The proposed ordinance identifies additional submission requirements to allow review of plans for compliance with the ordinance. These include specific elevation drawings with details, cross sections, and other exhibits.

Lighting Standards

Bird-safe lighting requirements are intended to regulate the strength and brightness of exterior lighting fixtures, to prohibit excessive lighting, and to require some interior lighting be turned off. For readability, the exterior lighting requirements have been incorporated into the Dark Sky (Lighting) standards of the proposed ordinance (and are discussed below) while non-residential interior lighting requirements remain under the Bird-Safe section. Non-residential developments would be required to install programmable automatic sensors and timers to be turned off at eleven p.m. or within two hours after the business is closed.

Dark Sky

Applicability

To ensure that the ordinance is effective in achieving a darker sky, staff recommends that applicants comply with outdoor lighting requirements whenever obtaining a building permit, an electrical permit for outdoor lighting or signage, and/or City approval for any development project.

In addition to applicable submittal requirements, the proposed ordinance identifies specific plans required to be provided to ensure staff can verify compliance with the ordinance requirements. These include a site plan indicating all outdoor lighting fixtures, description of lighting fixture(s), and Photometric plans. The proposed ordinance includes a provision allowing the Director of Community Development to waive submittal requirements, including for photometric plans, in the event it is clear that the proposed lighting would be in compliance with the provisions of the ordinance. To ensure the intent of the ordinance is met, staff has included a provision to require any other pertinent information to ensure compliance with the ordinance.

Standards

The main intent of implementing the proposed regulations is to minimize light intrusion into the night sky and to prevent glare into neighboring properties, while allowing for safety. Therefore, almost all outdoor lighting is required to be shielded and downward directed. Certain lighting may be unshielded, such as low wattage landscape lighting, and uplighting would be allowed for architectural features and public art, subject to City approval. Lighting for historic structures may be unshielded, subject to approval of the City.

All outdoor lighting, except lighting for safety required by law, must be automated to turn off after 11:00 p.m. but may be activated by motion sensors after that. Security lighting is allowed by the proposed amendments but must be directed away from adjacent properties, shielded, and motion activated. The proposed ordinance also

contains specific regulations related to service station canopies to minimize light intrusion and glare. Security lighting, lighting of areas required by the California Building Code or state law, and lighting allowed in conjunction with a conditional use permit may operate past 11:00 p.m.

Existing lighting standards in Chapters 19.40, 19.60, 19.72, and 19.124 have been incorporated into the proposed lighting standards with minor clarifications to the lighting standard for color of light (no more than 3000K). New definitions were added to Chapter 19.08 to implement the proposed regulations.

Upon research of lighting fixtures available, staff found that the cost of incorporating lighting fixtures that sensors, timers and other mechanisms for complying with the regulations is insignificant when compared to fixtures that are sold without such accompanying hardware. After market solutions are also available at a low cost to transform existing non-complying fixtures to be compliant fixtures, if desired.

Prohibited Lighting

To minimize light intrusion into the night sky, the following lighting is prohibited:

- Outdoor lighting that blinks, flashes, or rotates.
- Outdoor flood lights that project above the horizontal plan.
- Lighting that unnecessarily illuminates any other lot or substantially interferes with use or enjoyment of adjacent property.
- High intensity lighting for recreation courts on private property.
- Spotlights

Exemptions

Several exemptions from lighting standards are proposed. Exemptions proposed are based on the following factors: ensuring safety, allowing observance of special events and/or holidays, and complying with other applicable regulations. The following types of lighting are exempt from the proposed ordinance:

- Lighting within the public right-of-way and parks
- Permitted lighting for signs
- Lighting to illuminate address signs
- Temporary construction or emergency lighting
- Short-term lighting authorized by a special event permit
- Holiday seasonal lighting from October 15 through January 15 and
- Required lighting to comply with CA Building Code or state law

Minor grammatical changes to the ordinance have also been made between the Planning Commission and City Council hearings.

String Lighting

Upon direction from the Planning Commission, staff reviewed several ordinances regarding string lighting. Most cities have an exemption for holiday/seasonal lighting which is generally outdoor string lighting. The regular and sustained use of exposed lightbulbs, including string lighting, is prohibited by most cities to prevent light trespass and associated impacts to the dark sky.

However, some cities (e.g. the Californian cities of San Juan Capistrano, Calimesa, Malibu and Surprise, AZ) allow permanent installation of string lighting under certain circumstances. They were allowed if:

- Located in commercial/non-residential areas
- Color of the lighting was limited to either white light or 3,000 Kelvin.
- Lighting was limited to illuminating either landscape features (trees, bushes, etc.) or occupied dining and entertaining areas, but usually not both.
- Maximum 2.8-watt system designed for exterior installation and use
- Subject to the approval of the Director of Community Development

None of the cities surveyed allow string lighting in residential areas, except for holiday and/or seasonal lighting.

Since the Planning Commission specifically requested staff to propose options for Council to consider string lighting for both residential and non-residential uses, draft language has been proposed, (see Attachment G). Should the Council wish to incorporate any or all these requirements, it can consider making a motion to amend the draft ordinance to add subsection 19.102.040(A)(1)(e), and all or portions of subsection 19.102.040(B)(12) it deems appropriate.

Environmental Review

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; CEQA Guidelines section 15301 because the regulations would result in the minor alteration of existing public or private structures without any expansion of use; CEQA Guidelines section 15305 because the regulations involve minor alterations in land use limitations that do not alter permitted uses or density; and CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that these regulations related to glazing and lighting will have no possibility of a significant effect on the environment; and that none of the exceptions in CEQA Guidelines section 15300.2 apply to the proposed ordinance.

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 (at least 10 days prior to hearing) ▪ Display ad placed in newspaper (at least 10 days prior to hearing) 	<ul style="list-style-type: none"> ▪ Posted on the City's official notice bulletin board (four days prior to hearing) ▪ Posted on the City of Cupertino's Web site (four days prior to hearing)

Outreach was discussed earlier in the staff report.

Sustainability Impact

The proposed ordinance has no sustainability impact.

Fiscal Impact

There are no fiscal impacts to the City's General Fund.

NEXT STEPS

Upon final decision by the City Council, the ordinance will need a second reading at a subsequent hearing, tentatively scheduled for December 15, 2020. If adopted, the ordinance will be effective 30 days after the second reading/adoption.

Prepared by: Ellen Yau, Associate Planner
Erick Serrano, Senior Planner
Piu Ghosh, Planning Manager

Reviewed by: Benjamin Fu, Director of Community Development;

Approved for Submission by: Dianne Thompson, Assistant City Manager

ATTACHMENTS

- A. Draft Ordinance for MCA-2019-003 MCA-2019-004
- B. Comparison of Bird-Safe Regulations
- C. Comparison of Lighting and Dark Sky Regulations
- D. Public Comments received prior to Planning Commission hearing on August 11, 2020
- E. Planning Commission Resolution No. 6914
- F. Redline Document for Proposed Modifications to Title 19
- G. Draft String Lighting Regulations for Council's consideration

Ordinance No. _____

Page 1

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING CITY CODE TO ADD CHAPTER 19.102: GLASS AND LIGHTING
STANDARDS AND TO AMEND CHAPTER 19.08 DEFINITIONS, CHAPTER 19.40
RESIDENTIAL HILLSIDE (RHS) ZONES, CHAPTER 19.60 GENERAL
COMMERCIAL (GC) ZONES, CHAPTER 19.72 LIGHT INDUSTRIAL (ML) AND
INDUSTRIAL PARK (MP) ZONES, AND CHAPTER 19.124 PARKING
REGULATIONS TO IMPLEMENT BIRD-SAFE AND DARK SKY POLICIES**

The City Council of the City of Cupertino finds that:

WHEREAS, while the City has certain General Plan Goals, Policies and Strategies that support bird-safe and dark sky goals, it does not have regulations to promote effective Bird-safe and Dark Sky policies, and that the proposed new Chapter 19.102: Glass and Lighting and amendments to Chapter 19.08, 19.40, 19.60, 19.72, and 19.124 will provide effective standards to promote Bird-safe and Dark Sky policies;

WHEREAS, on October 28, 2019, Planning Commission provided staff guidance on potential Bird-safe and Dark Sky policies and guidelines;

WHEREAS, community meetings were held on February 12, 2020 and February 20, 2020 to allow the public an opportunity to review and provide comments on the preliminary development standards;

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 August 11, 2020 and October 27, 2020 to consider the Ordinance; and

WHEREAS, with Resolution No. 6914 the Planning Commission has recommended on a 4-1-0 vote that the City Council adopt the Ordinance amending the Municipal Code in substantially similar form as presented in Planning Commission Resolution No. 6914; and

WHEREAS, on December 1, 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, but rather it modifies Title 19: Zoning by adding a new chapter to create development standards for the implementation of regulations that support Bird-Safe and Dark Sky policies. 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 LU-3: Ensure that project site planning and building design enhance the public realm through a high sense of identity and connectivity.*
- *Policy LU-3.3: Building Design: Ensure that building layouts and design are compatible with the surrounding environment and enhance the streetscape and pedestrian activity.*
- *Strategy LU-3.3.1: Attractive Design – Emphasize attractive building and site design by paying careful attention to building scale, mass, placement, architecture, materials, landscaping, screening of equipment, loading areas, signage and other design considerations.*
- *Goal LU-12: Preserve and protect the City’s hillside natural habitat and aesthetic values.*
- *Goal ES-5: Protect the city’s urban and rural ecosystems.*
- *Policy ES-5.1: Urban Ecosystem – Manage the public and private development to ensure the protection and enhancement of its urban ecosystem.*
- *Strategy ES-5.2.1: Riparian Corridor Protection – Require the protection of riparian corridors through the development approval process.*

The adopted regulations will support protection of riparian corridors by allowing native wildlife, particularly nocturnal wildlife, corridors to travel along without interruptions by light intrusion. The regulations will also minimize bird fatalities by reducing overall illumination, which works to confuse birds and their migration patterns. The regulations will also encourage incorporation of bird-safe mitigations which will reduce the number of bird collisions. Further, the proposed ordinance includes policies to reduce the negative effects of light pollution on humans by ensuring adequate lighting to a site, preventing light trespass to adjacent properties, and ensuring that unnecessary lighting is extinguished at night.

- 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; CEQA Guidelines section 15301 because the regulations would result in the minor alteration of existing public or private structures without any expansion of use; CEQA Guidelines section 15305 because the regulations involve minor alterations in land use limitations that do not alter permitted uses or density; and CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that these regulations related to glazing and lighting will have no possibility of a significant effect on the environment; and that none of the exceptions in CEQA Guidelines section 15300.2 apply.

- 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.

By creating regulations for Bird-Safe and Dark-Sky development standards, the ordinance will promote orderly and consistent implementation of the regulations for development in 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 City by providing regulations that limit adverse impacts of development on the natural and built environment pertaining to birds and the night sky.

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

All the necessary chapters and sections of Title 19: Zoning 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 set forth in Attachment A.

SECTION 2: Severability and Continuity.

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

SECTION 3: California Environmental Quality Act.

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 15301 because it would result in the minor alteration of existing public or private structures without any expansion of use and under CEQA Guidelines Section 15305 because the proposed ordinance involves minor alteration in land use limitations that do not alter permitted uses or density. Finally, 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 glazing and lighting will have no possible significant effect on the environment. None of the exceptions listed in CEQA Guidelines section 15300.2 apply to the proposed ordinance

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

Ordinance No. _____

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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:

<p>SIGNED:</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>
<p>APPROVED AS TO FORM:</p> <p>_____</p> <p>Heather Minner, City Attorney</p>	<p>_____</p> <p>Date</p>

**Attachment A – An Ordinance of the City of Cupertino to implement Bird-safe
and Dark Sky policies and guidelines**

This ordinance amends several portions of the Municipal Code. For ease of review, the amendments advancing the primary objective are presented first followed by conforming amendments. There is a separate heading in bold italics for each portion of the Code being amended. Each portion is shown beginning on a separate page.

The sections 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.*

Where the explanatory text indicates that a new section is being added to the City Code, the new section is shown in plain text.

1. Amendments to Title 19: Zoning adding Chapter 19.102: Glazing and Lighting Standards

19.102 GLASS AND LIGHTING STANDARDS

19.102.010 Purpose

19.102.020 Applicability of regulations

19.102.030 Bird-safe Development Requirements

19.102.040 Outdoor Lighting Requirements

19.102.010 Purpose

The purpose of this chapter is to regulate design and construction of structures and accessory elements in all zoning districts to protect the natural environment, particularly enhancing bird-safety and reducing light pollution. This Chapter establishes regulations to reduce bird mortality from windows or other specific glass features that are known to increase the risk of bird collisions and to reduce light pollution that is known to contribute to bird mortality and reduced visibility of the night sky.

19.102.020 Applicability of regulations

Whenever an applicant is required to obtain a building permit or a Permit pursuant to Title 19, the project shall meet the requirements of this Chapter. The following table indicates the applicability of regulations by type of project:

Type of Development	Applicable Sections
A. New primary or accessory building or structure construction	Sections 19.102.030 and 19.102.040
B. Complete or Partial Remodel of primary or accessory buildings or structures	Sections 19.102.030 and 19.102.040 apply to remodeled portions
C. Landscaping projects (in conjunction with or separate from a construction project)	Section 19.102.040
D. New or replacement glass windows, doors, or features	Section 19.102.030 applies to new windows, doors, or features
E. New or replacement exterior lighting	Section 19.102.040
F. Exemptions	See Sections 19.102.030(E) and 19.102.040 (D)

19.102.030 Bird-safe Development Requirements

- A. Application submittal requirements: In addition to the applicable application submittal requirements of Section 19.12.080, all projects that are subject to the bird-safe development requirements shall also submit the following:
1. Elevation drawings indicating the bird-safe treatment and how the proposed treatment meets the requirements;
 2. Cross sections, if required;
 3. Other exhibits indicating consideration and incorporation of the regulations in Section 19.102.030 (B), (C), and (D); and
 4. Biologist report in support of alternative compliance method pursuant to Section 19.102.030 (B)(4), if proposed.
- B. Fenestration and Glass Requirements
1. Façades of all projects subject to bird-safe development requirements shall have:
 - a. No more than 10% of the surface area of the façade be untreated glass between the ground and 60 feet above ground.
 - b. No more than 5% of the surface area of the façade be untreated glass between 60 feet above ground and up.
 2. Standard Compliance Treatments: The Planning Division may maintain a list of acceptable bird-safe treatments that may be updated from time to time. The list may include, but not be limited to acceptable treatments, such as opaque glass, window muntins, exterior insect screens, exterior netting, or special glass treatments such as fritting to provide visual cues and reduce the likelihood of bird collisions.
 3. Alternative Compliance Method: Property owners/applicants may propose an alternate compliance method recommended by a qualified biologist, in order to meet the requirements and intent of this section. The alternate compliance method shall be peer-reviewed by a third-party consultant, paid for by the

applicant, and subject to the approval of the Director of Community Development.

- C. Non-residential Indoor Lighting Requirements: Install time switch control devices or automatic occupancy sensors on non-emergency interior lights that are programmed to turn off at eleven p.m. or within two hours after the business is closed.
- D. Bird-safe Design Requirements. All projects subject to bird-safe development requirements shall:
1. Avoid the funneling of flight paths along buildings or trees towards a building façade.
 2. Avoid use of highly reflective glass or highly transparent glass.
 3. Not include untreated glass skyways or walkways, balconies, freestanding glass walls, transparent building corners, glass features, or other design elements through which trees, landscape areas, water features or the sky are visible from the exterior or from one side of the transparent element to the other.
- E. Exemptions: The following are exempted from bird-safe treatment regulations of subsection 19.102.030(B):
1. Any historic structure, either as set forth in the General Plan Figure LU-3 Historic Resources or listed on the State or National Historical Registers;
 2. First floor commercial storefronts, up to a height of 15';
 3. Residential development in R1 zoning districts outside of Bird-Sensitive Areas; and
 4. 100% affordable housing developments.

19.102.040 Outdoor Lighting Requirements

- A. Submittal Requirements: In addition to the applicable submittal requirements of Section 19.12.080, projects subject to outdoor lighting regulations must submit the following information:
1. A site plan indicating the location of all outdoor lighting fixtures.
 2. A description of each lighting fixture. This description may include, but not be limited to, manufacturer's catalog cuts and drawings (including sections if requested), lamp types, and lumen outputs.
 3. Photometric plans, prepared, stamped and signed by a licensed electrical engineer, depicting the location of all outdoor lighting fixtures and building-mounted lighting fixtures and a maximum ten-foot by ten-foot grid of both the initial and maintained lighting levels on the site, including any impact on adjacent properties.
 4. The project lighting plan shall indicate how lighting has been coordinated with any associated landscaping plan to prevent site planning conflicts.

5. Any other information the Director may determine is necessary to ensure that the proposed lighting is in compliance with the provisions of this Chapter.
6. Any of the above requirements may be waived by the Director of Community Development when determined to be unnecessary for determining compliance with the provisions of this Chapter.

B. Outdoor Lighting Standards

1. All outdoor lighting shall be fully shielded fixtures, directed downward to meet the particular need and away from adjacent properties and rights-of way to avoid light trespass, except:
 - a. Low-voltage Landscape Lighting: Low-voltage landscape lighting, such as that used to illuminate fountains, shrubbery, trees, and walkways, do not have to be shielded fixtures and may use uplighting, provided that they use no more than ten (10) watt equivalent LED and not directed toward the right-of-way.
 - b. Architectural Features: Uplighting may be used to highlight special architectural features.
 - c. Public Art: Alternative lighting standards may be used to illuminate public art or serve as public art subject to the review and approval by the Fine Arts Commission.
 - d. Historic Lighting Fixtures: Lighting fixtures that are historic or that exhibit a historical period appearance, as determined by the Director of Community Development, need not be fully shielded.
2. Illumination Levels
 - a. No light, combination of lights, or activity shall cast light exceeding one (1) foot-candle onto an adjacent or nearby property, with the illumination level measured at the property line between the lot on which the light is located and the adjacent lot, at the point nearest to the light source.
 - b. No direct off-site glare from a light source shall be visible above three feet at a public right-of-way.
 - c. The maximum light intensity on a site shall not exceed a maintained value of ten foot-candles, when measured at finished grade.
 - d. Parking lots, sidewalks and other areas accessible to pedestrians and automobiles on properties with four or more units, mixed-use development, and non-residential development shall be illuminated with uniform and adequate intensity. Typical standards to achieve uniform and adequate intensity are:
 - i. Average horizontal maintained illumination should be between one and three foot-candles
 - ii. Maximum to minimum ratio should be between 6:1 and 10:1
 - e. Critical areas of illumination such as stairways, ramps and main walkways may have a higher illumination.

3. All light sources shall have a maintained correlated color temperature of three thousand (3,000) Kelvin or less.
4. All outdoor lighting shall be extinguished by 11:00 p.m. or when people are no longer present in exterior areas, whichever is later, except for:
 - i. Critical lighting pursuant to section 2 (e) above;
 - ii. Any lighting at building entrances, parking areas, and driveways area required to remain illuminated after 11:00 p.m. by the California Building Code or state law; and
 - iii. Lighting of an appropriate intensity, allowed in conjunction with uses that are permitted to operate past 11:00 p.m., with a conditional use permit.
5. Automated control systems, such as motion sensors and timers, shall be used to meet the outdoor lighting requirements.
 - a. Photocells or photocontrols shall be used to extinguish all outdoor lighting automatically when sufficient daylight is available.
 - b. All lighting activated by motion sensors shall extinguish no more than 10 minutes after activation.
 - c. Automated controls shall be full programmable and supported by battery or similar backup.
6. Security lighting may be provided when necessary to protect persons and property. When security lighting is utilized the following standards shall apply, in addition to other applicable standards:
 - a. Security lighting shall be controlled by a programmable motion-sensor device, except where continuous lighting is required by the California Building Code.
 - b. Floodlights shall not be permitted.
 - c. Security lights intended to illuminate a perimeter, such as a fence line, are permitted only if such lights do not result in light trespass.
 - d. Motion-activated security lights shall not use lamps that exceed 100 watts.
7. Lighting design standards:
 - a. Lighting fixtures must be of a design that complements building and landscaping design.
 - b. Lighting fixtures shall be appropriate in height, intensity, and scale to the use they are serving. Parking lot lights in non-residential zones shall not exceed a height of 21 feet, and any wall-mounted lights shall not exceed a height of 12 feet, measured from the adjacent grade to the bottom of the fixture.
8. Service Station Canopies: The following standards shall apply to service station canopy lighting, in addition to all other applicable standards:
 - a. Lighting fixtures in the ceiling of canopies shall be fully recessed in the canopy.
 - b. Light fixtures shall not be mounted on top of the fascia of such canopies.

- c. The fascia of such canopies shall not be illuminated, except for approved signage in compliance with Chapter 19.104.
 9. Areas around Automatic Teller Machines shall meet minimum standards required by the State of California Business and Professions Code.
 10. All lighting must comply with the requirements of the California Building Code. Should a conflict exist with the provisions of this Chapter, the standards in the California Building Code shall prevail.
 11. Lighting in ML zones shall additionally comply with the standards in Chapter 19.72.
- C. Prohibited Lighting: The following types of lighting are prohibited:
1. Outdoor lighting that blinks, flashes, or rotates except those that may be permitted pursuant to Chapter 10.26.
 2. Outdoor flood lights that project above the horizontal plane.
 3. Lighting that unnecessarily illuminates any other lot or substantially interferes with use or enjoyment of that lot.
 4. High-intensity discharge lighting for recreation courts on private property.
 5. Spotlights.
- D. Exemptions: The following types of lighting are exempt from the lighting requirements of the Chapter:
1. Lighting within the public right-of-way and public parks
 2. Permitted lighting for signs
 3. Lighting to illuminate address signs
 4. Temporary construction or emergency lighting
 5. Short-term lighting authorized by a special events permit
 6. Holiday seasonal lighting during the period of October 15 through January 15 of each year
 7. Required lighting to comply with Building Code or state law

2. Amendments to Chapter 19.08 concerning Definitions

19.08.30 Definitions.

Throughout this title the following words and phrases shall have the meanings ascribed in this section.

A. "A" Definitions:

"Abandon" means to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

"Abutting" means having property or district lines in common.

"Accessory building" means a building which is incidental to and customarily associated with a specific principal use or facility and which meets the applicable conditions set forth in Chapter 19.100, Accessory Buildings/Structures.

"Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
3. "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. Junior accessory dwelling units must include an efficiency kitchen, which must include both a cooking facility with appliances and a food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the unit. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure, as defined in California Government Code Section 6582.22.

"Accessory structure" means a subordinate structure, the use of which is purely incidental to that of the main building and which shall not contain living or sleeping quarters. Examples include a deck, tennis courts, trellis or car shelter. Fences eight feet or less are excluded.

"Addition" means any construction which increases the size of a building or facility in terms of site coverage, height, length, width, or gross floor area ratio.

"Adjacent property" means property that abuts the subject property, including property whose only contiguity to the subject site is a single point and property directly opposite the subject property and located across a street.

"Adult bookstore" means a building or portion thereof used by an establishment having as a substantial or significant portion of its stock in trade for sale to the public or certain members thereof, books, magazines, and other publications which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined.

"Adult cabaret" means a building or portion thereof used for dancing purposes thereof or area used for presentation or exhibition or featuring of topless or bottomless dancers, strippers, male or female impersonators or similar entertainers, for observations by patrons or customers.

"Adult motion picture theater" means a building or portion thereof or area, open or enclosed, used for the presentation of motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined, for observation by patrons or customers.

"Advertising statuary" means a structure or device of any kind or character for outdoor advertising purposes which displays or promotes a particular product or service, but without name identification.

"Aerial" means a stationary transmitting and/or receiving wireless communication device consisting of one or any combination of the elements listed below:

1. "Antenna" means a horizontal or vertical element or array, panel or dish that may be attached to a mast or a tower for the purpose of transmitting or receiving radio or microwave frequency signals.
2. "Mast" means a vertical element consisting of a tube or rod which supports an antenna.
3. "Tower" means a vertical framework of cross elements which supports either an antenna, mast or both.
4. "Guy wires" means wires necessary to insure the safety and stability of an antenna, mast or both.

"Affordable housing cost" means the amount set forth in the Health and Safety Code Section 50052.5, as may be amended.

"Affordable rent" means the amount set forth in the Health and Safety Code Section 50053, as may be amended. "Affordable units" means housing units available at affordable rent or affordable housing cost to lower or moderate income households.

"Agriculture" means the tilling of the soil, the raising of crops, horticulture, agriculture, livestock farming, dairying, or animal husbandry, including slaughterhouses, fertilizer yards, bone yard, or plants for the reduction of animal matter or any other similar use.

"Alley" means a public or private vehicular way less than thirty feet in width affording a secondary means of vehicular access to abutting property.

"Alteration", for purposes of the Sign Ordinance, means any permanent change to a sign.

"Alteration" means any construction or physical change in the arrangement of rooms or the supporting members of a building or structure, or change in the relative position of buildings or structures on a site, or substantial change in appearances of any building or structure.

1. "Incidental alteration" means any alteration to interior partitions or interior

supporting members of a structure which does not increase the structural strength of the structure; any alteration to electrical, plumbing, heating, air conditioning, ventilating, or other utility services, fixtures, or appliances; any addition, closing, or change in size of doors or windows in the exterior walls; or any replacement of a building facade which does not increase the structural strength of the structure.

2. "Structural alteration" means any alteration not deemed an incidental alteration.

"Amusement park" means a commercial facility which supplies various forms of indoor and outdoor entertainment and refreshments.

Animal:

1. Animal, Adult. "Adult animal" means any animal four months of age or older.
2. Animal, Large. "Large animal" means any equine, bovine, sheep, goat or swine or similar domestic or wild animal, as determined by the Planning Commission.
3. Animal, Small. "Small animal" means animals which are commonly found in single-family residential areas such as chickens, ducks, geese, rabbits, dogs, cats, etc.

"Animal care" means a use providing grooming, housing, medical care, or other services to animals, including veterinary services, animal hospitals, overnight or short-term boarding ancillary to veterinary care, indoor or outdoor kennels, and similar services.

"Apartment" means a room or a suite of two or more rooms which is designed for, intended for, and occupied by one family doing its cooking there.

"Apartment house" means a building designed and used to house three or more families, living independently of each other.

"Apartment project" means a rental housing development consisting of two or more dwelling units.

"Approval Body" means the Director of Community Development and his/her designee, the Planning Commission or City Council depending upon context.

"Architectural feature" means any part or appurtenance of a building or structure which is not a portion of the living area of the building or structure. Examples include: cornices, canopies, eaves, awnings, fireplaces, or projecting window elements. Patio covers or any projection of the floor area shall not constitute an architectural projection.

"Architectural projection," for purposes of the Sign Ordinance, means any permanent extension from the structure of a building, including the likes of canopies, awnings and fascia.

"Atrium" means a courtyard completely enclosed by walls and/or fences.

"Attic" means an area between the ceiling and roof of a structure, which is unconditioned (not heated or cooled) and uninhabitable.

"Automotive service station" means a use providing gasoline, oil, tires, small parts and accessories, and services incidental thereto, for automobiles, light trucks, and similar motor vehicles. Automotive maintenance and repair (minor) may be conducted on the site. The sale of food or grocery items on the same site is prohibited except for soft drinks and snack foods, either from automatic vending machines or from shelves. The sale of alcoholic beverages on the site is governed by Chapter 19.132, Concurrent Sale of Alcoholic Beverages and Gasoline.

"Automotive repair and maintenance (minor)" means the supplying of routine automotive services such as lubrication, engine tune-ups, smog certificates, servicing of tires, brakes, batteries and similar accessories, and minor repairs involving engine accessories. Any repair which requires the engine, drive train, transmission assembly, exhaust system, or drive train parts to be removed from a motor vehicle or requires the removal of internal parts shall not be considered minor. Body and paint shop operations are not minor repairs or maintenance.

"Average slope" means the ratio between vertical and horizontal distance expressed in percent; the mathematical expression is based upon the formula described below:

$$S = \frac{I \times L \times 100}{A}$$

A

S = Average slope of ground in percent;

L = Combined length in feet of all contours on parcel;

I = Contour interval in feet;

A = Area of parcel in square feet.

B. "B" Definitions:

"Banks" means financial institutions including federally-chartered banks, savings and loan associations, industrial loan companies, and credit unions providing retail banking services to individuals and businesses. This classification does not include payday lending businesses or check cashing businesses. The term "payday lending business" as used herein means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code Section 23001(d), as amended from time to time. The term "check cashing business" as used herein means a retail business owned or operated by a "check cashier" as that term is defined in California Civil Code Section 1789.31 as amended from time to time.

"Basement" means any floor below the first story in a building that is fully submerged below grade except for lightwells required for light, ventilation and emergency egress. A basement may have a maximum exterior wall height of two feet between natural grade and ceiling.

"Bird-safe design" means when building design, site planning, design features, materials, exterior and interior lighting, are designed and developed to reduce hazardous conditions for birds.

"Bird-safe development" means development that incorporates bird-safe design and bird-safe treatment.

"Bird-safe treatment" means treatment to glass that provides visual cues to birds and reduce the likelihood of bird collisions.

"Bird-sensitive area", for purposes of Chapter 19.102, Glass and Lighting Standards, means parcels that are in or within 300 feet of the Wildland Urban Interface; within 300 feet of watercourses; in Residential Hillside areas; and within 300 feet of public and private, open spaces and parks that are dominated by vegetation, including vegetated landscaping, forest, meadows, grassland, or wetlands.

"Block" means any lot or group of contiguous lots bounded on all sides by streets, railroad rights-of-way, or waterways, and not traversed by any street, railroad right-of-way or waterway.

"Boarding house" means any building used for the renting of rooms or providing of table board for from three to five persons, inclusive, over the age of sixteen years, who are not members of the same family.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy when any portion of a building is completely separated from every other portion by a "Fire Barrier" as defined by the California Building Code, then each portion shall be deemed to be a separate building.

1. "Attached building" means buildings which are structurally connected by any structural members or wall, excluding decks, patios or fences.

"Building coverage" means that portion of the net lot area encompassed within the outermost wall line which defines a building enclosure.

"Building frontage" means the length or the surface of the building wall which faces, and is visible to the general public from, a private or public right-of-way or driveway.

"Business" or "commerce" means the purchase, sale or other transaction involving the handling or disposition of any article, substance or commodity for profit or livelihood, including, in addition, office buildings, offices, shops for the sale of personal services, garages, outdoor advertising signs and structures, hotels and motels, and recreational and amusement enterprises conducted for profit.

"Business or trade school" means a use, except a college or university, providing education or training in business, commerce, language, or similar activity or pursuit, and not otherwise defined as a home occupation.

C. "C" Definitions:

"Canopy" means any roof-like structure, either attached to another structure or freestanding, or any extension of a roof line, constructed for the purpose of protection from the elements or aesthetic purposes in connection with outdoor living.

"Car shelter" means a roofed structure or a part of a building not enclosed by walls, intended and designed to accommodate one or more vehicles.

"Caretaker" means a person or persons employed for the purpose of protecting the principal use of the property or structure.

"Centerline" means the centerline as established by the County Surveyor of Santa Clara County, the City Engineer, or by the State Division of Highways of the State of California.

"Changeable copy sign" means any sign, or portion, which provides for each manual changes to the visible message without changing structural surfaces, including the likes of theater marquees and gasoline service station price signs, but excluding electronic reader board signs and signs which display the current time or temperature.

"Change of face" means any changes to the letter style, size, color, background, or message.

"Change of use" means the replacement of an existing use by a new use, or a change in the nature of an existing use, but not including a change in ownership, tenancy or management where the previous nature of the use, line of business, or other function is substantially unchanged.

"Child" means a person who is under eighteen years of age.

"Child day care facility" means a facility, licensed by the State or County, which provides non-medical care to children in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four-hour basis. Child day care facility includes day care centers, employer sponsored child-care centers and family day care homes.

"Church" means a use providing facilities for organized religious worship and religious education incidental thereto, but excluding a private educational facility. A property tax exemption obtained pursuant to Section 3(f) of Article XIII of the Constitution of the State of California and Section 206 of the Revenue and Taxation Code of the State of California, or successor legislation, constitutes prima facie evidence that such use is a church as defined in this section.

"College" or "university" means an educational institution of higher learning which offers a course of studies designed to culminate in the issuance of a degree or

defined by Section 94110 of the Education Code of the State of California, or successor legislation.

"Collocation" means the placement of aerials and other facilities belonging to two or more communication service providers on a single mast or building.

"Commercial recreation" means a use providing recreation, amusement, or entertainment services, including theaters, bowling lanes, billiard parlors, skating arenas, and similar services, operated on a private or for-profit basis, but excluding uses defined as outdoor recreation services.

"Community center" means a place, structure, area, or other facility used for and providing religious, fraternal, social and/or recreational programs generally open to the public and designated to accommodate and serve a significant segment of the community.

"Commercial district," for purposes of the Sign Ordinance, means an area of land designated for commercial use in the current Cupertino General Plan.

"Common interest development" means the following, all definitions of which are based upon Civil Code Section 4100 or subsequent amendments:

1. A condominium project,
2. A community apartment project,
3. A stock cooperative, or
4. A planned development.

"Community organization" means a nonprofit organization based in the City and whose activities benefit the City, its residents, employees, or businesses.

"Concession" means a benefit offered by the City to facilitate construction of eligible projects as defined by the provisions of Chapter 19.56, Density Bonus. Benefits may include, but are not limited to, priority processing, fee deferments and waivers, granting of variances, and relaxation of otherwise applicable permit conditions or other concessions required by law.

"Condominium conversion" or "Conversion" means a change in the type of ownership of a parcel (or parcels) of land, together with the existing attached structures, to that defined as a common interest development, regardless of the present or prior use of such land and structures and whether substantial improvements have been made or are to be made to such structure.

"Condominium project" or "project" includes the real property and any structures thereon, or any structures to be constructed thereon, which are to be divided into condominium ownership.

"Condominium units" or "units" means the individual spaces within a condominium project owned as individual estates.

"Congregate residence" means any building or portion which contains facilities for living, sleeping and sanitation, as required by the California Building Code and may

include facilities for eating and cooking for occupancies other than a family. A congregate residence may be a shelter, convent or monastery but does not include jails, hospitals, nursing homes, hotels or lodging houses.

"Convalescent facility" means a use other than a residential care home providing inpatient services for persons requiring medical attention, but not providing surgical or emergency medical services.

"Convenience market" means a use or activity that includes the retail sale of food, beverages, and small personal convenience items, including sale of food in disposable containers primarily for off-premises consumption, and typically found in establishments with long or late hours of operation and in relatively small buildings, but excluding delicatessens and other specialty food shops and establishments which have a sizable assortment of fresh fruits, vegetables, and fresh-cut meats.

"Corner triangle" means a triangular-shaped area bounded by the following, unless deemed otherwise by the City Engineer:

1. The intersection of the tangential extension of front and street side property lines as formed by the intersection of two public rights-of-way abutting the said property lines; and
2. The third boundary of the triangular-shaped area shall be a line connecting the front and side property lines at a distance of forty feet from the intersection of the tangential extension of front and side property lines.

"Corner triangle," for purposes of the Sign Ordinance, means a triangular-shaped area of land adjacent to an intersection of public rights-of-way, as further defined in Cupertino Standard Details Drawings Nos. 7-2 and 7-4. (See Appendix A, Cupertino Standard Detail 7-2; Corner Triangle–Controlled Intersections, and B, Cupertino Standard Detail 7-4; Corner Triangle–Uncontrolled Intersections for details.)

"Court" means an open, unoccupied space, other than a yard, on the same lot with a building or buildings and which is bounded on two or more sides by such building or buildings, including the open space in a house court or court apartment providing access.

"Covered parking" means a carport or garage that provides full overhead protection from the elements with ordinary roof coverings. Canvas, lath, fiberglass and vegetation are not ordinarily roof coverings and cannot be used in providing a covered parking space.

D. "D" Definitions:

"Day care center" means any child day care facility, licensed by the State or County, other than a family day care home, and includes infant centers, preschools, and extended day care facilities.

Day Care Home, Family. "Family day care home" means a home, licensed by the State or County, which regularly provides care, protection and supervision for fourteen or fewer children, in the provider's own home, for periods of less than twenty-four hours per day, while the parents or guardian are away, and includes the following:

1. "Large-family day care home," which means a home which provides family day care for seven to fourteen children, inclusive, including children under the age of ten years who reside at the home, as set forth in the California Health and Safety Code Section 1597.465;
2. "Small-family day care home," which means a home which provides family day care to eight or fewer children, including children under the age of ten years who resides at the home, as set forth in the California Health and Safety Code Section 1597.44.

"Decorative statuary," for purposes of the Sign Ordinance, means any structure or device of any kind or character placed solely for aesthetic purposes and not to promote any product or service.

"Demonstrated safety" means a condition requiring protection from the threat of danger, harm, or loss, including but not limited to the steepness of a roadway or driveway that may create a hazardous parking situation in front of a gate.

"Demonstrated security" means a condition requiring protection from the potential threat of danger, harm or loss, including but not limited to a location that is isolated and invisible from public view or that has experienced documented burglary, theft, vandalism or trespassing incidences.

"Density bonus" means a density increase over the otherwise maximum allowable residential density in accordance with the provisions of Chapter 19.56 as of the date of the project application.

"Developer" means the owner or subdivider with a controlling proprietary interest in the proposed common interest development, or the person or organization making application, or a qualified applicant who has entered into a development agreement pursuant to the procedures specified in Chapter 19.144.

"Development agreement" means a development agreement enacted by legislation between the City and a qualified applicant pursuant to Government Code Sections 65864 through 65869.5.

"Development standard" means a site or construction regulation, including, but not limited to, a setback requirement, a floor area ratio, and onsite open-space requirement, or a parking ratio that applies to a development pursuant to any

ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

"District" means a portion of the property within the City within which certain uses of land, premises and buildings are permitted and certain other uses of land, premises and buildings are prohibited, and within which certain yards and other open spaces are required and certain building site areas are established for buildings, all as set forth and specified in this title.

"Drinking establishment" means an activity that is primarily devoted to the selling of alcoholic beverages for consumption on the premises.

"Drive-through establishment" means an activity where a portion of retailing or the provision of service can be conducted without requiring the customer to leave his or her car.

"Driveway" means any driveway that provides direct access to a public or private street.

Driveway, Curved. "Curved driveway" means a driveway with access to the front property line which enters the garage from the side at an angle of sixty degrees or greater to the front curblin and which contains a functional twenty-foot-deep parking area that does not overhang the front property line.

"Duplex" means a building, on a lot under one ownership, containing not more than two kitchens, designed and used as two dwelling units, of comparable size independent of each other.

"Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, occupied or intended for occupancy on a non-transient basis and having not more than one kitchen.

E. "E" Definitions:

"Economically feasible" means when a housing development can be built with a reasonable rate of return. The housing developer's financial ability to build the project shall not be a factor.

Emergency Shelter:

"Emergency shelter, rotating" means a facility that provides temporary housing with minimal supportive services and meets criteria in Section 19.76.030(2).

"Emergency shelter, permanent" means a permanently operated facility that provides temporary housing with minimal supportive services and meets criteria in Section 19.76.030(3).

"Employee Housing" means accommodations for employees as defined by Health and Safety Code 17008, as may be amended.

"Enclosed" means a covered space fully surrounded by walls, including windows, doors and similar openings or architectural features, or an open space of less than one hundred square feet fully surrounded by a building or walls exceeding eight feet in height.

"Entry feature" means a structural element, which leads to an entry door.

"Equestrian center" means a facility for the shelter, display, exhibition, keeping, exercise or riding of horses, ponies or mules, or vehicles drawn by such animals, with related pasture lands, corrals and trails.

"Equipment yard" means a use providing for maintenance, servicing or storage of motor vehicles, equipment or supplies; or for the dispatching of service vehicles; or distribution of supplies or construction materials required in connection with a business activity, public utility service, transportation service, or similar activity, including but not limited to, a construction material yard, corporation yard, vehicular service center or similar use.

F. "F" Definitions:

"Facility" means a structure, building or other physical contrivance or object.

1. "Accessory facility" means a facility which is incidental to, and customarily associated with a specified principal facility and which meets the applicable conditions set forth in Chapter 19.80.

2. "Noncomplying facility" means a facility which is in violation of any of the site development regulations or other regulations established by this title, but was lawfully existing on October 10, 1955, or any amendment to this title, or the application of any district to the property involved by reason of which the adoption or application the facility becomes noncomplying.

3. "Principal facilities" means a main building or other facility which is designed and constructed for or occupied by a principal use.

"Family" means an individual or group of persons living together who constitute a bona fide single housekeeping unit in a dwelling unit. "Family" shall not be construed to include a fraternity, sorority, club, or other group of persons occupying a hotel, lodging house, or institution of any kind.

"Fence" means a man-made structure which is designed, intended or used to protect, defend or obscure the interior property of the owner from the view, trespass or passage of others upon that property.

"Fence height" means the vertical distance from the highest point of the fence (excluding post caps) to the finish grade adjoining the fence. In a case where the finish grade is different for each side of the fence, the grade with the highest elevation shall be utilized in determining the fence height.

"Financial institutions" means a company engaged in the business of dealing with monetary transactions, such as deposits, loans, investments and currency exchange. This classification does not include payday lending businesses or check cashing businesses. The term "payday lending business" as used herein means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code Section 23001(d), as amended from time to time. The term "check cashing business" as used herein means a retail business owned or operated by a "check casher" as that term is defined in California Civil Code Section 1789.31 as amended from time to time.

"First floor" means that portion of a structure less than or equal to twenty feet in height, through which a vertical line extending from the highest point of exterior construction to the appropriate adjoining grade, passes through one story.

"Flag" means any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

"Floor area" means the total area of all floors of a building measured to the outside surfaces of exterior walls, and including the following:

1. Halls;
2. Base of stairwells;
3. Base of elevator shafts;
4. Services and mechanical equipment rooms;
5. Interior building area above fifteen feet in height between any floor level and the ceiling above;
6. Basements with lightwells that do not conform to Section 19.28.070(I);
7. Residential garages;
8. Roofed arcades, plazas, walkways, porches, breezeways, porticos, courts, and similar features substantially enclosed by exterior walls;
9. Sheds and accessory structures.

"Floor area" shall not include the following:

1. Basements with lightwells that conform to Section 19.28.070(I);
2. Lightwells;
3. Attic areas;
4. Parking facilities, other than residential garages, accessory to a permitted conditional use and located on the same site;
5. Roofed arcades, plazas, walkways, porches, breezeways, porticos, courts and similar features not substantially enclosed by exterior walls.

"Floor area ratio" means the ratio of gross floor area on a lot to the lot area.

"Foot-lambert" means a unit measurement of the brightness of light transmitted through or reflected from an object or surface.

"Freeway" means any public roadway so designated by the State of California.

"Front wall" means the wall of a building or other structure nearest the street upon which the building faces, but excluding certain architectural features as defined in this chapter.

G. "G" Definitions:

"Garage" means an accessory building (completely enclosed) or an attached building used primarily for the storage of motor vehicles.

"Gasoline service station" means any place of business which offers for sale any motor vehicle fuel to the public.

"Glare" means the effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, which causes annoyance, discomfort, or loss of visual performance and ability.

"Glass features", for purposes of Chapter 19.102, Glass and Lighting Standards, means such features as free-standing glass walls, wind barriers, skywalks, balconies, greenhouses, and rooftop appurtenances.

"Grade" or "finished grade" means the lowest point of adjacent ground elevation of the finished surface of the ground

paving, or sidewalk, excluding areas where grade has been raised by means of a berm, planter box, or similar landscaping

feature, unless required for drainage, within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

"Gross lot area" means the horizontal area included within the property lines of a site plus the street area bounded by the street centerline up to thirty feet distant from the property line, the street right-of-way line and the extended side yard to the street centerline.

"Guest room" means a room which is intended, arranged or designed to be occupied by occasional visitors or nonpaying guests of the occupants of the dwelling unit in which the room is located, and which contains no kitchen facilities.

H. "H" Definitions:

"Habitable floor" means the horizontal space between a floor area of at least seventy square feet and the ceiling height measuring at least seven feet six inches above it, except for a kitchen which shall have a ceiling height not less than seven feet above the floor.

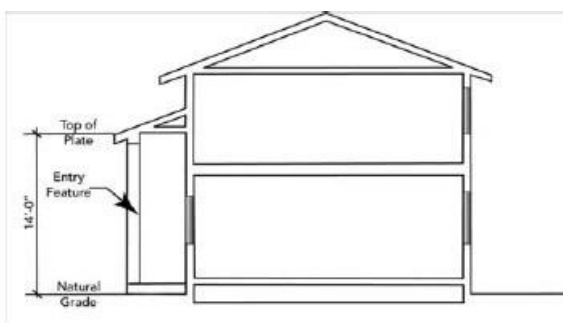
"Habitable space" means space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartment, closets, halls, storage or utility space and similar areas are not considered habitable space.

"Heavy equipment" means any mechanical or motorized device that is not a vehicle or a commercial vehicle as defined in Section 19.08.030(V), including, but not limited to, a backhoe, cement mixer, crane, ditch witch, dozer, earth mover, generator, grader, tractor or any similar device.

"Height" means a vertical distance measured parallel to the natural grade to the highest point of exterior construction, exclusive of chimneys, antennas or other appurtenances, except that entry features are measured to the top of the wall plate.

Height restriction shall be established by establishing a line parallel to the natural grade.

"Height", for purposes of the Accessory Buildings/Structures, encompasses the entire wall plane nearest the property line, including roof, eaves, and any portion of the foundation visible above the adjoining finished grade.



HEIGHT LIMIT FOR ENTRY FEATURES

"Home occupation" means a business, profession, occupation or trade activity which is performed by the resident(s) of a dwelling unit within that dwelling unit, or a yard area or garage associated with that dwelling unit, or a yard area or garage associated with that unit, for purposes of generating income, by means of the manufacture, and/or sale of goods and/or services, but which activity is clearly incidental to the use of the dwelling for residential purposes.

"Hospital" means a facility for providing medical, psychiatric or surgical services for sick or injured persons, primarily on an inpatient basis, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and service to patients, employees or visitors.

"Hotel" means a facility containing rooms or groups of rooms, generally without individual kitchen facilities, used or intended to be used by temporary overnight occupants, whether on a transient or residential occupancy basis, and whether or not

eating facilities are available on the premises. Hotel includes motel, motor hotel, tourist court, or similar use, but does not include mobilehome parks or similar uses.

"Household pets" means small animals commonly found in residential areas such as chickens, ducks, geese, rabbits, dogs, and cats, but excluding animals such as any bovine or equine animal, or any goat, sheep or swine. This title does not regulate the keeping of small household pets, such as fish, birds or hamsters, which is incidental to any permitted use.

However, no animal including household pets may be kept, maintained and/or raised for commercial purposes except where permitted with required permits.

"Household type" means whether the occupants of the housing units are very low income, lower income, moderate income, or senior citizens.

"Housing development" means for the purposes of Chapter 19.56, Density Bonus, a development project for five or more residential units. For the purposes of that chapter, "housing development" also includes a subdivision or common interest development, approved by the City that consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in Government Code Section 65863.4(d), where the result of the rehabilitation would be a net increase in available residential units.

I. "I" Definitions:

"Industrial district," for purposes of the Sign Ordinance, means all ML districts and any other zoning classifications which are consistent with the industrial designation of the Cupertino general plan.

"Institutional district," for purposes of the Sign Ordinance, means all BQ, PR, FP, and BA districts and other zoning classifications and uses which are considered institutional in nature and are consistent with the institutional or quasi-public designation of the general plan.

J. "J" Definitions:

"Junkyard" means the use of more than two hundred square feet of the area of any lot for the storage or keeping of junk, including scrap metals or other scrap material, and/or for the dismantling or wrecking of automobiles or other vehicles or machinery.

K. "K" Definitions:

"Kitchen" means an area in habitable space used for the preparation of food and including at least three of the following:

1. Cooking appliance(s) or provision for a cooking appliance (such as 220V outlets, gas connections and space for appliances between counters;
2. Counter;

3. Refrigerator;
4. Sink.

L. "L" Definitions:

"Landscaping" means an area devoted to or developed and maintained with native or exotic planting, lawn, ground cover, gardens, trees, shrubs, and other plant materials, decorative outdoor landscape elements, pools, fountains, water features, paved or decorated surfaces of rock, stone, brick, block or similar material (excluding driveways, parking, loading or storage areas), and sculptural elements.

"Late evening activities" means an activity which maintains any hours of operation during the period of eleven p.m. to seven a.m.

"Legal substandard lot" means any parcel of land or lot recorded and legally created by the County or City prior to March 17, 1980, which lot or parcel is of less area than required in the zone; or lots or parcels of record which are reduced to a substandard lot size as a result of required street dedication unless otherwise provided in the City of Cupertino General Plan. The owner of a legally created, substandard property which is less than six thousand square feet but equal to or greater than five thousand square feet may utilize such parcel for residential purposes. The owner of a legally created parcel of less than five thousand square feet may also develop the site as a single-family residential building site if it can be demonstrated that the property was not under the same ownership as any contiguous property on the same street frontage as of or after July 1, 1984.

"Light Fixture" means a complete lighting unit consisting of one or more lamps, and ballast(s), where applicable, together with the parts designed to distribute the light, position and protect the lamp(s) and ballast(s), and connect the lamp(s) to the power supply.

"Light trespass" means light emitted by a light fixture that shines beyond the property on which it is installed.

"Lightwell" means an excavated area required by the Uniform Building Code to provide emergency egress, light and ventilation for below grade rooms.

"Liquor store" means a use requiring a State of California "off-sale general license" (sale for off-site consumption of wine, beer and/or hard liquor) and having fifty percent or more of the total dollar sales accounted for by beverage covered under the off-sale general license.

"Living space" means, for the purposes of Chapter 19.112, the same as that set forth for "living area" in California Government Code Section 65852.2(j)(4). All attic and basement square footage proposed as part of an Accessory Dwelling Unit shall be limited by the maximum size allowed per Chapter 19.112.

"Loading space" means an area used for loading or unloading of goods from a vehicle in connection with the use of the site on which such space is located.

"Lodging" means the furnishing of rooms or groups of rooms within a dwelling unit or an accessory building on a transient basis, whether or not meals are provided to the person. Lodging shall be subject to the residential density requirements of the district in which the use is located.

"Lodging unit" means a room or group of rooms not including a kitchen, used or intended for use by overnight or transient occupants as a single unit, whether located in a hotel or a dwelling unit providing lodging where designed or used for occupancy by more than two persons; each two-person capacity shall be deemed a separate lodging unit for the purpose of determining residential density; each two lodging units shall be considered the equivalent of one dwelling unit.

"Lot" means a parcel or portion of land separated from other parcels or portions by description, as on a subdivision or record of survey map, or by metes and bounds, for purpose of sale, lease or separate use.

1. "Corner lot" means a lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.
2. "Flag lot" means a lot having access to a street by means of a private driveway or parcel of land not otherwise meeting the requirement of this title for lot width.
3. "Interior lot" means a lot other than a corner lot.
4. "Key lot" means the first lot to the rear of a corner lot, the front line of which is a continuation of the side line of the corner lot, and fronting on the street which intersects or intercepts the street on which the corner lot fronts.

"Lot area" means the area of a lot measured horizontally between boundary lot lines, but excluding a portion of a flag lot providing access to a street and lying between a front lot line and the street, and excluding any portion of a lot within the lines of any natural watercourse, river, stream, creek, waterway, channel or flood control or drainage easement and excluding any portion of a lot acquired, for access and street right-of-way purposes, in fee, easement or otherwise.

"Lot coverage" means the following:

1. "Single-family residential use" means the total land area within a site that is covered by buildings, including all projections, but excluding ground-level paving, landscape features, lightwells, and open recreational facilities. Sheds are included in lot coverage.
2. "All other uses except single-family residential" means the total land area within a site that is covered by buildings, but excluding all projections, ground-level paving, landscape features, and open recreational facilities.

"Lot depth" means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no clear rear lot line.

"Lot line" means any boundary of a lot.

1. "Front lot line" means on an interior lot, the lot line abutting a street, or on a corner lot, the shorter lot line abutting a street, or on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained. Lot line length does not include arc as identified on corner parcels.
2. "Interior lot line" means any lot line not abutting a street.
3. "Rear lot line" means the lot line not intersecting a front lot line which is most distant from and the most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.
4. "Side lot line" means any lot line which is not a front or rear lot line.
5. "Street lot line" means any lot line abutting a street.

"Lot of record" means a lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds which has been recorded.

"Lot width" means the horizontal distance between side lot lines, measured at the required front setback line.

"Lower-income household" means a household whose gross income does not exceed that established by Health and Safety Code Section 50079.5, as may be amended.

M. "M" Definitions:

"Major renovation," for purposes of Chapter 19.116, Conversions of Apartment Projects to Common Interest Development, means any renovation for which an expenditure of more than one thousand dollars was made.

"Major repair," for purposes of Chapter 19.116, Conversions of Apartment Projects to Common Interest Development, means any repair for which an expenditure of more than one thousand dollars was made.

"Major Transit Stop," for purposes of Chapter 19.56, Density Bonus, means an existing site, or a site included in the regional transportation plan, that contains a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. A housing development is considered to be within one-half mile of a major transit stop if all parcels within the housing development have no more than 25 percent of their area farther than one-half mile from the stop and if not more than 10 percent of the

units or 100 units, whichever is less, in the housing development are farther than one-half mile from the stop as set forth in Government Code Section 65915(p)(3)(A), as may be amended.

"Manufacturing" means a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing fabrication, assembly, treatment, packaging of products, but excluding basic industrial processing of extracted or raw materials, processes utilizing inflammable or explosive material (i.e., materials which ignite easily under normal manufacturing conditions), and processes which create hazardous or commonly recognized offensive conditions.

"Massage" means any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the human body with the hands or with any mechanical or electrical apparatus or other appliances or devices with or without such supplementary aides as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment or other similar preparations.

"Massage parlor" means a building or portion thereof, or a place where massage is administered for compensation or from which a massage business or service for compensation is operated which is not exempted or regulated by the Massage Establishment Ordinance as contained in Title 9, Health and Sanitation of the Cupertino Municipal Code, Chapter 9.06.

"Maximum allowable residential density," for purposes of Chapter 19.56, Density Bonus, means the maximum density allowed under the zoning ordinance and land use element of the general plan. For purposes of that Chapter, if the maximum density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

"Minor change" means an alteration or modification of an existing plan, development or project which is substantially inferior in bulk, degree or importance to the overall dimension and design of the plan, development or project with no change proposed for the use of the land in question, no change proposed in the character of the structure or structures involved, and no variance required.

"Mobilehome" means a vehicle, other than a motor vehicle, designed or used as semi-permanent housing, designed for human habitation, for carrying persons and property on its own structure, and for being drawn by a motor vehicle, and shall include a trailer coach.

"Mobilehome park" means any area or tract of land where lots are sold, rented, or held out for rent to one or more owners or users of mobilehomes, excluding travel-trailers, for the purpose of permanent or semi-permanent housing.

"Moderate income household" means a household whose gross income does not exceed that established by Section 50093 of the Health and Safety Code, as may be amended.

"Multiple-family use" means the use of a parcel for three or more dwelling units which may be in the same building or in separate buildings on the same parcel.

"Muntins" means strips of wood, metal, or other materials that physically separate and support individual panes of glass in a window or visually separate a single pane of glass in a window into different sections.

N. "N" Definitions:

"Natural grade" means the contour of the land prior to improvements or development, unless otherwise established by a City approved grading plan that is part of a subdivision map approval.

"Nightclub" means an establishment providing alcoholic beverage service and late evening (past eleven p.m.) entertainment, with or without food service.

O. "O" Definitions:

"Office" means:

1. "Administrative or executive offices" including those pertaining to the management of office operations or the direction of enterprise but not including merchandising or sales services.
2. "Medical office" means a use providing consultation, diagnosis, therapeutic, preventative or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans, licensed for such practice by the State of California and including services related to medical research, testing and analysis.
3. "Professional offices" such as those pertaining to the practice of the professions and arts including, but not limited to, accounting, architecture, dentistry, design, engineering, including associated testing and prototype development, but excluding product manufacturing and/or assembly, law and medicine, but not including sale of drugs or prescriptions except as incidental to the principal uses and where there is external evidence of such incidental use.
4. "Office district," for purposes of the Sign Ordinance, means those buildings or groups of buildings for which the permitted uses are professional offices, is within an OA or OP zone or which are designated for offices on the general plan.

"Offset" means the indentation or projection of a wall plane.

"Open" means a space on the ground or on the roof of a structure, uncovered and unenclosed.

"Organizational documents" means the declaration of restrictions, articles of incorporation, bylaws and any contracts for the maintenance, management or operation of all or any part of a common interest development.

"Outdoor recreation use" means a privately owned or operated use providing facilities for outdoor recreation activities, including golf, tennis, swimming, riding or other outdoor sport or recreation, operated predominantly in the open, except for accessory or incidental enclosed services or facilities.

P. "P" Definitions:

"Park" means any open space, reservation, playground, swimming pool, golf course, recreation center, or any other area in the City owned or used by the City or County and devoted to active or passive recreations.

"Parking area" means an unroofed, paved area, delineated by painted or similar markings, intended and designed to accommodate one or more vehicles.

"Parking facility" means an area on a lot or within a building, or both, including one or more parking spaces, together with driveways, aisles, turning and maneuvering areas, clearances and similar features, and meeting the requirements established by this title. Parking facility includes parking lots, garages and parking structures.

1. "Temporary parking facility" means parking lots which are not required under this title and which are intended as interim improvements of property subject to removal at a later date.

"Parking space" means an area on a lot or within a building, used or intended for use for parking a motor vehicle, having permanent means of access to and from a public street or alley independently of any other parking space, and located in a parking facility meeting the requirements established by this title. Parking space is equivalent to the term "parking stall" and does not include driveways, aisles or other features comprising a parking facility as previously defined in this chapter.

"Pennant" means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

"Permit" means a permit issued by the City Council, Planning Commission, Design Review Committee, Director of Community Development, or any other decision body as empowered by the Cupertino Municipal Code, approving architecture, site improvements, buildings, structures, land and/or uses. Permits may include but shall not be limited to Administrative Approvals, Two-story Permits, Minor Residential Permits, Architectural and Site Approvals, Development Permits, Conditional Use Permits, Exceptions, Variances or Subdivision Maps.

"Person" means an individual, group, partnership, firm, association, corporation, trust, governmental agency, governmental official, administrative body, or tribunal or any other form of business or legal entity.

"Personal fitness training center" means a facility providing space and equipment, with or without supervision, for group or individual athletic development, increased skill development in sports activity, or rehabilitative therapy for athletic injury.

"Perspective drawing" means a rendering of a three-dimensional view depicting the height, width, depth, and position of a proposed structure in relation to surrounding properties and structures when viewed from street level.

"Picnic area" means a facility providing tables and cooking devices for preparation and consumption of meals out of doors or within an unenclosed shelter structure.

"Practice range" means a facility providing controlled access to fixed or movable objects which are used to test and measure accuracy of discharge from a weapon.

"Private educational facility" means a privately owned school, including schools owned and operated by religious organizations, offering instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of California.

"Project improvements" means all public road improvements, undergrounding utility improvements, and improvements to the on-site utility networks as required by the City of Cupertino for a common interest development.

"Projection" means architectural elements, not part of the main building support, that cantilevers from a single building wall or roof, involving no supports to the ground other than the one building wall from which the element projects.

"Promotional device" means any sign, display, fixture, placard, vehicle or structure that uses color, form, graphic, symbol, illumination or writing to advertise a special event or the opening of a new business.

"Property" means real property which includes land, that which is affixed to the land, and that which is incidental or appurtenant to the land as defined in Civil Code Sections 658 through 662.

1. Property, Adjoining. "Adjoining property" means any unit of real property, excluding lands used as public streets, sharing one or more common points with another property.

"Provider" means a person who operates a child day care home and is licensed by the State of California.

"Public dancehall" is a building or portion used for dancing purposes to and in which the general public is admitted and permitted to dance, upon payment of any fee other than compensation, or upon payment of a charge for admission, or for which tickets or other devices are sold, or in which a charge is made for the privilege

of dancing with any other person employed for such purpose by the operator of the establishment, including but not limited to taxi dances, but excluding restaurants, hotel rooms and nightclubs in which the dancing is incidental only to other entertainment.

Q. "Q" Definitions:

"Qualified applicant" is a person who has a legal or equitable interest in real property which is the subject of a development agreement, determined pursuant to Section 19.116.070. Qualified applicant includes an authorized agent.

"Qualifying resident" for purposes of Chapter 19.56, Density Bonus, of this Code, means a senior citizen or other persons eligible to reside in a senior citizen housing development.

R. "R" Definitions:

"Recreational open space" means open space within a common interest development (exclusive of required front setback areas) which shall be used exclusively for leisure and recreational purposes, for the use and enjoyment of occupants (and their visitors) of units on the project and to which such occupants (and their visitors) have the right of use and enjoyment.

Accessory structures such as swimming pools, recreational buildings and landscaped areas may be included as open space.

"Recyclable materials" means discards or waste materials that may be separated or mixed, collected and processed, and used as raw materials for new products. For purposes of Chapter 19.108, Beverage Container Redemption and Recycling Centers, recyclable materials do not include hazardous materials.

"Recycling center" means a facility for the collection and/or processing of recyclable materials. Recycling center does not include storage containers or processing activity located on the premises of a commercial or manufacturing use and use solely for the recycling of material generated by that business or manufacturer.

1. "Recycling center, Certified" or "Certified Processor" means a recycling facility certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986.

2. "Recycling center, Mobile" means an automobile, truck, trailer or van licensed by the Department of Motor Vehicles, which is used for the collection of recyclable material. A mobile recycling center also means the bins, boxes or containers transported by trucks, vans, or trailers and used for the collection of recyclable materials. A mobile recycling center may consist of an enclosed vehicle such as box cab or enclosed semi-trailer or an open vehicle such as a flatbed trailer with bins or boxes to contain recyclable materials.

"Recycling facilities" may include the following:

1. "Collection facility" means a facility for the acceptance (donation, redemption or sale) of recyclable materials from the public. Such a facility does not use power-driven processing equipment except as indicated in Chapter 19.108, Beverage Container Redemption and Recycling Centers. Collection facilities may include the following:

- a. Reverse vending machine(s);
- b. Small collection facilities which occupy an area of not more than five hundred square feet, and may include:
 - i. A mobile recycling unit,
 - ii. Bulk reverse vending machine or a grouping of reverse vending machines occupying more than fifty square feet,
 - iii. Kiosk type units and bulk vending machines,
 - iv. Unattended containers placed for the donation of recyclable materials;
- c. Large collection facilities which may occupy an area of more than five hundred square feet, or is on a separate property not appurtenant to a host use, and may include permanent structures.

2. "Processing facility" means a building or enclosed space use for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing. Processing facility includes the following:

- a. A light processing facility occupies an area of under forty-five thousand square feet of gross collection, processing and storage area and has up to two outbound truck shipments per day. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials sufficient to qualify as a certified processing facility. A light processing facility shall not shred, compact, or bale ferrous metals other than food and beverage containers.
- b. A heavy processing facility is any processing facility other than a light processing facility.

"Religious institution" means a seminary, retreat, monastery, conference center, or similar use for the conduct of religious activities including accessory housing incidental thereto, but excluding a private educational facility. Any use for which a property tax exemption has been obtained pursuant to Section 3(f) of Article XIII of the Constitution of the State of California and Section 206 of the Revenue and

Taxation Code of the State of California, or successor legislation, or which is used in connection with any church which has received such an exemption, shall be prima facie presumed to be a religious institution.

"Research and development" means a use engaged in study, design, analysis and experimental development of products, processes or services, including incidental manufacturing of products or provisions of services to others.

"Residential care facility" means a building or portion designed or used for the purpose of providing twenty-four-hour-a-day nonmedical residential living accommodations pursuant to the Uniform Building, Housing and Fire Codes, in exchange for payment of money or other consideration, where the duration of tenancy is determined, in whole or in part, by the individual resident's participation in group or individual activities such as counseling, recovery planning, medical or therapeutic assistance. Residential care facility includes, but is not limited to, health facilities as defined in California Health and Safety Code (H&SC Section 1250 et seq.), community care facilities (H&SC Section 1500 et seq.), residential care facilities for the elderly (H&SC Section 1569 et seq.) or facilities for the mentally disordered or otherwise handicapped (W&I Code Section 5000 et seq.), alcoholism or drug abuse recovery or treatment facilities (H&SC Section 11384.11), and other similar care facilities.

"Residential district," for purposes of the Sign Ordinance, means the R1, RHS, R2, R3, R1C, A, and A1 zoning classifications which are consistent with the residential designation of the Cupertino general plan.

Restaurant:

1. Restaurant, Fast-Food. "Fast-food restaurant" means a retail food service establishment in which prepared foods or beverages are served or sold on or in disposable containers, including those establishments where a substantial portion of the patrons may serve themselves and may consume the food and beverages off-site. A separate bar facility for serving alcoholic beverages is not permitted. Any area, tables or rooms reserved for serving alcoholic beverages shall be considered a separate bar facility. Specialty food stores, such as ice cream stores, bakeries or shops, shall not be considered fast-food restaurants.

2. Restaurant, Full Service. "Full-service restaurant" means any restaurant which is not a fast-food restaurant. Alcoholic beverages may be served with meals at a customer's dining table; however, a separate bar facility for serving alcoholic beverages is not permitted without a use permit.

"Reverse vending machine(s)" means an automated mechanical device which accepts one or more types of empty beverage containers, including, but not limited to aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip with a value not less than the containers redemption value, as determined by the State. A reverse vending machine may sort and process

containers mechanically provided that the entire process is enclosed within the machine. In order to accept and temporarily store all three container types in a proportion commensurate with their relative redemption rates, and to meet the requirements of certification as a recycling center, multiple grouping of reverse vending machines may be necessary.

1. A bulk reverse vending machine is a reverse vending machine that is larger than fifty square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container.

S. "S" Definitions:

"Screened" means shielded, concealed, and effectively hidden from view at an elevation of up to eight feet above ground level on adjoining parcels, or from adjoining parcels, within ten feet of a lot line, by a fence, wall, hedge, berm, or similar structure, architectural or landscape feature, or combination thereof.

"Senior citizens" means:

1. Persons at least sixty-two years of age; or
2. Persons at least fifty-five years of age or otherwise qualified to reside in a senior citizen housing development, in accordance with State and federal law.

"Senior citizen housing development" means a housing development with at least thirty-five dwelling units as defined in the Civil Code Section 51.3, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code, as may be amended.

"Setback line" means a line within a lot parallel to a corresponding lot line, which is the boundary of any specified front, side or rear yard, or the boundary of any public right-of-way or private road, whether acquired in fee, easement, or otherwise, or a line otherwise established to govern the location of buildings, structures or uses. Where no minimum front, side or rear yards are specified, the setback line shall be coterminous with the corresponding lot line.

Setback Area, Required. "Required setback area" means open space, unoccupied and unobstructed from the ground upward, except as provided in this title, between the lot line and the setback line on the same parcel.

1. Setback Area, Required Front Yard. "Required front-yard setback area" means the setback area extending across the front of a lot between the front lot line and the setback line. Front yards shall be measured either by a line at right angles to the front lot line, or by a radial line in the case of a curved front lot line, except flag lots which is the area extending across the full extent of the buildable portion of the flag lot measured from the property line which is parallel to and nearest the street line and at which point the lot width equals a minimum of sixty

feet. The Director of Community Development shall have the discretion to modify the provisions of this definition when it improves the design relationship of the proposed buildings to adjacent buildings or parcels.

2. Setback Area, Required Rear Yard. "Required rear-yard setback area" means the area extending across the full width of the lot between the rear lot line and the nearest line or point of the main building.

3. Setback Area, Required Side Yard. "Required side-yard setback area" means the area between the side lot line and the nearest line of a building, and extending from the front setback line to the rear setback line.

"Shielded fixture" means a light fixture that is shielded or constructed so that light rays emitted by the lamp(s) are projected below the horizontal plane passing through the lowest point on the light fixture.

"Shopping center" means a group of commercial establishments, planned, developed, owned or managed as a unit, with off-street parking provided on the parcel.

"Shopping center," for purposes of the Sign Ordinance, means a retail entity encompassing three or more tenants within a single building or group of buildings, but within which individual business located in defined tenant spaces are owned and managed separately from the shopping center management.

"Sidewalk site triangle" is a triangular shaped area described in Cupertino Standard Detail 7-6. (See Appendix C, Cupertino Standard Detail; Sidewalk Site Triangle (Sidewalk Clearance at Driveway))

"Sign" means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, to communicate information of any kind to the public.

1. "Animated sign" means any sign which projects action, motion or the illusion thereof, changes intensity of illumination or changes colors, including the likes of balloons, banners and flags, and blowing or air-powered attractions, but excluding electronic readerboard signs and signs that display the current time or temperature.
2. "Blade sign" means a pedestrian oriented sign, adjacent to a pedestrian walkway or sidewalk, attached to a building wall, marquee, awning or arcade with the exposed face of the sign in a plane perpendicular to the plane of the building wall.
3. "Development Identification Sign" means a ground sign at the major entry to a residential development with twenty units or more meant to identify the name and address of the development.

4. "Directional sign" means any sign which primarily displays directions to a particular area, location or site.
5. "Directory sign" means any outdoor listing of occupants of a building or group of buildings.
6. "Electronic readerboard sign" means an electronic sign intended for a periodically-changing advertising message.
7. "Freeway oriented sign" means any sign which is located within six hundred sixty feet and visible from a freeway right- of-way as defined by Section 5200 of the California Business and Professions Code.
8. "Garage sale signs" means any sign used for advertising a garage or patio sale as defined in Chapter 5.16 of the Cupertino Municipal Code.
9. "Ground sign" means any sign permanently affixed to the ground and not supported by a building structure. The height of the sign shall be measured from the grade of the adjoining closest sidewalk to the top of the sign including trim.
10. "Identification sign" means any sign whose sole purpose is to display the name of the site and the names of the occupants, their products or their services.
11. "Illegal sign" means any sign or advertising statuary which was not lawfully erected, maintained, or was not in conformance with the provisions of this title in effect at the time of the erection of the sign or advertising statuary or which was not installed with a valid permit from the City.
12. "Illuminated sign" means any sign utilizing an artificial source of light to enhance its visibility.
13. "Informational sign" means any sign which promotes no products or services, but displays service or general information to the public, including the likes of hours of operation, rest room identifications and hazardous warnings.
14. "Landmark sign" means an existing, legal non-conforming ground sign that has a distinctive architectural style.
15. "Nonconforming sign" means any sign or advertising statuary that was legally erected and had obtained a valid permit in conformance with the ordinance in effect at the time of the erection of the sign but which became nonconforming due to the adoption of the ordinance codified in this title.
16. "Obsolete sign" means any sign that displays incorrect or misleading information, promotes products or services no longer available at that site

or identifies departed occupants.

17. "Off-site sign" means any sign not located on the premises of the business or entity indicated or advertised by the sign. This definition shall include billboards, poster panels, painted bulletins and other similar advertising displays.
18. "On-site sign" means a sign directing attention to a business, commodity, service or entertainment conducted, sold or offered upon the same premises as those upon which the sign is maintained.
19. "Political sign" means a temporary sign that encourages a particular vote in a scheduled election and is posted prior to the scheduled election.
20. "Portable Sign or Display" means any outdoor sign or display not permanently attached to the ground or a structure on the premises it is intended to occupy and displayed only during business hours. Portable sign or display includes A- frames, flower carts, statues, and other similar devices used for advertising as determined by the Director.
21. "Project announcement sign" means any temporary sign that displays information pertinent to a current or future site of construction, including the likes of the project name, developers, owners and operators, completion dates, availability and occupants.
22. "Projecting sign" means any sign other than a wall sign that is attached to and projects from a structure or building face or wall.
23. "Real estate sign" means a temporary sign indicating that a particular premises is for sale, lease or rent.
24. "Roof sign" means a sign erected between the lowest and highest points of a roof.
25. "Street address sign" means any sign that displays only the street address number(s) of the site and, at the option of the property owner, the street name.
26. "Temporary Sign" means any sign, display, banner or promotional device which is designed or intended to be displayed only during the allowable business hours or for short periods of time as specified by the Director of Community Development.
27. "V-shaped signs" means any sign consisting of two vertical faces, or essentially vertical faces, with one common edge and which appears as the letter V when viewed directly from above.
28. "Vehicle sign" means a sign painted on or attached to an operable or movable vehicle; in the case of motor vehicles, "operable" shall be defined as

having a valid license plate.

29. "Wall sign" means any sign that is attached, erected or painted on a structure attached to a building, a canopy structure, or the exterior wall of a building with the exposed face of the sign parallel to the wall.
30. "Window sign" means any sign that is intended to be read from outside of the structure or painted on a window facing a public street, parking lot, pedestrian plaza or walkway accessible to the public.

"Sign Area" for an individually lettered sign without a background, is measured by enclosing the sign copy with a continuous perimeter in simple rectilinear forms. (See Appendix D for examples of sign area calculation)

The sign area for a sign with borders and/or background is measured by enclosing the exterior limits of the border or background with a single continuous perimeter. The necessary supports, uprights, and/ or the base on which such sign is placed, shall be excluded from the sign area.

When a sign is separated by thirty-six inches or more, the area of each part may be computed separately.

"Single family residence," for purposes of Chapter 19.112, shall mean one dwelling unit located on a separately owned lot. Single family residence does not include property with only air parcels or condominiums.

"Specialty food stores" means uses such as bakeries, donut shops, ice cream stores, produce markets and meat markets, or similar establishments where food is prepared and/or sold primarily for consumption off the premises.

"Site," for purposes of the Sign Ordinance, means a piece of land as shown on a subdivision map, record of survey map or assessor's parcel map, which constitutes one development site and which may be composed of a single unit of land or contiguous units under common ownership, control, or development agreement.

"Special event," for purposes of the Sign Ordinance means a temporary promotional event including, but not limited to, a special sale on merchandise or services, or grand openings.

"Special Event Banner" means any temporary sign constructed of pliable materials such as canvas, fabric, vinyl plastic or similar materials which will withstand exposure to wind and rain without significant deterioration, and which does not require a building permit for its construction, or installation outside of a building.

"Special needs housing," for purposes of Chapter 19.56, Density Bonus, means any housing, including supportive housing, intended to benefit, in whole or in part, persons identified as having special needs relating to mental health; physical disabilities; developmental disabilities, including without limitation intellectual disability, cerebral palsy, epilepsy, and autism; and risk of homelessness, and housing intended to meet the housing needs of persons eligible for mental health

services funded in whole or in part by the Mental Health Services Fund, as set forth in Government Code Section 65915(p) (3)(C), as may be amended.

"Specified anatomical areas" means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" means:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

"Story" means that portion of a building, excluding a basement, between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

"Street" means a public or private thoroughfare the design of which has been approved by the City which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley as defined in this chapter.

1. Street, Public. "Public street" means all streets, highways, lanes, places, avenues and portions and including extensions in the length and width, which have been dedicated by the owners to public use, acquired for public use, or in which a public easement for roadway purposes exists.

"Street frontage," for purposes of the Sign Ordinance, means the length of a site along or fronting on a public or private street, driveway or other principal thoroughfare, but does not include such length along an alley, watercourse, railroad right-of-way or limited access roadway or freeway. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

1. Structure, Recreational. "Recreational structure" means any affixed accessory structure or portion, which functions for play, recreation or exercise (e.g., pool slides, playhouses, tree houses, swings, climbing apparatus, gazebos, decks, patios, hot tubs and pools) but does not include portable play structures, such as swings or climbing apparatus.

"Structurally attached" means any structure or accessory structure or portion thereof, which is substantially attached or connected by a roof structure or similar physical attachment.

"Supportive housing" (per Government Code Section 65582(f), as may be amended) means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

T. "T" Definitions:

"Target population" (per CA Government Code 65582(g), as may be amended) means persons with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

"Transient" means any individual who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days, and including any individual who actually physically occupies the premises, by permission of any other person entitled to occupancy.

"Transitional housing" (per CA Government Code 65582(h), as may be amended) means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months from beginning of assistance.

"Trim" means the molding, battens, cappings, nailing strips, lattice and platforms which are attached to a sign.

U. "U" Definitions:

"Unobstructed Access," for purposes of Chapter 19.56, Density Bonus, means access to a location if a resident is able to access the location without encountering natural or constructed impediments, as set forth in Government Code Section 65915(p)(2), as may be amended.

"Uplighting" means the placement and orientation of light fixtures such that light rays are directed upward.

"Use" means the conduct of an activity, or the performance of a function or operation, on a parcel or in a building or facility.

1. "Accessory use" means a use which is incidental to and customarily

associated with a specified principal use.

2. "Conditional use" means a use listed by the regulations of any particular district as a conditional use within that district, and allowable solely on a discretionary or conditional basis, subject to issuance of a conditional use permit, and to all other regulations established by this title.

3. "Nonconforming use" means a use which is not a permitted use or conditional use authorized within the district in which it is located, but which was lawfully existing on October 10, 1955; or the date of any amendments thereto, or the application of any district to the property involved, by reason of which adoption or application the use became nonconforming.

4. "Permitted use" means a use listed by the regulations of any particular district as a permitted use within that district, and permitted therein as a matter of right when conducted in accord with the regulations established by this title.

5. "Principal use" means a use which fulfills a primary function of a household, establishment, institution, or other entity. "Useable rear yard" means that area bounded by the rear lot line(s) and the rear building line extended to the side lot lines. The side yard adjacent to a proposed minor addition (e.g., addition equaling ten percent or less of the principal structure) may be included in calculation of usable rear yard area.

V. "V" Definitions:

"Variance application" means an application for which an exception process is not identified in the Municipal Code. "Vehicle" means any boat, bus, trailer, motor home, van, camper (whether or not attached to a pickup truck or other vehicle), mobilehome, motorcycle, automobile, truck, pickup, airplane, boat trailer, truck tractor, truck trailer, utility trailer or recreational vehicle, or parts, or any device by which any person or property may be propelled, moved or drawn upon a public street, excepting a device moved exclusively by human power.

1. Vehicle, Commercial. "Commercial vehicle" means a vehicle of a type required to be registered under the California Vehicle Code used or maintained for the transportation of persons for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of goods.

2. Vehicle, Recreation. "Recreation vehicle" means a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. The term recreation vehicle includes, but is not limited to, trailers, motor coach homes, converted trucks and buses, and boats and boat trailers.

"Very low income household" means a household whose gross income does not exceed that established by Health and Safety Code Section 50105, as may be amended.

"Visual privacy intrusion" means uninterrupted visual access from a residential dwelling or structure into the interior or exterior areas of adjacent residential structures, which area is either completely or partially private, designed for the sole use of the occupant, and/or which serves to fulfill the interior and/or exterior privacy needs of the impacted residence or residences.

W. "W" Definitions:

~~None.~~ **"Watercourse", for purposes of Chapter 19.102, Glass and Lighting Standards, means any natural or artificial arroyo, canal, channel, conduit, creek, culvert, ditch, gully, lake, ravine river, stream, waterway, or wash or other topographic feature on or over which waters flow at least periodically and adjacent areas in which substantial flood damage may occur from overflow or inundation.**

X. "X" Definitions:

None.

Y. "Y" Definitions:

"Yard" means an area within a lot, adjoining a lot line, and measured horizontally, and perpendicular to the lot line for a specified distance, open and unobstructed except for activities and facilities allowed therein by this title.

1. "Front yard" means a yard measured into a lot from the front lot line, extending the full width of the lot between the side lot lines intersecting the front lot line.

2. "Rear yard" means a yard measured into a lot from the rear lot line, extending between the side yards; provided that for lots having no defined rear lot line, the rear yard shall be measured into the lot from the rearmost point of the lot depth to a line parallel to the front lot line.

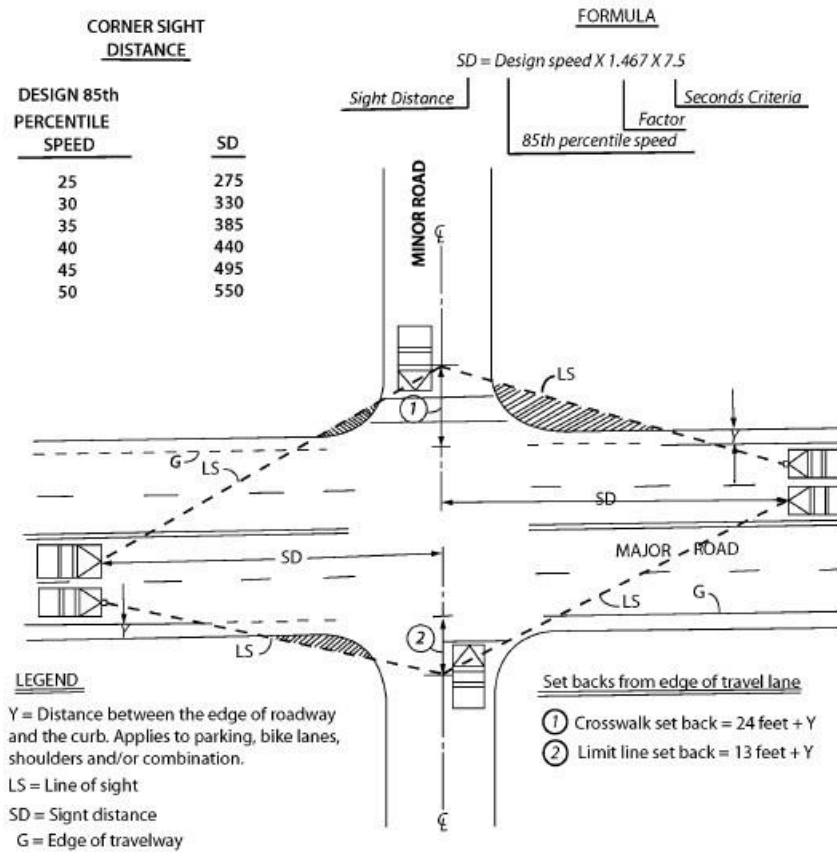
3. "Side yard" means a yard measured into a lot from a side lot line, extending between the front yard and rear lot line.

Z. "Z" Definitions:

None.

Appendix A: Cupertino Standard Detail 7-2 Corner Triangle - Controlled Intersections.

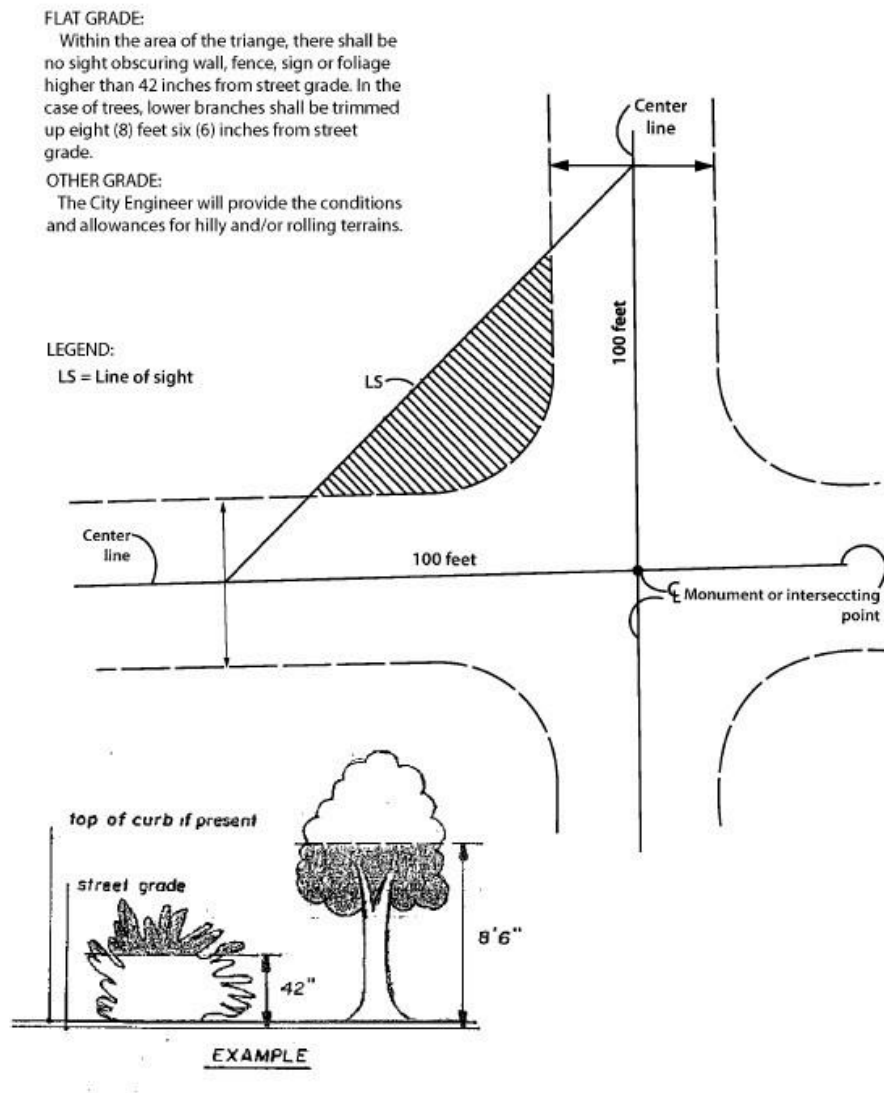
**APPENDIX A:
CUPERTINO STANDARD DETAIL 7-2
CORNER TRIANGLE - CONTROLLED INTERSECTIONS**



Note: To view this Appendix in PDF, click [HERE](#)

Appendix B: Cupertino Standard Detail 7-4 Corner Triangle - Uncontrolled Intersections.

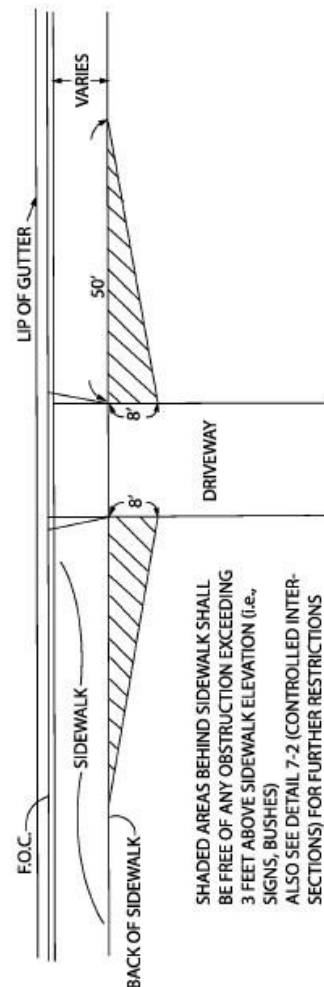
**APPENDIX B:
CUPERTINO STANDARD DETAIL 7-4
CORNER TRIANGLE - UNCONTROLLED INTERSECTIONS**



Note: To view this Appendix in PDF, click [HERE](#)

Appendix C: Cupertino Standard Detail 7-6 Sidewalk Site Triangle (Sidewalk Clearance at Driveways).

APPENDIX C:
CUPERTINO STANDARD DETAIL 7-6
SIDEWALK SITE TRIANGLE (SIDEWALK CLEARANCE AT DRIVEWAYS)



Note: To view this Appendix in PDF, click [HERE](#)

Appendix D: Examples of How to Measure Sign Area.

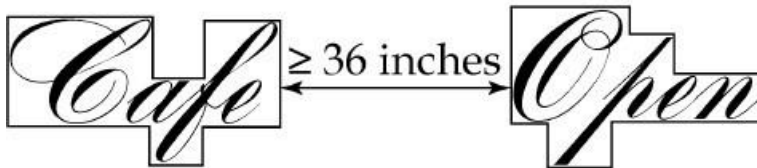
**APPENDIX D:
EXAMPLES OF HOW TO MEASURE SIGN AREA**



Individually lettered sign



Sign with background or borders



Sign separated by 36 inches or more

3. Amendments to Chapter 19.40.060 concerning lighting in Residential Hillside Zones

19.40.060 Building Development Regulations.

All provisions of this section may be deviated from upon obtaining a Hillside Exception in accordance with Section 19.40.070.

Table 19.40.060 sets forth the rules and regulations pertaining to the development of structures on property zoned Residential Hillside (RHS).

Table 19.40.060: Building Development Regulations				
A. Floor Area Ratio (FAR)				
1. Maximum Allowable Development	a. Net lot area < 10,000 square feet	Lesser of: . 6,500 square feet; or . 45% of net lot area times the slope adjustment factor pursuant to Section 19.40.060(A)(2)* * Formula = (0.45 x Net lot area) x (Slope adjustment factor)		
	b. Net lot area 10,000 square feet	Lesser of: . 6,500 square feet; or . 4,500 square feet plus 59.59 square feet for every 1,000 square feet over 10,000 square feet of net lot area, times the slope adjustment factor pursuant to Section 19.40.060(A)(2)* * Formula = (4,500 + ((Net lot area -10000)/1000) (59.59)) x (Slope adjustment factor)		
2. Adjustment Factor based on Average Slope of Net Lot Area			Average Slope	Reduction (1.5 x (Average Slope - 0.1))
	a. Average Slope 10%	No reduction in allowable floor area slope adjustment factor = 1	< 10%	0%
	b. Average slope between	A reduction in allowable floor area by one and one-half percent (1.5%) for each	11%	1.5%
			12%	3.0%
			13%	4.5%
			14%	6.0%
			15%	7.5%
			16%	9.0%
			17%	10.5%
			18%	12.0%
			19%	13.5%
			20%	15.0%
			21%	16.5%
			22%	18.0%
			23%	19.5%

	10% and 30%	percent of slope over 10%. Slope adjustment factor = (1-(1.5 x (average slope of net lot area - 0.1)))	24%	21.0%
			25%	22.5%
			26%	24.0%
			27%	25.5%
			28%	27.0%
			29%	28.5%
	c. Average slope > 30%	Allowable floor area shall be reduced by a constant 30% Slope adjustment factor=(1- 0.3)	30%	30.0%
3. Additional Regulations for Lots Within Clustered Subdivisions where Land is Reserved for Common Open Space				
a. Lot Area for calculating FAR	May count a proportionate share of the reserved private open space to arrive at lot area for purposes of calculating FAR.			
b. Maximum FAR prior to slope consideration	No developable lot in a cluster development can exceed forty-five-percent floor area ratio, prior to applying the slope adjustment factor, when a portion of the private open space is attributed to the lot area for calculating FAR.			
c. Average slope of lot	Calculated on the developable lot only.			
B. Height of Buildings and Structures	Limited to 30 feet			
C. Setbacks				
	First Floor		Second Floor	Habitable Third Floor (or portions of structures taller than 20 feet)
1. Front-yard				
a. Slope ≤ 20%	20 feet	Driveway and garage must be designed to enable vehicles to park off-street	25 feet	25 feet
b. Slope > 20%	10 feet		25 feet	25 feet
2. Side-yard				

a. Interior Side	10 feet	15 feet	20 feet
b. Street Side on Corner Lot	15 feet	15 feet	20 feet
3. Rear-yard	20 feet	25 feet	25 feet
D. Second Story Decks and Patios Minimum Setbacks			
1. Front Yard	-	17 feet	17 feet
2. Side Yard	-	15 feet	15 feet
3. Rear Yard	-	20 feet	20 feet
E. Downhill Facing Elevation			
1. Second Story Downhill Facing Wall Plane Offset			
a. Offset from First Floor Downhill Wall Plane	i. Average of 7 feet 6 inches for 75% of the second story downhill facing wall plane shall be setback and ii. Not less than five feet. iii. The remaining 25% may not extend past the first story wall plane.		
b. Multiple Downhill Facing Wall Planes	Offset shall apply only the primary setback affected.		
c. Offset from First Floor Roofed Porches	i. Offset may be measured from the outside perimeter of first-story roofed porches. ii. Roof of the porch must match, in pitch and style, the roof of the main structure. iii. Porch must be at least 5 feet in width and extend the length of the wall on which it is located.		
2. Maximum Wall Height on Downhill Elevation	15 feet		
F. Permitted Yard Encroachments			
1. Extension of a Legal Non-conforming Wall Plane for structures not located within a prominent	a. Where a building legally constructed according to existing first floor yard and setback regulations at the time of construction encroaches upon present required first floor setbacks, one encroaching side of the existing structure may be extended along existing building lines. b. Only one such extension shall be permitted for the life of the building. c. Encroachments into a required yard which are the result of the granting of a variance may not be further extended. d. Further encroachment into a required setback is not		

ridgeline site line	allowed. I.e., a non-conforming setback may not be further reduced. e. In no case shall any wall plane of a first-story addition be placed closer than three feet to any property line.
2. Architectural Features	a. May extend into a required yard a distance not exceeding three feet. b. No architectural feature, or combination thereof, whether a portion of a principal or accessory structure, may extend closer than three feet to any property line.
G. Accessory Structures (including attached patio covers)	As allowed by Chapter 19.100, Accessory Buildings/Structures
H. Design Standards	
1. Building and Roof Forms	
a. Natural Contours	Building shall follow as closely as possible the primary natural contour of the lot.
b. Building Mass and Roof Pitches	The main building mass shall be on the upslope side of the building and the roof pitches shall trend downslope.
c. Second Story Dormers	Permitted within the second story setbacks as long as they are minor in shape and size.
d. Downhill Elevation of main structure	Shall have a minimum of four offset building and roof elements to provide varied building forms to produce shadow patterns which reduce the impact of visual mass.
e. High Wall Planes	Wall planes exceeding one story or 20 feet in height, whichever is more restrictive, shall contain architectural elements in order to provide relief and to break up expansive wall planes.
2. Colors	
a. Natural Earth Tones	All structures on the lot shall use natural earth tone and/or vegetation colors which complement the natural surroundings. Natural earth-tone and vegetation colors include natural hues of brown, green and shades of gray.
b. Reflectivity Value	Shall not exceed 60 on a flat surface
3. Outdoor Lighting	All outdoor lighting shall <u>meet the requirements in Chapter 19.102</u> , be identified on the site development plan.
a. Tennis Court and Other Recreational Purposes	High intensity lights not permitted.

b. Motion-activated Security Lights	1. Shall not exceed 100 watts and 2. Must be shielded to avoid all off-site intrusion.
c. Other lighting	Must be directed to meet the particular need.
I. Geologic and Soils Reports	
1. Applicability	<p>A geological report prepared by a certified engineering geologist and a soils report prepared by a registered civil engineer qualified in soils mechanics by the State shall be submitted prior to issuance of permits for construction of any building or structure which:</p> <ul style="list-style-type: none"> a. Is located on property in an RHS zoning district which has been designated by the General Plan to be within a geological hazard area; and b. Where an addition, alteration or repair of an existing building or structure include at least one of the following: <ul style="list-style-type: none"> i. The improvements include increasing the occupancy capacity of the dwelling such as adding a bedroom or secondary unit, or ii. The cost of the completed addition, alteration or repairs will, during any period of twelve months, exceed twenty-five percent of the value of the existing improvements as determined by the building official based on current per foot value of the proposed structure to the existing structure's value on a parcel of property. For the purposes of this section, the value of existing improvements shall be deemed to be the estimated cost to rebuild the improvements in kind, which value shall be determined by the building official.

2. Content of Reports	<p>These reports shall contain, in addition to the requirements of Chapter 16.12 of this code, the following:</p> <ul style="list-style-type: none"> a. All pertinent data, interpretations and evaluations, based upon the most current professionally recognized soils and geologic data; b. The significance of the interpretations and evaluations with respect to the actual development or implementation of the intended land use through identification of any significant geologic problems, critically expansive soils or other unstable soil conditions which if not corrected may lead to structural damage or aggravation of these geologic problems both on- and off-site; c. Recommendations for corrective measures deemed necessary to prevent or significantly mitigate potential damages to the proposed project and adjacent properties or to otherwise insure safe development of the property; d. Recommendations for additional investigations that should be made to insure safe development of the property; e. Any other information deemed appropriate by the City Engineer.
3. Incorporation of Recommendations	<p>All building and site plans shall incorporate the above-described corrective measures and must be approved by the City Engineer, prior to building permit issuance.</p>
J. Private Roads and Driveways	
1. Pavement Width and Design	<p>The pavement width and design for a private road or common driveway serving two to five lots and a single-lot driveway shall comply with development standards contained in the Hillside Subdivision Ordinance, Chapter 18.52 of this code.</p>
2. Reciprocal Ingress/Egress Easement and Reciprocal Maintenance Agreement	<p>The property owner for a lot served by a private road or common driveway shall, prior to issuance of building permits, record an appropriate deed restriction guaranteeing the following, to adjoining property owners who utilize the private road or common driveway for the primary access to their lot(s):</p> <ul style="list-style-type: none"> a. Reciprocal ingress/egress easement, and b. Participation in a reciprocal maintenance agreement.

K. Solar Design	The setback and height restrictions provided in this chapter may be varied for a structure utilized for passive or active solar purposes, provided that no such structure shall infringe upon solar easements or adjoining property owners. Variation from the setback or height restrictions of this chapter may be allowed only upon issuance of an Administrative Conditional Use Permit subject to Chapter 19.12.
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4. Amendments to Section 19.60.060 concerning lighting in General Commercial Zoning Districts

19.60.060 Development Standards.

Table 19.60.060 sets forth the rules and regulations pertaining to the development of property located in the General Commercial (CG) zoning district.

Table 19.60.060: Development Standards	
A. Lot Area and Coverage	No minimum lot area or coverage. Must be in conformance with the General Plan or applicable Specific Plan. Must have sufficient area to satisfy off-street parking and loading requirements contained in this title.
B. Height of Buildings and Structures	30 feet unless otherwise permitted by the General Plan or applicable Specific Plan.
C. Required Setbacks for Buildings and Enclosed Patio/Atrium Space	
1. Front Yard	Established based upon special policies contained in the General Plan and/or applicable specific plan to: <ul style="list-style-type: none"> - Insure sufficient space to provide adequate light, air and visibility at intersections; - Assure general conformity to yard requirements of adjacent or nearby zones, lots or parcels; and - Promote excellence of development.

2. Minimum Side and Rear Yard	No side or rear yard setback required unless lot abuts any residential or agricultural-residential zone in which case the following regulations apply:
a. Side Yard Setback	
i. Interior Side	12 feet, or a total setback equal to one foot of additional setback for each foot of height of a commercial building measured from its eave line or top of parapet, whichever is more restrictive.
ii. Street Side of Corner Lot	12 feet
b. Rear Yard Setback	20 feet, or a total setback equal to one and one-half feet of additional setback for each foot of height of a commercial building measured from its eave line or top of parapet, whichever is more restrictive.
D. Noise Standards –	
1. New Construction and uses approved as a Conditional Use that have a high probability of generating noise that adjoin residential districts shall be:	
a. Exterior Walls	Designed to attenuate all noise emanating from interior retail space.
b. Loading Docks and Doors	Located away from residential districts. Required Fire Doors are excluded.
c. Mechanical and other equipment	Air conditioning, exhaust fans, and other mechanical equipment shall be acoustically isolated to comply with the noise ordinance
d. Sound Wall	Install a minimum eight-foot-high masonry sound wall on or adjacent to the common property line
e. Acoustical Engineer	Certified by an acoustical engineer that the above sound attenuation measures comply with the intent of the regulation and the City's community noise ordinance
2. In addition to (1) above, retail structures in a mixed use residential development shall employ noise attenuation techniques recommended by an acoustical engineer to comply with the community noise ordinance.	
E. Lighting – New lighting fixtures for any new site construction or building improvements <u>shall meet the requirements in Chapter 19.102.</u>	

1. Exterior Lighting	Shall be a white type light either metal halide or a comparable color corrected light unless otherwise approved as part of a development plan.
2. Off-site Glare	Light fixtures shall be oriented and designed to preclude any light and direct glare to adjacent residential properties. No direct off-site glare from a light source shall be visible above three feet at a public right of way.
3. Parking Lots, Sidewalks and other areas accessible to pedestrians and automobiles	Shall be illuminated with a uniform and adequate intensity. Typical standards to achieve uniform and adequate intensity are:
a. Average horizontal maintained illumination	Should be between one and three foot candles
b. Maximum to Minimum Ratio	Should be between 6:1 and 10:1
4. Critical Area Illumination	Such as stairways, ramps and main walkways may have a higher illumination
5. Areas around Automatic Teller Machines	Shall meet minimum standards required by the State of California Business and Professions Code.
F. Landscaping Plan	Shall be designed to provide an effective year-round landscaping screen in the setback area adjoining a residential property. The intent of the plan is to screen the building from the rear yard of a residence within five years.

G. Utilities	<p>1. The following amenities and utilities shall be installed subject to the specifications of the subdivision ordinance:</p> <ul style="list-style-type: none"> a. All utilities including water, gas, sanitary and storm sewers, underground power systems, and b. Amenities including, lighting electroliers, curbs, gutters, streets and sidewalks and c. Connections to main systems shall be installed subject to the specifications of the subdivision ordinance of the City. <p>2. All wires, pipes, cables, utilities and connections shall be placed in underground or subsurface conduits subject to the specifications of the subdivision ordinance of the City.</p> <p>3. Underground vaults, or, well screened areas, if underground vaults are deemed to be infeasible by the City Engineer and the Director of Community Development, must be provided for the installation of the necessary utilities.</p>
H. Mechanical Equipment	Air conditioning, exhaust fans, and other mechanical equipment shall be visually screened.

5. Amendments to Section 19.72.050 concerning lighting in Light Industrial (ML) and Industrial Park (MP) zoning districts

19.72.50 Restrictions Related to Emissions.

No use shall be allowed which is or will be offensive by reason of the emission of dust, gas, smoke, noise, fumes, odors, bright lights, vibrations, nuclear radiation, radio frequency interference, or otherwise. Every use shall be operated in such manner that

the volume of sound inherently and recurrently generated shall not exceed sixty-five decibels during the day and fifty-five decibels at night, at any point on the property line on which the use is located, or sixty decibels during the day and fifty-five decibels at night, at any point on the property line on which the use is located where such property line abuts property that is zoned for residential purposes. Noise and sounds shall be appropriately muffled in such manner so as not to be objectionable as to intermittent beat, frequency, or shrillness.

Provided further that prior to issuance of a building permit the Building Inspector may require evidence that adequate controls, measures, or devices have been provided to insure and protect the public interest, health, comfort, convenience, safety and general welfare from such nuisances.

Emissions of noise, vibrations, radiation, light, smoke, fumes or gas, odor, dust and toxic waste shall be limited to quantities indicated in this section. The limitations shall apply at any point outside the boundary of each lot in an ML zone, the boundary assumed, for the purpose of this title, to extend in a vertical plane and below ground. In case of further subdivision or lot split, the limitations shall not apply outside any resulting lot.

A. Vibration. Vibrations in the nonaudible range shall not be of such intensity that they can be perceived without instruments.

B. Radiation. Electromagnetic radiation shall not result in perceptible disturbance of television or radio reception.

C. Light. **In addition to the lighting standards in Chapter 19.102, all development shall meet the following lighting standards:**

- 1.** The intensity of light at the boundary of each lot shall not exceed seventy-five footlamberts from a source of direct light, or one hundred footlamberts from a source of reflected light.
- 2.** The intensity of light at the boundary of an industrial zone, or an industrial area in a planned development (P) zone, shall not exceed fifty footlamberts from a source of direct light, or seventy-five footlamberts from a source of reflected light.
- 3. In the event there is a conflict with Chapter 19.102, the less stringent lighting standards shall apply.**

D. Smoke. No emission shall be permitted at any point, from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 1 on the Ringelmann Smoke Chart, as published by the U.S. Department of Interior, Bureau of Mines,

Informational Circular 8333, May 1967; except that a visible grey smoke of a shade equal to No. 2 on the Ringelmann Smoke Chart may be emitted for four minutes in any thirty minutes.

E. Hazardous and Toxic Materials. The use, handling, storage, and transportation of toxic and hazardous materials shall comply with the provisions of the California Hazardous Materials Regulations (California Administrative Code, Title 22, Division 4). The use, storage, manufacture and disposal of hazardous materials shall be regulated and monitored according to the standards established by the U.S. Environmental Protection Agency (EPA), the California Environmental Protection Agency (Cal/EPA) and any delegated government agencies.

F. Odor. No emission of odorous gases or other odorous matter shall be permitted in such quantities as to be readily detectable without the aid of instruments at the boundaries of the lot or in such concentrations as to create a public nuisance or hazard beyond such boundaries. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail. There is established as a guide in determining such quantities of offensive odors, Table III, Odors Thresholds, in Chapter 5 of Air Pollution Abatement Manual, copyrighted in 1951 by Manufacturing Chemists Association, Inc., Washington, D.C.

G. Fly Ash, Dust, Fumes, Gases and Other Forms of Air Pollution. No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property, or that will result in the collection of heavy gases at ground level. No emission shall be permitted in excess of fifty percent of the standards specified in Table I, Chapter 5 of Industrial Hygiene Standards, Maximum Allowable Concentrations of the Air Pollution Abatement Manual, copyrighted in 1951 by Manufacturing Chemists Association, Inc., Washington, D.C. In no event shall any emission, from any chimney or otherwise, exceed one-tenth of a grain (0.1 grain) per cubic foot of the conveying gas. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of five hundred degrees Fahrenheit and fifty percent excess air.

Wastes. No discharge shall be permitted into any public street or sewer, private sewage disposal system, stream, body of water, or into the ground, of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in sewage treatment, corrode or otherwise damage sewers or pipelines, or otherwise cause the emission of dangerous or offensive elements, except in accordance with standards approved by the California Environmental Protection Agency (Cal/EPA) and any other governmental agency having jurisdiction over the activities.

6. Amendments to Section 19.124.040 concerning lighting in off-street parking**19.124.040 Regulations for Off-Street Parking.**

Table 19.124.040 sets for the rules and regulations for Off-Street Parking.

Table 19.124.040 - Regulations for Off-Street Parking		
A.	Parking Ratio and Dimensions	Table 19.124.040(A) defines the minimum and maximum required number of parking spaces by size and type for specific zoning districts and use within districts.
B.	Residential Lots Fronting on Public or Private Streets	If no on-street parking is available, two additional off-street spaces are required.
C.	Large-Family Day Care Home	Requirements are in addition to minimum requirements of the zoning district. May be on-street, in front of provider's residence. If the provider is relying on on-street parking and the roadway prohibits on-street parking, a semi-circular driveway may be provided, subject to other provisions of the Municipal Code.
1.	Non-resident Employee Parking	Minimum of one parking space for each non-resident employee.
2.	Drop-off Parking	Minimum of one parking space with direct access to the unit, not crossing a street.
D.	Aisle Dimensions	Aisle dimension shall be as required by standard details adopted by the City Engineer and shown in Table 19.124.040(B)
E.	Loading Areas	Loading areas, truck parking spaces and parking spaces for vehicles other than automobiles shall have ample dimensions for the particular use and type of operation, and be designed as required by the City Engineer except in the case of loading areas in the OP and MP zones which are specified in Chapters 19.68 and 19.72.
F.	Planned Development Districts	The parking requirement contained in Table 19.124.040(A) functions as guidelines for projects in planned development zoning districts.

Table 19.124.040 - Regulations for Off-Street Parking		
G.	Mixed-Use and Shared Parking	The minimum parking requirement for developments with more than one land use, or parking facilities being used by one or more properties, shall be determined using Table 19.124.040(C).
H.	Alternative Parking Standards	For all projects not meeting parking requirements in Table 19.124.040(A), (B) or (C), alternative parking arrangements may be approved per Section 19.124.060C
I.	Tandem, Valet and Other Special Parking Arrangements	Tandem, Valet, and other special forms of parking may be approved per Section 19.124.060C.
J.	Minimum Stall Dimensions in Parking Structures	Uni-size space located in a parking garage or other enclosed parking structure intended for non-residential uses is eight and one-half (8.5) feet by eighteen (18) feet.
1.	Space adjacent to a wall or structure on one side	Nine feet by eighteen feet.
2.	Space adjacent to a wall or structure on both sides	Nine and one-half feet by eighteen feet.
K.	Accessible Parking for the Disabled	The accessible parking requirement for the disabled is embodied in Section 1129 B of the California Building Code, as amended, is hereby incorporated into this chapter by reference.
L.	Heavy Equipment	<ol style="list-style-type: none"> 1. May only be stored within entirely enclosed structures or behind six-foot-high fencing in interior side yard and rear yard setback areas; and 2. In no case shall these items be visible from the street even when placed in permitted areas. 3. The provisions in L(1) and L(2) shall not apply to heavy equipment stored on site that is being used for construction or installation of improvements with a valid building or grading permit.
M.	Other Regulations	Outlined in Title 11 of the Municipal Code.

Table 19.124.040 - Regulations for Off-Street Parking			
N.	Landscape Requirements	Applicable to all new centers and centers with a twenty- five percent or greater increase in floor area or a twenty- five percent or greater change in floor area resulting from use permit or architectural and site approval within twelve months shall be required to meet the following minimum landscape requirements. However, the Planning Commission and/or City Council may recommend additional landscaping.	
1.	Minimum Interior Landscaping	As required in Table 19.124.040 (N)(1) below:	
		Table 19.124.040(N)(1):	
		Size of Parking Facility (Sq. Ft.)	Minimum Required Interior Landscaping (% of Total Parking Interior Facility Area)
		Under 14,999	5%
		15,000 - 29,000	7.5%
		30,000 plus	10%
2.	Parking Lot trees	<p>i. Shall be planted or exist at a rate of one tree for every five parking stalls for every ten spaces in a single row.</p> <p>ii. Only fifty percent of the trees located along the perimeter of the parking area may count towards the required number of trees.</p> <p>iii. A parking facility with larger trees with high canopies may be allowed to increase the number of parking stalls (up to 10 parking stalls per tree) depending on the size of the tree and canopy size.</p>	
3.	Landscape Planter Strip	At least three feet wide by the length of the parking space.	
4.	Placement of Trees	Shall be offset to prevent vehicles from bumping into them. The Planning Department shall review and approve final tree locations.	

Table 19.124.040 - Regulations for Off-Street Parking		
5.	Landscape Buffer (inclusive of curbing and vehicle overhang allowance)	<p>i. When parking lot is adjacent to a street, landscape buffer = ten feet wide</p> <p>ii. When adjacent to a side or rear property line, landscape buffer = five feet wide,</p> <p>iii. Buffer between double loading stalls = four feet.</p>
6.	Flat and Raised Curbs, Wheel Stops and Overhang into landscaped areas	<p>i. Landscape areas shall be enclosed by a six-inch wide continuous flat curb allowing parking lot run off into landscaping area, infiltration islands or swales.</p> <p>ii. Concrete wheel stops shall be placed on top of the flat curb and shall be provided at a rate of one per two stalls.</p> <p>iii. Landscape planter strips at the end of the parking aisles adjacent to a driveway shall be enclosed by a six-inch raised concreted curb with drainage outlets to help delineate the driveways or aisles.</p> <p>iv. Parking stall length may be decreased by up to two feet but must provide an equivalent vehicle overhang into landscaped areas.</p>
7.	Planter Strips	<p>i. Curbed planter strips shall be provided at the end of each parking aisle.</p> <p>ii. Landscape planter strip shall be at least three feet wide and the length of a parking stall.</p>
8.	Pedestrian Paths	Where appropriate, provision shall be made to ensure that adequate pedestrian paths are provided throughout the parking lot/landscaped areas.
9.	Minimum Tree Size	Trees require to meet any section of this title shall be a minimum of fifteen gallon size.
10.	Tree Protection	All trees shall be protected by wheel stops, curbing, bollards or other similar barriers as appropriate.
11.	Maintenance	All landscaping shall be continuously maintained.

Table 19.124.040 - Regulations for Off-Street Parking		
O.	Swales and Permeable Surfaces	In order to reduce urban runoff and provide water quality benefits in parking lots, all new parking lots or any substantial alterations to existing parking lots shall incorporate the following design measures to the maximum extent possible:
1.	Bio-swales	Incorporate bio-swales in the required landscaping buffers.
a.	Standards for bio-swales	<p>i. Longitudinal slope of the swale shall be between one percent and five percent.</p> <p>ii. Swales of greater than three percent may be required to install check dams to reduce velocity through swale.</p> <p>iii. Side slope shall not exceed 3:1 (horizontal:vertical).</p> <p>iv. All swales shall be required to provide an adequate under-drain system to prevent ponding. Swales shall be designed to eliminate any ponding of water for more than forty-eight hours.</p>
2.	Permeable surfaces	Use permeable or semi-permeable materials for the parking stalls
P.	Bicycle Parking	Bicycle parking shall be provided in multi-family residential developments and in commercial districts. In commercial districts, bicycle parking shall be conveniently located and adjacent to on-site bicycle circulation pedestrian routes. The bicycle parking facilities shall be one of the following three classification types:
1.	Class I Facility	These facilities are intended for long-term parking and are intended to protect the entire bicycle or its individual components and accessories from theft. The facility also protects the cycle from inclement weather, including wind driven rain. The three design alternatives for Class I facilities are as follows:

Table 19.124.040 - Regulations for Off-Street Parking		
a.	Bicycle Locker	A fully enclosed space accessible only by the owner or operator of the bicycle. Bicycle lockers must be fitted with key locking mechanisms.
b.	Restricted Access	Class III bicycle parking facilities located within a locked room or locked enclosure accessible only to the owners and operators of the bicycle. The maximum capacity of each restricted room shall be ten bicycles. In multiple family residential developments, a common locked garage area with Class II parking facilities shall be deemed restricted access provided the garage is accessible only to the residents of the units for whom the garage is provided.
c.	Enclosed Cages	A fully enclosed chain link enclosure for individual bicycles, where contents are visible from the outside, which can be locked by a user provided lock. This facility may only be used for multiple family residential uses.
2.	Class II Facility	<p>i. Intended for short term parking. A stationary object which the user can lock the frame and both wheels with a user provided lock.</p> <p>ii. The facility shall be designed so that the lock is protected from physical assault.</p> <p>iii. A Class II facility must accept U-shaped locks and padlocks.</p> <p>iv. Class II facilities must be within constant visual range of persons within the adjacent building or located at street floor level.</p>
3.	Class III Facility	<p>i. Intended for short-term parking. A stationary object to which the user may lock the frame and both wheels with a user provided cable or chain and lock.</p> <p>ii. Spacing of the bicycle units shall be designed for a handlebar width of three feet, distance from bottom of wheel to top of handlebar of three feet and six inches</p>

Table 19.124.040 - Regulations for Off-Street Parking		
		and a maximum wheel-to-wheel distance of six feet.
Q.	Parking Lot <u>and</u> Structured Parking Lighting	Applicable to N new lighting fixtures for any new site construction shall meet the following requirements <u>in addition to the requirements of Chapter 19.102:</u>
1.	Exterior Light Color	All exterior lighting shall be a white type light either metal halide or a comparable color corrected light unless otherwise approved as part of a development plan for uniformity, not allowing any dark areas in the parking lot.
2.	Lighting Glare	<p>i. The light fixtures shall be oriented and designed to preclude any light and direct glare to adjacent residential properties.</p> <p>ii. No direct off-site glare from a light source shall be visible above three feet at a public right-of-way.</p>
3.	Lighting Intensity	Parking lots, sidewalks and other areas accessible to pedestrians and automobiles shall be illuminated with a uniform and adequate intensity. Typical standards to achieve uniform and adequate intensity are:
a.	Average Horizontal Maintained Illumination	Between one and three foot-candles
b.	Average Maximum to Minimum Ratio	Should be generally between six and ten to one
c.	Minimum Intensity above Parking Lot Surface	Minimum three foot-candles vertically above the parking lot surface shall be maintained.
4.	Critical Areas	Such as stairways, ramps and main walkways may have a higher illumination.
5.	Automatic Teller Machines (ATM)	Lighting around automatic teller machines shall meet minimum standards required by the State Business and Professions Code.
6-5.	Shatter Resistant Lenses	Shatter resistant lenses should be placed over the light to deter vandalism.

Table 19.124.040 - Regulations for Off-Street Parking		
<u>7.6.</u>	Underground <u>and Structured Parking</u> Lighting	i. Underground <u>Lighting</u> should <u>shall</u> utilize vandal-resistant fixtures and ii. Maintain a minimum five lux level of color-corrected lighting for maximum efficiency.
<u>8.7.</u>	Parking Garage Entrances	Portal lighting should be provided inside all parking garages entrances.

R. Parking Space Dimension Chart. Parking space dimensions shall be as shown in Table 19.124.040(A):

Table 19.124.040(A)					
Land Use	Zones	Parking Ratio ⁽²⁾	Bicycle Parking	Bicycle Parking Class ⁽⁴⁾	Stall Dimensions (3)
Residential					
Single-Family	R-1/RHS/A1/P	4/DU (2 garage + 2 open)			10 x 20 ea.
Small Lot Single-family, Townhouse	P	2.8/DU (2 garage + 0.8 open)			10 x 20 ea.
Duplex	R2	3/DU (1 ½ enclosed + 1 ½ open)			10 x 20 ea.
High Density Multiple-Family,	R3/P	2/DU (1 covered + 1 open)	1 space per 2 residential units; and	Class I	9.5 x 20 ea.
High Density Multiple Story Condominium			1 space per 10 residential units	Class II	
Public/Quasi-Public/Agriculture					

Table 19.124.040(A)

Land Use	Zones	Parking Ratio⁽²⁾	Bicycle Parking	Bicycle Parking Class⁽⁴⁾	Stall Dimensions⁽³⁾
Churches, Clubs, Lodges, Theaters	BQ/CG	1/4 seats +1/employee +1/special-purpose vehicle	2% of seats. Minimum two spaces	Class II	Uni-size
Schools and School Offices	BA/BQ	1/employee + 1/56 sq. ft. multipurpose room + 8 visitor spaces/school + 1/3 students at senior H.S. or college level	1 space per 5 students	Class II	Uni-size
Daycare Centers	CG	1/6.5 students			Uni-size
Martial Arts, CG Dance/Art/Music Studios, Tutorial Services, specialized schools (does not include adult tutorial schools or services)	CG	1/4 students plus 1/1 staff at any given time or 1/250 whichever is more restrictive	1 space per 5 students	Class II	Uni-size
Agriculture	A	2 garage + 2 open			10 x 20 ea.
Sanitariums and Rest Homes	BQ	1/doctor +1/3 employees + 1/6 beds			Uni-size
Private Recreation	FP	1/4 seats + 1/employee	1/5,000 sq. ft. Minimum two spaces	Class II	Uni-size

Table 19.124.040(A)					
Land Use	Zones	Parking Ratio ⁽²⁾	Bicycle Parking	Bicycle Parking Class ⁽⁴⁾	Stall Dimensions ⁽³⁾
Gyms, Auditoriums, floor area used Skating Rinks for seating without fixed seats	BA/BQ	1/56 sq. ft. purposes + 1/employee	1/5,000 sq. ft. Minimum two spaces	Class II	Uni-size
Commercial					
Motels/Hotels/Lodging	CG	1/unit + 1/employee (2) (3)	1/20,000 sq. ft.	Class II	Uni-size
Restaurant/Bar and Nightclubs	CG	1/3 seats + 1/employee + 1/36 sq. ft. of dance floor	1/2,000 sq. ft.	Class II	Uni-size
Restaurants without Separate Bar	CG	1/4 seats + 1/employee + 1/36 sq. ft. of dance floor	1/2,000 sq. ft.	Class II	Uni-size
Restaurant - Fast Food	CG	1/3 seats + 1/employee	1/2,000 sq. ft.	Class II	Uni-size
Specialty Foods	CG	1/3 seats or 1/250 sq. ft. whichever is more	1/2,000 sq. ft.	Class II	Uni-size
Bowling Alleys	CG	7/lane + 1/employee	1/5,000 sq. ft.	Class II	Uni-size
			1/1,250 sq. ft. up to 25,000 sq. ft. 1/2,500 sq. ft. between 25,000 – 50,000 sq. ft.		

Table 19.124.040(A)					
Land Use	Zones	Parking Ratio ⁽²⁾	Bicycle Parking	Bicycle Parking Class ⁽⁴⁾	Stall Dimensions (3)
General	CG	1/250 sq. ft.	1/5,000 sq. ft. over 50,000 sq. ft.	Class II	Uni-size
			1/5,000 sq. ft. Bulky Merchandise (5)		
Industrial					
Manufacturing	ML	1/450 sq. ft.	1/12,000 sq. ft.	Class I	Uni-size
Office/Prototype Manufacturing	ML/OA	1/285 sq. ft.	/1,250 sq. ft. or 1/15 employees, whichever is more restrictive.	Class I	Uni-size
Office					
Corporate/ Administrative/ General Multi-Tenant	CG/OP	1/285 sq. ft.	1/1,250 sq. ft. or 1/15 employees, whichever is more restrictive.	Class I	Uni-size
Medical and Dental Office	CG	1/175 sq. ft.	1/1,250 sq. ft.	Class II	Uni-size

Notes:

1. Refer to Table 19.124.040(B) for uni-size stall dimensions.
2. Refer to standard details table for requirements for handicapped parking.
3. See 19.124.040(J) for stall dimensions in parking structures.
4. See 19.124.040(P) for description of bicycle parking classes.
5. Retail space devoted to the handling of bulky merchandise such as motor vehicles, machinery or furniture, excluding grocery stores.

Table 19.124.040(B)					
Type of Parking Stall	Angle (In Degrees)	Stall Width	Aisle Width (One-Way Aisle)	Aisle Width (Two-Way Aisle)	Car Space Depth
		(A)	(B)	(B)	(C)
Uni-Size	0°	8.5	10.0	18.0	22.0
	30°	8.5	10.0	18.0	18.0
	35°	8.5	10.0	18.0	18.0
	40°	8.5	10.0	18.0	18.0
	45°	8.5	10.0	18.0	18.0
	50°	8.5	10.0	18.0	18.0
	55°	8.5	11.5	18.5	18.0
	60°	8.5	13.0	19.0	18.0
	65°	8.5	14.5	19.5	18.0
	70°	8.5	16.0	20.0	18.0
	90°	8.5	N/A	22.0	18.0

NOTES TO TABLE:

* - For handicap accessible spaces, please refer to § 1118A.4 of 1994 Uniform Building Code.

* - For further information, please refer to the Public Works Department Standard Details.

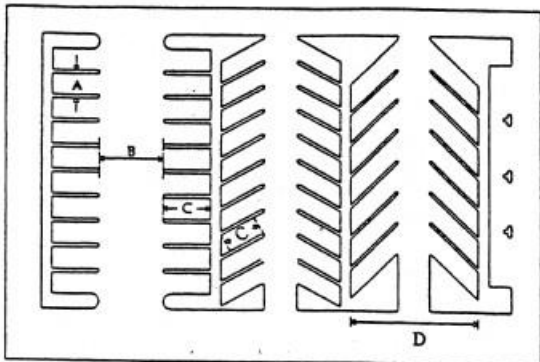


Table 19.124.040(C): Calculating Shared Parking for Mixed-Use Developments

Weekday Weekend Nighttime					
	Weekday		Weekend		Nighttime
	Daytime	Evening	Daytime	Evening	(midnight - 6:00 a.m.)
	(9:00 a.m. - 4:00 p.m.)	(6:00 p.m. - midnight)	(9:00 a.m. - 4:00 p.m.)	(6:00 p.m. - midnight)	
Residential	75%	100%	80%	100%	100%
Office/Industrial	100%	10%	10%	5%	5%
Retail	60%	90%	100%	70%	5%
Hotel	75%	100%	75%	100%	10%
Restaurant	100%	100%	100%	100%	10%
Entertainment / Recreational	40%	100%	80%	100%	10%

1. Determine the minimum amount of parking required for each land use as though it were a separate use;
2. Multiply each amount by the corresponding percentage for each of the five time periods;
3. Calculate the column total for each time period;
4. The column total with the highest value is the parking space requirement.

1312446.1

COMPARISON MATRIX OF OTHER CITIES' REGULATIONS

City	Applicable Locations				Glazing Standards	Lighting Standards			Exceptions	Others
	Structures City-Wide	Features City-Wide	Structures located near Open Space, Bodies of Water, Parks	Specific/Precise Plan Areas	% of glazing to be treated	Restrictions On Interior Lighting?	Restrictions On Exterior Lighting?	Prohibitions Specifically During Migration Season (Feb 15-May 31 and Aug 1 to Nov 30)?		
Santa Cruz	X	X			90% within 40 feet from grade	None Specified	Yes	None Specified	<ul style="list-style-type: none">• Historic buildings• As determined by Zoning Administrator and qualified biologist• First-floor windows on buildings which require clear glazing due to nature of business or character of area (e.g. retail)	
Alameda	X	X			90% of glazing on building façade or feature	None Specified	Yes	Yes		Requires a Bird Collision Reduction Plan for projects with Alternative Glazing compliance measures including layering and recessing glazed surfaces, angled or faceted glazed, louvres, overhangs and awnings, glass block, bird netting, decorative grilles, glass embedded with photovoltaic cells, placement of landscaping, or operational solutions.
Sunnyvale		X	X		Not specified	Yes	Yes	None Specified	Not specified	
Oakland		X	X		80% of all windows and glass facing the open space/water from ground to 60 feet above grade	Yes	Yes	Yes	Not specified	<p>Mandatory measures include all of the following:</p> <ul style="list-style-type: none">• Requires a Bird Collision Reduction Plan• Comply with federal aviation safety regulations• Minimize # of rooftop structures• Monopole structures or antennas shall not include guy wires• Avoid mirrors• Avoid placement of bird-friendly attractants near glass <p>Other best management practices (BMPs):</p> <ul style="list-style-type: none">• Donation of dead bird specimens to conservation organization or museum• Distribute education materials to building occupants• Employees to turn off task lighting at the end of work day• Install interior blinds• Schedule nightly maintenance during the day or conclude before 11 p.m.
San Francisco					<u>Location Hazard:</u> <ul style="list-style-type: none">• 90% of all windows and glass facing the open space/water <u>Feature Hazard:</u> <ul style="list-style-type: none">• 100% of feature	None Specified	Yes	None Specified	<ul style="list-style-type: none">• Historic buildings• Some residential buildings within R-districts	
Richmond		X	X		<u>Location Hazard:</u> <ul style="list-style-type: none">• 80% of all windows and glass facing the open space/water <u>Feature Hazard:</u> <ul style="list-style-type: none">• 100% of all glazing	None Specified	Yes	None Specified	<ul style="list-style-type: none">• Historic buildings• Some residential buildings based on glazing and height	
San Jose				X	Not specified	None Specified	Yes	None Specified	Not specified	Riparian Corridor Protection (North of Interstate 237) and San Jose Downtown Design Guidelines (Voluntary) and Standards (Mandatory): <ul style="list-style-type: none">• Do not use mirrored glass• Use a bird safety treatment on areas of glass through which sky or foliage is visible on the other side of parallel panes of glass less than 30 feet apart
Mountain View				X	90% within 60 feet from grade	Yes	Yes	Yes	<ul style="list-style-type: none">• Permitted based on analysis by a qualified biologist	North Bayshore Precise Plan Chapter 5: <ul style="list-style-type: none">• All new construction, additions, alterations shall require bird-safety design.

City	Separate Dark Sky Policy?	Applicability	Exceptions	Fixture type	Lighting controls	Prohibited lighting	Lighting Requiring a Hearing	Lighting Color	Lighting Standards by Zoning District
Campbell	No	All properties	N/A	<div>* Energy efficient</div> <div>* Fully shielded or recessed</div> <div>* External light fixtures, poles, and their foundation should be simple in design and compatible with and complimentary to the style of surrounding development.</div> <div>* Pedestrian style lighting (3-5 feet) should be installed in areas where foot traffic is prevalent.</div> <div>* Parking lots and private driveways should not be more than 20 feet.</div> <div>* Permanent lighting shall not blink, flash, or be of unusually high intensity or brightness.</div> <div>* Should be compatible in scale.</div>	Completely turned off or significantly dimmed at close of business when exterior lighting is not essential for security and safety when located in non-residential zoning districts	N/A	N/A	N/A	N/A
Cupertino	No	Residential Hillside, Commercial Development and Parking Lots	N/A	<div>*Residential Hillsides - Motion activated lights shall not exceed 100 watts and must be shielded to avoid all off-site intrusion. All other lighting to be directional.</div> <div>*Lightit fixutres shall be oreinted to preclude any light an direct glare to adjacent properties (CG and parking areas)</div>	N/A	High-intensity lighting in Residential Hillside zoning districts.	N/A	White type light (CG and parking areas)	N/A
Cupertino Proposed Regulations	Yes	All properties (outdoor lighting)	<div>*Lighting within the public right-of-way and public parks</div> <div>*Permitted lighting for signs</div> <div>*Lighting to illuminate address signs</div> <div>*Temporary construction or emergency lighting</div> <div>*Short-term authorized by a special events permit</div> <div>*Holiday seasonal lighting during the period of 10.15 through 1.15 of each year</div> <div>*Required lighting to comply with Building Code or state law</div>	<div>*Fully shielded, directed downward to meet a particular need and away from adjacent properties and rights-of-ways to avoid light trespass</div> <div>*Lighting fixtures must be a design that complements building and landscape design</div> <div>*Lighting fixtures shall be appropriate in height, intensity and scale to the use they are serving.</div> <div>*Parking lot lights in non-residential zones not to exceed 21 feet in height</div> <div>*Wall mounted lights not to exceed 12 feet in height</div>	<div>*All outdoor lighting shall be extinguished by 11:00pm, except for security lighting, lighting for building entrances, parking areas, and driveways required to remain illuminated after 11:00pm</div> <div>*Automated control systems (motion sensors and timers)</div> <div>*Photocells or photocontrols shall be used to extinguish all outdoor lighting automatically when sufficient daylight is available</div> <div>*Lighting activated by motion sensors shall extinguish no more than 10 minutes after activation</div>	<div>*Outdoor lighting that blinks, flashes, or rotates except those that may be permitted pursuant to Chapter 10.26</div> <div>*Outdoor floor lights that project above the horizontal plane</div> <div>*Lighting that unnecessarily illuminates any other lot or substantially interferes with uses or enjoyment of that lot</div> <div>*High-intensity discharge lighting for recreation courts on private property</div> <div>*Spotlights</div>	N/A	3,000 Kelvin or less	N/A
Malibu	Yes	All properties to comply with by a specific date determined in the reading of the ordinance, the following are to comply immediately: <div>* Outdoor lighting fixtures that can be pointed downward,</div> <div>* Lighting with dimmers and certain brightness,</div> <div>* String lights not for dining and entertainment</div> <div>* All outdoor lighting installed after the effective date</div>	<div>*Indoor lighting</div> <div>*Lighting within the public right-of-way</div> <div>* Permitted lighting for signs</div> <div>* Lighting to illuminate address signs</div> <div>* Temporary construction or emergency lighting</div> <div>* Aircraft navigation light (attached to towers)</div> <div>* Short-term lighting authorized by a special permit</div> <div>* Malibu High School field and parking lot lights</div> <div>* Seasonal lighting (11/15-1/15)</div>	<div>* All outdoor light fixtures shall be fully shielded and to not light trespass in excess amounts.</div>	<div>* Automated control system, such as motion sensors and timers, shall be used to meet the curfew requirements.</div> <div>* Photocells and photocontrols shall be used to extinguish all outdoor lighting automatically when sufficient daylight is available.</div>	<div>* Light trespass</div> <div>* Permanently installed lighting that blinks, flashes or is of unusually high intensity or brightness</div> <div>* Lighting of the shore is prohibited</div> <div>* Lighting around the perimeter, except for security purposes, is prohibited</div>	Director approves deviation in all residential zones, PC for all other zoning districts subject to certain findings	3000 Kelvin except amber colored sources near the beach and seasonal lighting.	Public Open Residential zoning district Commercial and Institutional districts
Mountain View	No	Multiple-family dwellings	N/A	<div>* Fixtures must be protected by weather- and vandalism-resistant covers, be directional and minimum 1.0 foot-candle illumination.</div> <div>* Perimeter lighting much be designed and shielded to not cause off-site glare and nuisance.</div>	Designed to turn on automatically at night.	N/A	N/A	N/A	N/A

City	Separate Dark Sky Policy?	Applicability	Exceptions	Fixture type	Lighting controls	Prohibited lighting	Lighting Requiring a Hearing	Lighting Color	Lighting Standards by Zoning District
Palo Alto	No	MF, Commercial, Manufacturing and Planned Community Districts	N/A	<div>* Exterior lighting shall be mounted less than or equal to 15 feet from grade to top of fixture in low activity or residential parking lots and 20 feet in medium or high activity parking lots. * Lighting of the building exterior, parking areas and pedestrian ways should be the lowest intensity and energy use adequate for its purpose, and be shielded to eliminate glare and light spillover.</div>	Timing devices should be considered for exterior and interior lights in order to minimize light glare at night.	N/A	N/A	N/A	N/A
Portola Valley	Yes	All outdoor lighting installed after the date of effect of the ordinance shall comply.	Exception for signs (different chapter regulates) Holiday lighting	<div>All outdoor fixtures shall be Dark Sky compliant, and include: * Shield directing light downward; * Bulb not protruding below horizontal plane at bottom of shield, * Light spill limited to the object to be illuminated, * Fixtures shall not have ability to swivel or adjust direction, except path lighting</div>	Implemented to the effect that outdoor lights are on when needed, can be used with motion sensor lights, photo-cells, timers - all lights shall self-extinguish within 2 minutes of being illuminated	<div>* Up-lighting, * Lights for game courts * Aerial lasers * Flood lights searchlights * Lighting with no on/off switch or ability to be controlled * Light that exceeds 1,125 lumens * Strings of exposed light bulbs</div>	Lighting for landscaping (incl. entryway features, pillars, posts), commercial parking light	N/A	N/A
San Luis Obispo	Yes	Whenever a person is required to obtain a building permit, electrical permit for outdoor lighting, or signage, and/or approval of any development project, the applicant, shall provide information to ensure compliance	<div>* Neon and signage lighting approved through architectural review, * Public rights-of-way lighting, * Emergency aviation lighting, * Infrastructure construction lighting, * Nonelectric lighting (gas lamps or kerosene lanterns), * Temporary and seasonal lighting, * Accent lighting (architectural features, statues, art, signage), * Search lights, * Billboards, * Decorative patio lighting</div>	<div>Outdoor lighting shall conform to: * Orientation - directed downward away from adjacent properties and ROW * Light Trespass in residential zones - max two-maintained horizontal foot candles (except at the site of the light source) * Light Intensity in residential sites - not exceed a maintained value of ten-foot candles at grade * Light intensity on nonresidential sites - not exceed a maintained value of 10-foot candles, standards for auto sales and athletic fields * Hours of Operation - turned off or sig. dimmed at the close of business hours unless lighting is essential for security or safety * New Development: Fully shielded, Design to complement building design and landscaping and may require arch. review. * Height, Intensity, and scale - appropriate to use. Service Station Canopies shall be fully shielded and utilize flush-mounted canopy fixtures with flat lenses</div>	N/A	<div>* Flashing * Projection above horizontal plan * Upward sign illumination search lights * Outdoor athletic fields to conclude at 11</div>	N/A	N/A	N/A

Comments left on Comment Cards/Handouts

Bird-Safe

1st Meeting

- Make mandatory
- New construction
- Should retroactively apply to large buildings
- _____
- Survey in city of bird population, then monitor bird deaths. Strikes? (Or is it habitat?)
- Consider what would help birds thrive – water, food sources.
- _____
- Applicable to new buildings/new additions, remodel and retrofits
- Applicable city-wide
- Exemption historic buildings and small residential buildings
- _____
- Policy should apply to existing municipal buildings and existing large buildings
- Policy should apply to bridges and other large structures
- Consider a window to wall ratio
- Ordinances are important symbolically as well to help influence other cities and our culture

2nd Meeting

- _____
- Practices should be mandatory
- Municipal practices should be mandatory for the city too
- _____
- What local data shows that a specific building is leading to injured/dead birds? I don't see any issues in our areas.
- _____
- Biggest concern – regulations that affect existing buildings – not everyone has money to replace things
- What do we mean by “small” residences vs. something else. Living on a hill you look for the view – not just light- from windows and don't want things interfering with that – no bird strikes in more than 7 years
- I like the “no trespass” idea for lighting
- _____
- Strongly support light shielding, but would like to stress importance of keeping driveways well lit as I feel very unsafe walking down busy streets like Stevens Creek Blvd.
- _____
- Make mitigation measures mandatory for new and existing structures (gradual roll out)
- Do not wait to study current threat to birds in Cupertino; if there are practices that can save lives now, implement them. Then continue to study the impact.
- _____
- Consideration #1: apply to all commercial (retail, office, housing development), also large residential (5000 sq. ft. and above) for new, remodel/retrofit, window replacement. Most

sensitive residential is in hillside and within 300 ft. of park/open space. Should apply to existing building of large scale and apply if/where they make some change requiring review.

- Consideration #2: as above, citywide for commercial, large residential, and sensitive residential (hills, near parks/open space). Also apply to bridges, balconies
- Consideration #3: exempt for commercial frontage, not see-thru, and for small residential
- Consideration #4: Prohibit certain applications, limit glass in certain constructions and areas. Glazing is OK; interior treatments not OK (don't work), no netting. Documentation and donation are not mitigations

Dark Sky

1st Meeting

- Schools – football games. Time limits? Not under city control De Anza – state?
- Consider 1) timing (after 10 pm to dawn?) 2) area – closer to foothills, more “rural” areas
- All lighting should not be visible directly or indirectly from the sky. This should apply for all lighting.
- Exemption should be lights activated by motion sensors.
- Should apply to streetlights as well
- Exemptions should have lumens limitations and should have no light shining upwards.
- White light should not be required in City regulations
- Color temperature should be below 2,700 kelvin
- Light regulations should apply to the public right of way and artistic lighting (and signs)
- No up lighting or spot-lighting should be allowed
- Regulations should apply to large structures such as bridges or wires
- Policy should apply to existing buildings (especially municipal and large buildings).
- Ordinances are important symbolically as well to help influence other cities and our culture
- Consideration #1: Apply to all properties and to both new and existing especially existing city buildings
- Consideration #2: Limit holiday lights to (12/15-1/7)
- All (including holiday) lights limited to wattage, lumen, and arrangement, also colors
- Consideration #3: Shielded, downward (functional) facing paths not above 4 ft.
- Consideration #4: Controls definitely – as for wattage limits this is for energy conservation also
- Consideration #5: deviations case by case, require City Council or City Manager approval – should be accountability in one senior person or in elected officials
- Consideration #6: prohibit flashing/blinking, up lighting, limit game courts (wattage, lumen, hours), limit floods & aerals

2nd Meeting

- Practices should be mandatory
- City should no longer require white lighting in certain areas
- Should retroactively apply to existing buildings (especially large offices)
 - Could be phased in like other ordinances

- Public right-of-way lighting should not be exempt
 - Municipal best practices should be mandatory for the city too
 - Absolutely no up lighting in any cases
 - Color temperature is important, reduce blue light!
-
- Need actual local data.
 - Can't support for residential
 - Need to show it is a local issue
 - Public safety concerns. Safer for birds but not for birds.
-
- Important to exempt existing single-family residential installations- even for remodel or window replacement
 - I like the idea of reducing trespass on neighbor's property but how would you check? What would enforcement look like?
 - Unexpected costs are a problem- just because you remodel doesn't mean money is unlimited. Consider what kinds of remodels will trigger
 - Best practices for residential (except light XXX??? Issues)
 - Lighting – reduce crime?
-
- Agree with making best practices required with minimal exemptions
 - Use gradual roll out (ex. Commercial first, residential last), but should apply to all
 - Consider lighting color as part of requirements or recommendations

Comments left on Poster Boards

Bird-Safe and Dark Sky (1st and 2nd Meetings)

- Should be mandatory
 - Should apply to new construction
 - Retroactively apply to buildings larger than 10,000 sq. ft.
 - Apply to bridges (other large structures)
 - Public right-of-way also
 - Stadium lighting
-
- Street lighting
 - Evaluate which are needed
 - Reduce contrast (light/dark) in areas with sparse lighting
 - Dimmer bulbs?
 - Regulations regarding outdoor party lights – hours
-
- Bird-Safe Consideration #1:
 - New construction

- Large windows/buildings = required bird-safe
 - Bird-Safe Consideration #2:
 - Windows near hazardous areas (hazardous to birds)
 - Citywide? – affects many people
 - New construction?
 - No permits for window replacement
 - Prohibit hazardous design elements (non-functional or decorative)
 - Window orientation
 - Darky Sky:
 - Huge recent increase in very bright floor lights illuminating yards and streets
 - Any new ordinance must apply to new and existing lighting
 - No light trespass
 - Must only illuminate small area
 - Motion sensors must only pick-up own property
 - Limited duration and intensity/lumens
 - Flood lights prohibited (by definition, they light trespass)
 - Car headlights intensity must be decreases and high beam use better controlled
 - Does data support lighting? (i.e., does lighting reduce crime?)
-

- Consideration #1 Applicable projects
 - New buildings commercial – non reflective glass
 - Exclude existing single-family residential homes and remodels
 - Consideration #2 –
 - Safety is a priority
 - Keep lit – parking lots, dark areas around buildings
-

- Car headlights
 - LED headlights (not high beam); too bright (blinding other drivers)
 - Gas station exemptions for theft safety?
 - Streetlight density (see Sunnyvale Murphy Square – too much lights)
 - Municipal Best Practices should be codified and made mandatory
-

- Data on bird strikes is important. Would be helpful to collect locally.

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. 6914

OF THE CUPERTINO PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE TO ADD CHAPTER 19.102: GLASS AND LIGHTING STANDARDS AND TO AMEND CHAPTER 19.08 DEFINITIONS, CHAPTER 19.40 RESIDENTIAL HILLSIDE (RHS) ZONES, CHAPTER 19.60 GENERAL COMMERCIAL (GC) ZONES, CHAPTER 19.72 LIGHT INDUSTRIAL (ML) AND INDUSTRIAL PARK (MP) ZONES, AND CHAPTER 19.124 PARKING REGULATIONS TO IMPLEMENT BIRD-SAFE AND DARK SKY POLICIES

The Planning Commission recommends the City Council:

1. Find that the 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; CEQA Guidelines section 15301 because the regulations would result in the minor alteration of existing public or private structures without any expansion of use; CEQA Guidelines section 15305 because the regulations involve minor alterations in land use limitations that do not alter permitted uses or density; and CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that these regulations related to glazing and lighting will have no possibility of a significant effect on the environment; and that none of the exceptions in CEQA Guidelines section 15300.2 apply; and
2. Adopt the proposed Ordinance, 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 CITY CODE TO ADD CHAPTER 19.102: GLASS AND LIGHTING STANDARDS AND TO AMEND CHAPTER 19.08 DEFINITIONS, CHAPTER 19.40 RESIDENTIAL HILLSIDE (RHS) ZONES, CHAPTER 19.60 GENERAL COMMERCIAL (GC) ZONES, CHAPTER 19.72

LIGHT INDUSTRIAL (ML) AND INDUSTRIAL PARK (MP)
ZONES, AND CHAPTER 19.124 PARKING REGULATIONS
TO IMPLEMENT BIRD-SAFE AND DARK SKY POLICIES

PASSED AND ADOPTED this 27th day of October 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: Chair Moore, Takahashi, Saxena, Fung
NOES: COMMISSIONERS: Vice Chair Wang
ABSTAIN: COMMISSIONERS: none
ABSENT: COMMISSIONERS: none

ATTEST:

APPROVED:

/s/Benjamin Fu
Benjamin Fu
Director of Community Development

/s/Kitty Moore
Kitty Moore
Chair, Planning Commission

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING CITY CODE TO ADD CHAPTER 19.102: GLASS AND LIGHTING
STANDARDS AND TO AMEND CHAPTER 19.08 DEFINITIONS, CHAPTER 19.40
RESIDENTIAL HILLSIDE (RHS) ZONES, CHAPTER 19.60 GENERAL
COMMERCIAL (GC) ZONES, CHAPTER 19.72 LIGHT INDUSTRIAL (ML) AND
INDUSTRIAL PARK (MP) ZONES, AND CHAPTER 19.124 PARKING
REGULATIONS TO IMPLEMENT BIRD-SAFE AND DARK SKY POLICIES**

The City Council of the City of Cupertino finds that:

WHEREAS, while the City has certain General Plan Goals, Policies and Strategies that support bird-safe and dark sky goals, it does not have regulations to promote effective Bird-safe and Dark Sky policies, and that the proposed new Chapter 19.102: Glass and Lighting and amendments to Chapter 19.08, 19.40, 19.60, 19.72, and 19.124 will provide effective standards to promote Bird-safe and Dark Sky policies;

WHEREAS, on October 28, 2019, Planning Commission provided staff guidance on potential Bird-safe and Dark Sky policies and guidelines;

WHEREAS, community meetings were held on February 12, 2020 and February 20, 2020 to allow the public an opportunity to review and provide comments on the preliminary development standards;

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 August 11, 2020 and October 27, 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, but rather it modifies Title 19: Zoning by adding a new chapter to create development standards for the implementation of regulations that support Bird-Safe and Dark Sky policies. 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 LU-3: Ensure that project site planning and building design enhance the public realm through a high sense of identity and connectivity.*
- *Policy LU-3.3: Building Design: Ensure that building layouts and design are compatible with the surrounding environment and enhance the streetscape and pedestrian activity.*
- *Strategy LU-3.3.1: Attractive Design – Emphasize attractive building and site design by paying careful attention to building scale, mass, placement, architecture, materials, landscaping, screening of equipment, loading areas, signage and other design considerations.*
- *Goal LU-12: Preserve and protect the City’s hillside natural habitat and aesthetic values.*
- *Goal ES-5: Protect the city’s urban and rural ecosystems.*
- *Policy ES-5.1: Urban Ecosystem – Manage the public and private development to ensure the protection and enhancement of its urban ecosystem.*
- *Strategy ES-5.2.1: Riparian Corridor Protection – Require the protection of riparian corridors through the development approval process.*

The adopted regulations will support protection of riparian corridors by allowing native wildlife, particularly nocturnal wildlife, corridors to travel along without interruptions by light intrusion. The regulations will also minimize bird fatalities by reducing overall illumination, which works to confuse birds and their migration patterns. The regulations will also encourage incorporation of bird-safe mitigations which will reduce the number of bird collisions. Further, the proposed ordinance includes policies to reduce the negative effects of light pollution on humans by ensuring adequate lighting to a site, preventing light trespass to adjacent properties, and ensuring that unnecessary lighting is extinguished at night.

- 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; CEQA Guidelines section 15301 because the regulations would result in the minor alteration of existing public or private structures without any expansion of use; CEQA Guidelines section 15305 because the regulations involve minor alterations in land use limitations that do not alter permitted uses or density; and CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that these regulations related to glazing and lighting will have no possibility of a significant effect on the environment; and that none of the exceptions in CEQA Guidelines section 15300.2 apply.

- 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.

By creating regulations for Bird-Safe and Dark-Sky development standards, the ordinance will promote orderly and consistent implementation of the regulations for development in 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 City by providing regulations that limit adverse impacts of development on the natural and built environment pertaining to birds and the night sky.

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

All the necessary chapters and sections of Title 19: Zoning 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 set forth in Attachment A.

SECTION 2: Severability and Continuity.

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

SECTION 3: California Environmental Quality Act.

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 15301 because it would result in the minor alteration of existing public or private structures without any expansion of use and under CEQA Guidelines Section 15305 because the proposed ordinance involves minor alteration in land use limitations that do not alter permitted uses or density. Finally, 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 glazing and lighting will have no possible significant effect on the environment. None of the exceptions listed in CEQA Guidelines section 15300.2 apply to the proposed ordinance

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 _____, 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

Attachment A – An Ordinance of the City of Cupertino to implement Bird-safe and Dark Sky policies and guidelines

This ordinance amends several portions of the Municipal Code. For ease of review, the amendments advancing the primary objective are presented first followed by conforming amendments. There is a separate heading in bold italics for each portion of the Code being amended. Each portion is shown beginning on a separate page.

The sections 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.*

Where the explanatory text indicates that a new section is being added to the City Code, the new section is shown in plain text.

1. Amendments to Title 19: Zoning adding Chapter 19.102: Glazing and Lighting Standards

19.102 GLASS AND LIGHTING STANDARDS

19.102.010 Purpose

19.102.020 Applicability of regulations

19.102.030 Bird-safe Development Requirements

19.102.040 Outdoor Lighting Requirements

19.102.010 Purpose

The purpose of this chapter is to regulate design and construction of structures and accessory elements in all zoning districts to protect the natural environment, particularly enhancing bird-safety and reducing light pollution. This Chapter establishes regulations to reduce bird mortality from windows or other specific glass features that are known to increase the risk of bird collisions and to reduce light pollution that is known to contribute to bird mortality and reduced visibility of the night sky.

19.102.020 Applicability of regulations

Whenever an applicant is required to obtain a building permit or a Permit pursuant to Title 19, the project shall meet the requirements of this Chapter. The following table indicates the applicability of regulations by type of project:

Type of Development	Applicable Sections
A. New primary or accessory building or structure construction	Sections 19.102.030 and 19.102.040
B. Complete or Partial Remodel of primary or accessory buildings or structures	Sections 19.102.030 and 19.102.040 apply to remodeled portions
C. Landscaping projects (in conjunction with or separate from a construction project)	Section 19.102.040
D. New or replacement glass windows, doors, or features	Section 19.102.030 applies to new windows, doors, or features
E. New or replacement exterior lighting	Section 19.102.040
F. Exemptions	See Sections 19.102.030(E) and 19.102.040 (D)

19.102.030 Bird-safe Development Requirements

- A. Application submittal requirements: In addition to the applicable application submittal requirements of Section 19.12.080, all projects that are subject to the bird-safe development requirements shall also submit the following:
1. Elevation drawings indicating the bird-safe treatment and how the proposed treatment meets the requirements;
 2. Cross sections, if required;
 3. Other exhibits indicating consideration and incorporation of the regulations in Section 19.102.030 (B), (C), and (D); and
 4. Biologist report in support of alternative compliance method pursuant to Section 19.102.030 (B)(4), if proposed.
- B. Fenestration and Glass Requirements
1. Façades of all projects subject to bird-safe development requirements shall have:
 - a. No more than 10% of the surface area of the façade be untreated glass between the ground and 60 feet above ground.
 - b. No more than 5% of the surface area of the façade be untreated glass between 60 feet above ground and up.
 2. Standard Compliance Treatments: The Planning Division may maintain a list of acceptable bird-safe treatments that may be updated from time to time. The list may include, but not be limited to acceptable treatments, such as opaque glass, window muntins, exterior insect screens, exterior netting, or special glass treatments such as fritting to provide visual cues and reduce the likelihood of bird collisions.
 3. Alternative Compliance Method: Property owners/applicants may propose an alternate compliance method recommended by a qualified biologist, in order to meet the requirements and intent of this section. The alternate compliance method shall be peer-reviewed by a third-party consultant, paid for by the

applicant, and subject to the approval of the Director of Community Development.

- C. Non-residential Indoor Lighting Requirements: Install time switch control devices or automatic occupancy sensors on non-emergency interior lights that are programmed to turn off at eleven p.m. or within two hours after the business is closed.
- D. Bird-safe Design Requirements. All projects subject to bird-safe development requirements shall:
 - 1. Avoid the funneling of flight paths along buildings or trees towards a building façade.
 - 2. Avoid use of highly reflective glass or highly transparent glass.
 - 3. Avoid glass skyways or walkways, freestanding glass walls, transparent building corners, glass features, or other design elements through which trees, landscape areas, water features or the sky are visible from the exterior or from one side of the transparent element to the other.
- E. Exemptions: The following are exempted from bird-safe treatment regulations of subsection 19.102.030(B):
 - 1. Any historic structure, either as set forth in the General Plan Figure LU-3 Historic Resources or listed on the State or National Historical Registers;
 - 2. First floor commercial storefronts, up to a height of 15'.
 - 3. Residential development in R1 zoning districts outside of Bird-Sensitive Areas;
 - 4. 100% affordable housing developments.

19.102.040 Outdoor Lighting Requirements

- A. Submittal Requirements: In addition to the applicable submittal requirements of Section 19.12.080, projects subject to outdoor lighting regulations must submit the following information:
 - 1. A site plan indicating the location of all outdoor lighting fixtures.
 - 2. A description of each lighting fixture. This description may include, but not be limited to, manufacturer's catalog cuts and drawings (including sections if requested), lamp types, and lumen outputs.
 - 3. Photometric plans, prepared, stamped and signed by a licensed electrical engineer, depicting the location of all outdoor lighting fixtures and building-mounted lighting fixtures and a maximum ten-foot by ten-foot grid of both the initial and maintained lighting levels on the site, including any impact on adjacent properties.
 - 4. The project lighting plan shall indicate how lighting has been coordinated with any associated landscaping plan to prevent site planning conflicts.
 - 5. Any other information the Director may determine is necessary to ensure that the proposed lighting is in compliance with the provisions of this chapter.

6. Any of the above requirements may be waived by the Director of Community Development when determined to be unnecessary for determining compliance with the provisions of this Chapter.

B. Outdoor Lighting Standards

1. All outdoor lighting shall be fully shielded fixtures, directed downward to meet the particular need and away from adjacent properties and rights-of way to avoid light trespass, except:
 - a. Low-voltage Landscape Lighting. Low-voltage landscape lighting, such as that used to illuminate fountains, shrubbery, trees, and walkways, do not have to be shielded fixtures and may use uplighting, provided that they use no more than ten (10) watt equivalent LED and not directed toward the right-of-way.
 - b. Architectural Features: Uplighting may be used to highlight special architectural features.
 - c. Public Art: Alternative lighting standards may be used to illuminate public art or serve as public art subject to the review and approval by the Fine Arts Commission.
 - d. Historic Lighting Fixtures: Lighting fixtures that are historic or that exhibit a historical period appearance, as determined by the Director of Community Development, need not be fully shielded.
2. Illumination Levels
 - a. No light, combination of lights, or activity shall cast light exceeding one (1) foot-candle onto an adjacent or nearby property, with the illumination level measured at the property line between the lot on which the light is located and the adjacent lot, at the point nearest to the light source.
 - b. No direct off-site glare from a light source shall be visible above three feet at a public right-of-way.
 - c. The maximum light intensity on a site shall not exceed a maintained value of ten foot-candles, when measured at finished grade.
 - d. Parking lots, sidewalks and other areas accessible to pedestrians and automobiles on properties with four or more units, mixed-use development, and non-residential development shall be illuminated with uniform and adequate intensity. Typical standards to achieve uniform and adequate intensity are:
 - i. Average horizontal maintained illumination should be between one and three foot-candles
 - ii. Maximum to minimum ratio should be between 6:1 and 10:1
 - e. Critical areas of illumination such as stairways, ramps and main walkways may have a higher illumination.

3. All light sources shall have a maintained correlated color temperature of three thousand (3,000) Kelvin or less.
4. All outdoor lighting shall be extinguished by 11:00 pm or when people are no longer present in exterior areas, whichever is later, except for:
 - i. Critical lighting pursuant to section 2 (e) above
 - ii. Any lighting at building entrances, parking areas, and driveways area required to remain illuminated after 11:00 pm by the California Building Code or state law
 - iii. Lighting of an appropriate intensity, allowed in conjunction with uses that are permitted to operate past 11:00 p.m., with a conditional use permit.
5. Automated control systems, such as motion sensors and timers, shall be used to meet the outdoor lighting requirements.
 - a. Photocells or photocontrols shall be used to extinguish all outdoor lighting automatically when sufficient daylight is available.
 - b. All lighting activated by motion sensors shall extinguish no more than 10 minutes after activation.
 - c. Automated controls shall be full programmable and supported by battery or similar backup.
6. Security lighting may be provided when necessary to protect persons and property. When security lighting is utilized the following standards shall apply, in addition to other applicable standards:
 - a. Security lighting shall be controlled by a programmable motion-sensor device, except where continuous lighting is required by the California Building Code.
 - b. Floodlights shall not be permitted.
 - c. Security lights intended to illuminate a perimeter, such as a fence line, are permitted only if such lights do not result in light trespass.
 - d. Motion-activated security lights shall not use lamps that exceed 100 watts.
7. Lighting design standards:
 - a. Lighting fixtures must be of a design that complements building and landscaping design.
 - b. Lighting fixtures shall be appropriate in height, intensity, and scale to the use they are serving. Parking lot lights in non-residential zones shall not exceed a height of 21 feet, and any wall-mounted lights shall not exceed a height of 12 feet, measured from the adjacent grade to the bottom of the fixture.
8. Service Station Canopies: The following standards shall apply to service station canopy lighting, in addition to all other applicable standards:
 - a. Lighting fixtures in the ceiling of canopies shall be fully recessed in the canopy.
 - b. Light fixtures shall not be mounted on top of the fascia of such canopies.

- c. The fascia of such canopies shall not be illuminated, except for approved signage in compliance with Chapter 19.104.
 9. Areas around Automatic Teller Machines shall meet minimum standards required by the State of California Business and Professions Code.
 10. All lighting must comply with the requirements of the California Building Code. Should a conflict exist with the provisions of this Chapter, the standards in the California Building Code shall prevail.
 11. Lighting in ML zones shall additionally comply with the standards in Chapter 19.72.
- C. Prohibited Lighting: The following types of lighting are prohibited:
1. Outdoor lighting that blinks, flashes, or rotates except those that may be permitted pursuant to Chapter 10.26.
 2. Outdoor flood lights that project above the horizontal plane.
 3. Lighting that unnecessarily illuminates any other lot or substantially interferes with use or enjoyment of that lot.
 4. High-intensity discharge lighting for recreation courts on private property.
 5. Spotlights.
- D. Exemptions: The following types of lighting are exempt from the lighting requirements of the Chapter:
1. Lighting within the public right-of-way and public parks
 2. Permitted lighting for signs
 3. Lighting to illuminate address signs
 4. Temporary construction or emergency lighting
 5. Short-term lighting authorized by a special events permit
 6. Holiday seasonal lighting during the period of October 15 through January 15 of each year
 7. Required lighting to comply with Building Code or state law

2. Amendments to Chapter 19.08 concerning Definitions

19.08.30 Definitions.

Throughout this title the following words and phrases shall have the meanings ascribed in this section.

A. "A" Definitions:

"Abandon" means to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

"Abutting" means having property or district lines in common.

"Accessory building" means a building which is incidental to and customarily associated with a specific principal use or facility and which meets the applicable conditions set forth in Chapter 19.100, Accessory Buildings/Structures.

"Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
3. "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. Junior accessory dwelling units must include an efficiency kitchen, which must include both a cooking facility with appliances and a food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the unit. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure, as defined in California Government Code Section 6582.22.

"Accessory structure" means a subordinate structure, the use of which is purely incidental to that of the main building and which shall not contain living or sleeping quarters. Examples include a deck, tennis courts, trellis or car shelter. Fences eight feet or less are excluded.

"Addition" means any construction which increases the size of a building or facility in terms of site coverage, height, length, width, or gross floor area ratio.

"Adjacent property" means property that abuts the subject property, including property whose only contiguity to the subject site is a single point and property directly opposite the subject property and located across a street.

"Adult bookstore" means a building or portion thereof used by an establishment having as a substantial or significant portion of its stock in trade for sale to the public or certain members thereof, books, magazines, and other publications which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined.

"Adult cabaret" means a building or portion thereof used for dancing purposes thereof or area used for presentation or exhibition or featuring of topless or bottomless dancers, strippers, male or female impersonators or similar entertainers, for observations by patrons or customers.

"Adult motion picture theater" means a building or portion thereof or area, open or enclosed, used for the presentation of motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined, for observation by patrons or customers.

"Advertising statuary" means a structure or device of any kind or character for outdoor advertising purposes which displays or promotes a particular product or service, but without name identification.

"Aerial" means a stationary transmitting and/or receiving wireless communication device consisting of one or any combination of the elements listed below:

1. "Antenna" means a horizontal or vertical element or array, panel or dish that may be attached to a mast or a tower for the purpose of transmitting or receiving radio or microwave frequency signals.
2. "Mast" means a vertical element consisting of a tube or rod which supports an antenna.
3. "Tower" means a vertical framework of cross elements which supports either an antenna, mast or both.
4. "Guy wires" means wires necessary to insure the safety and stability of an antenna, mast or both.

"Affordable housing cost" means the amount set forth in the Health and Safety Code Section 50052.5, as may be amended.

"Affordable rent" means the amount set forth in the Health and Safety Code Section 50053, as may be amended. "Affordable units" means housing units available at affordable rent or affordable housing cost to lower or moderate income households.

"Agriculture" means the tilling of the soil, the raising of crops, horticulture, agriculture, livestock farming, dairying, or animal husbandry, including slaughterhouses, fertilizer yards, bone yard, or plants for the reduction of animal matter or any other similar use.

"Alley" means a public or private vehicular way less than thirty feet in width affording a secondary means of vehicular access to abutting property.

"Alteration", for purposes of the Sign Ordinance, means any permanent change to a sign.

"Alteration" means any construction or physical change in the arrangement of rooms or the supporting members of a building or structure, or change in the relative position of buildings or structures on a site, or substantial change in appearances of any building or structure.

1. "Incidental alteration" means any alteration to interior partitions or interior

supporting members of a structure which does not increase the structural strength of the structure; any alteration to electrical, plumbing, heating, air conditioning, ventilating, or other utility services, fixtures, or appliances; any addition, closing, or change in size of doors or windows in the exterior walls; or any replacement of a building facade which does not increase the structural strength of the structure.

2. "Structural alteration" means any alteration not deemed an incidental alteration.

"Amusement park" means a commercial facility which supplies various forms of indoor and outdoor entertainment and refreshments.

Animal:

1. Animal, Adult. "Adult animal" means any animal four months of age or older.
2. Animal, Large. "Large animal" means any equine, bovine, sheep, goat or swine or similar domestic or wild animal, as determined by the Planning Commission.
3. Animal, Small. "Small animal" means animals which are commonly found in single-family residential areas such as chickens, ducks, geese, rabbits, dogs, cats, etc.

"Animal care" means a use providing grooming, housing, medical care, or other services to animals, including veterinary services, animal hospitals, overnight or short-term boarding ancillary to veterinary care, indoor or outdoor kennels, and similar services.

"Apartment" means a room or a suite of two or more rooms which is designed for, intended for, and occupied by one family doing its cooking there.

"Apartment house" means a building designed and used to house three or more families, living independently of each other.

"Apartment project" means a rental housing development consisting of two or more dwelling units.

"Approval Body" means the Director of Community Development and his/her designee, the Planning Commission or City Council depending upon context.

"Architectural feature" means any part or appurtenance of a building or structure which is not a portion of the living area of the building or structure. Examples include: cornices, canopies, eaves, awnings, fireplaces, or projecting window elements. Patio covers or any projection of the floor area shall not constitute an architectural projection.

"Architectural projection," for purposes of the Sign Ordinance, means any permanent extension from the structure of a building, including the likes of canopies, awnings and fascia.

"Atrium" means a courtyard completely enclosed by walls and/or fences.

"Attic" means an area between the ceiling and roof of a structure, which is unconditioned (not heated or cooled) and uninhabitable.

"Automotive service station" means a use providing gasoline, oil, tires, small parts and accessories, and services incidental thereto, for automobiles, light trucks, and similar motor vehicles. Automotive maintenance and repair (minor) may be conducted on the site. The sale of food or grocery items on the same site is prohibited except for soft drinks and snack foods, either from automatic vending machines or from shelves. The sale of alcoholic beverages on the site is governed by Chapter 19.132, Concurrent Sale of Alcoholic Beverages and Gasoline.

"Automotive repair and maintenance (minor)" means the supplying of routine automotive services such as lubrication, engine tune-ups, smog certificates, servicing of tires, brakes, batteries and similar accessories, and minor repairs involving engine accessories. Any repair which requires the engine, drive train, transmission assembly, exhaust system, or drive train parts to be removed from a motor vehicle or requires the removal of internal parts shall not be considered minor. Body and paint shop operations are not minor repairs or maintenance.

"Average slope" means the ratio between vertical and horizontal distance expressed in percent; the mathematical expression is based upon the formula described below:

$$S = \frac{I \times L \times 100}{A}$$

A

S = Average slope of ground in percent;

L = Combined length in feet of all contours on parcel;

I = Contour interval in feet;

A = Area of parcel in square feet.

B. "B" Definitions:

"Banks" means financial institutions including federally-chartered banks, savings and loan associations, industrial loan companies, and credit unions providing retail banking services to individuals and businesses. This classification does not include payday lending businesses or check cashing businesses. The term "payday lending business" as used herein means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code Section 23001(d), as amended from time to time. The term "check cashing business" as used herein means a retail business owned or operated by a "check cashier" as that term is defined in California Civil Code Section 1789.31 as amended from time to time.

"Basement" means any floor below the first story in a building that is fully submerged below grade except for lightwells required for light, ventilation and emergency egress. A basement may have a maximum exterior wall height of two feet between natural grade and ceiling.

"Bird-safe design" means when building design, site planning, design features, materials, exterior and interior lighting, are designed and developed to reduce hazardous conditions for birds.

"Bird-safe development" means development that incorporates bird-safe design and bird-safe treatment.

"Bird-safe treatment" means treatment to glass that provides visual cues to birds and reduce the likelihood of bird collisions.

"Bird-sensitive area", for purposes of Chapter 19.102, Glass and Lighting Standards, means parcels that are in or within 300' of the Wildland Urban Interface; within 300 feet of watercourses; in Residential Hillside areas; and within 300 feet of public and private, open spaces and parks that are dominated by vegetation, including vegetated landscaping, forest, meadows, grassland, or wetlands.

"Block" means any lot or group of contiguous lots bounded on all sides by streets, railroad rights-of-way, or waterways, and not traversed by any street, railroad right-of-way or waterway.

"Boarding house" means any building used for the renting of rooms or providing of table board for from three to five persons, inclusive, over the age of sixteen years, who are not members of the same family.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy when any portion of a building is completely separated from every other portion by a "Fire Barrier" as defined by the California Building Code, then each portion shall be deemed to be a separate building.

1. "Attached building" means buildings which are structurally connected by any structural members or wall, excluding decks, patios or fences.

"Building coverage" means that portion of the net lot area encompassed within the outermost wall line which defines a building enclosure.

"Building frontage" means the length or the surface of the building wall which faces, and is visible to the general public from, a private or public right-of-way or driveway.

"Business" or "commerce" means the purchase, sale or other transaction involving the handling or disposition of any article, substance or commodity for profit or livelihood, including, in addition, office buildings, offices, shops for the sale of personal services, garages, outdoor advertising signs and structures, hotels and motels, and recreational and amusement enterprises conducted for profit.

"Business or trade school" means a use, except a college or university, providing education or training in business, commerce, language, or similar activity or pursuit, and not otherwise defined as a home occupation.

C. "C" Definitions:

"Canopy" means any roof-like structure, either attached to another structure or freestanding, or any extension of a roof line, constructed for the purpose of protection from the elements or aesthetic purposes in connection with outdoor living.

"Car shelter" means a roofed structure or a part of a building not enclosed by walls, intended and designed to accommodate one or more vehicles.

"Caretaker" means a person or persons employed for the purpose of protecting the principal use of the property or structure.

"Centerline" means the centerline as established by the County Surveyor of Santa Clara County, the City Engineer, or by the State Division of Highways of the State of California.

"Changeable copy sign" means any sign, or portion, which provides for each manual changes to the visible message without changing structural surfaces, including the likes of theater marquees and gasoline service station price signs, but excluding electronic reader board signs and signs which display the current time or temperature.

"Change of face" means any changes to the letter style, size, color, background, or message.

"Change of use" means the replacement of an existing use by a new use, or a change in the nature of an existing use, but not including a change in ownership, tenancy or management where the previous nature of the use, line of business, or other function is substantially unchanged.

"Child" means a person who is under eighteen years of age.

"Child day care facility" means a facility, licensed by the State or County, which provides non-medical care to children in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four-hour basis. Child day care facility includes day care centers, employer sponsored child-care centers and family day care homes.

"Church" means a use providing facilities for organized religious worship and religious education incidental thereto, but excluding a private educational facility. A property tax exemption obtained pursuant to Section 3(f) of Article XIII of the Constitution of the State of California and Section 206 of the Revenue and Taxation Code of the State of California, or successor legislation, constitutes prima facie evidence that such use is a church as defined in this section.

"College" or "university" means an educational institution of higher learning which offers a course of studies designed to culminate in the issuance of a degree or

defined by Section 94110 of the Education Code of the State of California, or successor legislation.

"Collocation" means the placement of aeriels and other facilities belonging to two or more communication service providers on a single mast or building.

"Commercial recreation" means a use providing recreation, amusement, or entertainment services, including theaters, bowling lanes, billiard parlors, skating arenas, and similar services, operated on a private or for-profit basis, but excluding uses defined as outdoor recreation services.

"Community center" means a place, structure, area, or other facility used for and providing religious, fraternal, social and/or recreational programs generally open to the public and designated to accommodate and serve a significant segment of the community.

"Commercial district," for purposes of the Sign Ordinance, means an area of land designated for commercial use in the current Cupertino General Plan.

"Common interest development" means the following, all definitions of which are based upon Civil Code Section 4100 or subsequent amendments:

1. A condominium project,
2. A community apartment project,
3. A stock cooperative, or
4. A planned development.

"Community organization" means a nonprofit organization based in the City and whose activities benefit the City, its residents, employees, or businesses.

"Concession" means a benefit offered by the City to facilitate construction of eligible projects as defined by the provisions of Chapter 19.56, Density Bonus. Benefits may include, but are not limited to, priority processing, fee deferments and waivers, granting of variances, and relaxation of otherwise applicable permit conditions or other concessions required by law.

"Condominium conversion" or "Conversion" means a change in the type of ownership of a parcel (or parcels) of land, together with the existing attached structures, to that defined as a common interest development, regardless of the present or prior use of such land and structures and whether substantial improvements have been made or are to be made to such structure.

"Condominium project" or "project" includes the real property and any structures thereon, or any structures to be constructed thereon, which are to be divided into condominium ownership.

"Condominium units" or "units" means the individual spaces within a condominium project owned as individual estates.

"Congregate residence" means any building or portion which contains facilities for living, sleeping and sanitation, as required by the California Building Code and may

include facilities for eating and cooking for occupancies other than a family. A congregate residence may be a shelter, convent or monastery but does not include jails, hospitals, nursing homes, hotels or lodging houses.

"Convalescent facility" means a use other than a residential care home providing inpatient services for persons requiring medical attention, but not providing surgical or emergency medical services.

"Convenience market" means a use or activity that includes the retail sale of food, beverages, and small personal convenience items, including sale of food in disposable containers primarily for off-premises consumption, and typically found in establishments with long or late hours of operation and in relatively small buildings, but excluding delicatessens and other specialty food shops and establishments which have a sizable assortment of fresh fruits, vegetables, and fresh-cut meats.

"Corner triangle" means a triangular-shaped area bounded by the following, unless deemed otherwise by the City Engineer:

1. The intersection of the tangential extension of front and street side property lines as formed by the intersection of two public rights-of-way abutting the said property lines; and
2. The third boundary of the triangular-shaped area shall be a line connecting the front and side property lines at a distance of forty feet from the intersection of the tangential extension of front and side property lines.

"Corner triangle," for purposes of the Sign Ordinance, means a triangular-shaped area of land adjacent to an intersection of public rights-of-way, as further defined in Cupertino Standard Details Drawings Nos. 7-2 and 7-4. (See Appendix A, Cupertino Standard Detail 7-2; Corner Triangle–Controlled Intersections, and B, Cupertino Standard Detail 7-4; Corner Triangle–Uncontrolled Intersections for details.)

"Court" means an open, unoccupied space, other than a yard, on the same lot with a building or buildings and which is bounded on two or more sides by such building or buildings, including the open space in a house court or court apartment providing access.

"Covered parking" means a carport or garage that provides full overhead protection from the elements with ordinary roof coverings. Canvas, lath, fiberglass and vegetation are not ordinary roof coverings and cannot be used in providing a covered parking space.

D. "D" Definitions:

"Day care center" means any child day care facility, licensed by the State or County, other than a family day care home, and includes infant centers, preschools, and extended day care facilities.

Day Care Home, Family. "Family day care home" means a home, licensed by the State or County, which regularly provides care, protection and supervision for fourteen or fewer children, in the provider's own home, for periods of less than twenty-four hours per day, while the parents or guardian are away, and includes the following:

1. "Large-family day care home," which means a home which provides family day care for seven to fourteen children, inclusive, including children under the age of ten years who reside at the home, as set forth in the California Health and Safety Code Section 1597.465;
2. "Small-family day care home," which means a home which provides family day care to eight or fewer children, including children under the age of ten years who resides at the home, as set forth in the California Health and Safety Code Section 1597.44.

"Decorative statuary," for purposes of the Sign Ordinance, means any structure or device of any kind or character placed solely for aesthetic purposes and not to promote any product or service.

"Demonstrated safety" means a condition requiring protection from the threat of danger, harm, or loss, including but not limited to the steepness of a roadway or driveway that may create a hazardous parking situation in front of a gate.

"Demonstrated security" means a condition requiring protection from the potential threat of danger, harm or loss, including but not limited to a location that is isolated and invisible from public view or that has experienced documented burglary, theft, vandalism or trespassing incidences.

"Density bonus" means a density increase over the otherwise maximum allowable residential density in accordance with the provisions of Chapter 19.56 as of the date of the project application.

"Developer" means the owner or subdivider with a controlling proprietary interest in the proposed common interest development, or the person or organization making application, or a qualified applicant who has entered into a development agreement pursuant to the procedures specified in Chapter 19.144.

"Development agreement" means a development agreement enacted by legislation between the City and a qualified applicant pursuant to Government Code Sections 65864 through 65869.5.

"Development standard" means a site or construction regulation, including, but not limited to, a setback requirement, a floor area ratio, and onsite open-space requirement, or a parking ratio that applies to a development pursuant to any

ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

"District" means a portion of the property within the City within which certain uses of land, premises and buildings are permitted and certain other uses of land, premises and buildings are prohibited, and within which certain yards and other open spaces are required and certain building site areas are established for buildings, all as set forth and specified in this title.

"Drinking establishment" means an activity that is primarily devoted to the selling of alcoholic beverages for consumption on the premises.

"Drive-through establishment" means an activity where a portion of retailing or the provision of service can be conducted without requiring the customer to leave his or her car.

"Driveway" means any driveway that provides direct access to a public or private street.

Driveway, Curved. "Curved driveway" means a driveway with access to the front property line which enters the garage from the side at an angle of sixty degrees or greater to the front curblin and which contains a functional twenty-foot-deep parking area that does not overhang the front property line.

"Duplex" means a building, on a lot under one ownership, containing not more than two kitchens, designed and used as two dwelling units, of comparable size independent of each other.

"Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, occupied or intended for occupancy on a non-transient basis and having not more than one kitchen.

E. "E" Definitions:

"Economically feasible" means when a housing development can be built with a reasonable rate of return. The housing developer's financial ability to build the project shall not be a factor.

Emergency Shelter:

"Emergency shelter, rotating" means a facility that provides temporary housing with minimal supportive services and meets criteria in Section 19.76.030(2).

"Emergency shelter, permanent" means a permanently operated facility that provides temporary housing with minimal supportive services and meets criteria in Section 19.76.030(3).

"Employee Housing" means accommodations for employees as defined by Health and Safety Code 17008, as may be amended.

"Enclosed" means a covered space fully surrounded by walls, including windows, doors and similar openings or architectural features, or an open space of less than one hundred square feet fully surrounded by a building or walls exceeding eight feet in height.

"Entry feature" means a structural element, which leads to an entry door.

"Equestrian center" means a facility for the shelter, display, exhibition, keeping, exercise or riding of horses, ponies or mules, or vehicles drawn by such animals, with related pasture lands, corrals and trails.

"Equipment yard" means a use providing for maintenance, servicing or storage of motor vehicles, equipment or supplies; or for the dispatching of service vehicles; or distribution of supplies or construction materials required in connection with a business activity, public utility service, transportation service, or similar activity, including but not limited to, a construction material yard, corporation yard, vehicular service center or similar use.

F. "F" Definitions:

"Facility" means a structure, building or other physical contrivance or object.

1. "Accessory facility" means a facility which is incidental to, and customarily associated with a specified principal facility and which meets the applicable conditions set forth in Chapter 19.80.

2. "Noncomplying facility" means a facility which is in violation of any of the site development regulations or other regulations established by this title, but was lawfully existing on October 10, 1955, or any amendment to this title, or the application of any district to the property involved by reason of which the adoption or application the facility becomes noncomplying.

3. "Principal facilities" means a main building or other facility which is designed and constructed for or occupied by a principal use.

"Family" means an individual or group of persons living together who constitute a bona fide single housekeeping unit in a dwelling unit. "Family" shall not be construed to include a fraternity, sorority, club, or other group of persons occupying a hotel, lodging house, or institution of any kind.

"Fence" means a man-made structure which is designed, intended or used to protect, defend or obscure the interior property of the owner from the view, trespass or passage of others upon that property.

"Fence height" means the vertical distance from the highest point of the fence (excluding post caps) to the finish grade adjoining the fence. In a case where the finish grade is different for each side of the fence, the grade with the highest elevation shall be utilized in determining the fence height.

"Financial institutions" means a company engaged in the business of dealing with monetary transactions, such as deposits, loans, investments and currency exchange. This classification does not include payday lending businesses or check cashing businesses. The term "payday lending business" as used herein means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code Section 23001(d), as amended from time to time. The term "check cashing business" as used herein means a retail business owned or operated by a "check casher" as that term is defined in California Civil Code Section 1789.31 as amended from time to time.

"First floor" means that portion of a structure less than or equal to twenty feet in height, through which a vertical line extending from the highest point of exterior construction to the appropriate adjoining grade, passes through one story.

"Flag" means any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

"Floor area" means the total area of all floors of a building measured to the outside surfaces of exterior walls, and including the following:

1. Halls;
2. Base of stairwells;
3. Base of elevator shafts;
4. Services and mechanical equipment rooms;
5. Interior building area above fifteen feet in height between any floor level and the ceiling above;
6. Basements with lightwells that do not conform to Section 19.28.070(I);
7. Residential garages;
8. Roofed arcades, plazas, walkways, porches, breezeways, porticos, courts, and similar features substantially enclosed by exterior walls;
9. Sheds and accessory structures.

"Floor area" shall not include the following:

1. Basements with lightwells that conform to Section 19.28.070(I);
2. Lightwells;
3. Attic areas;
4. Parking facilities, other than residential garages, accessory to a permitted conditional use and located on the same site;
5. Roofed arcades, plazas, walkways, porches, breezeways, porticos, courts and similar features not substantially enclosed by exterior walls.

"Floor area ratio" means the ratio of gross floor area on a lot to the lot area.

"Foot-lambert" means a unit measurement of the brightness of light transmitted through or reflected from an object or surface.

"Freeway" means any public roadway so designated by the State of California.

"Front wall" means the wall of a building or other structure nearest the street upon which the building faces, but excluding certain architectural features as defined in this chapter.

G. "G" Definitions:

"Garage" means an accessory building (completely enclosed) or an attached building used primarily for the storage of motor vehicles.

"Gasoline service station" means any place of business which offers for sale any motor vehicle fuel to the public.

"Glare" means the effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, which causes annoyance, discomfort, or loss of visual performance and ability.

"Glass features", for purposes of Chapter 19.102, Glass and Lighting Standards, means such features as free-standing glass walls, wind barriers, skywalks, balconies, greenhouses, and rooftop appurtenances.

"Grade" or "finished grade" means the lowest point of adjacent ground elevation of the finished surface of the ground

paving, or sidewalk, excluding areas where grade has been raised by means of a berm, planter box, or similar landscaping

feature, unless required for drainage, within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

"Gross lot area" means the horizontal area included within the property lines of a site plus the street area bounded by the street centerline up to thirty feet distant from the property line, the street right-of-way line and the extended side yard to the street centerline.

"Guest room" means a room which is intended, arranged or designed to be occupied by occasional visitors or nonpaying guests of the occupants of the dwelling unit in which the room is located, and which contains no kitchen facilities.

H. "H" Definitions:

"Habitable floor" means the horizontal space between a floor area of at least seventy square feet and the ceiling height measuring at least seven feet six inches above it, except for a kitchen which shall have a ceiling height not less than seven feet above the floor.

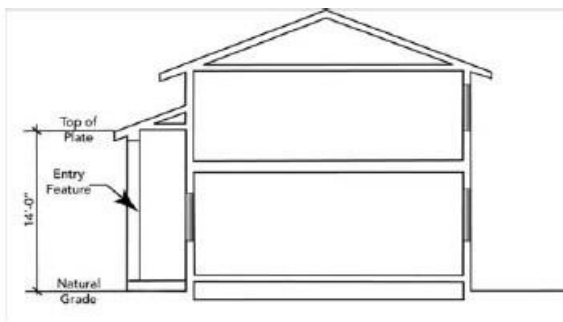
"Habitable space" means space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartment, closets, halls, storage or utility space and similar areas are not considered habitable space.

"Heavy equipment" means any mechanical or motorized device that is not a vehicle or a commercial vehicle as defined in Section 19.08.030(V), including, but not limited to, a backhoe, cement mixer, crane, ditch witch, dozer, earth mover, generator, grader, tractor or any similar device.

"Height" means a vertical distance measured parallel to the natural grade to the highest point of exterior construction, exclusive of chimneys, antennas or other appurtenances, except that entry features are measured to the top of the wall plate.

Height restriction shall be established by establishing a line parallel to the natural grade.

"Height", for purposes of the Accessory Buildings/Structures, encompasses the entire wall plane nearest the property line, including roof, eaves, and any portion of the foundation visible above the adjoining finished grade.



HEIGHT LIMIT FOR ENTRY FEATURES

"Home occupation" means a business, profession, occupation or trade activity which is performed by the resident(s) of a dwelling unit within that dwelling unit, or a yard area or garage associated with that dwelling unit, or a yard area or garage associated with that unit, for purposes of generating income, by means of the manufacture, and/or sale of goods and/or services, but which activity is clearly incidental to the use of the dwelling for residential purposes.

"Hospital" means a facility for providing medical, psychiatric or surgical services for sick or injured persons, primarily on an inpatient basis, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and service to patients, employees or visitors.

"Hotel" means a facility containing rooms or groups of rooms, generally without individual kitchen facilities, used or intended to be used by temporary overnight occupants, whether on a transient or residential occupancy basis, and whether or not

eating facilities are available on the premises. Hotel includes motel, motor hotel, tourist court, or similar use, but does not include mobilehome parks or similar uses.

"Household pets" means small animals commonly found in residential areas such as chickens, ducks, geese, rabbits, dogs, and cats, but excluding animals such as any bovine or equine animal, or any goat, sheep or swine. This title does not regulate the keeping of small household pets, such as fish, birds or hamsters, which is incidental to any permitted use.

However, no animal including household pets may be kept, maintained and/or raised for commercial purposes except where permitted with required permits.

"Household type" means whether the occupants of the housing units are very low income, lower income, moderate income, or senior citizens.

"Housing development" means for the purposes of Chapter 19.56, Density Bonus, a development project for five or more residential units. For the purposes of that chapter, "housing development" also includes a subdivision or common interest development, approved by the City that consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in Government Code Section 65863.4(d), where the result of the rehabilitation would be a net increase in available residential units.

I. "I" Definitions:

"Industrial district," for purposes of the Sign Ordinance, means all ML districts and any other zoning classifications which are consistent with the industrial designation of the Cupertino general plan.

"Institutional district," for purposes of the Sign Ordinance, means all BQ, PR, FP, and BA districts and other zoning classifications and uses which are considered institutional in nature and are consistent with the institutional or quasi-public designation of the general plan.

J. "J" Definitions:

"Junkyard" means the use of more than two hundred square feet of the area of any lot for the storage or keeping of junk, including scrap metals or other scrap material, and/or for the dismantling or wrecking of automobiles or other vehicles or machinery.

K. "K" Definitions:

"Kitchen" means an area in habitable space used for the preparation of food and including at least three of the following:

1. Cooking appliance(s) or provision for a cooking appliance (such as 220V outlets, gas connections and space for appliances between counters;
2. Counter;

3. Refrigerator;

4. Sink.

L. "L" Definitions:

"Landscaping" means an area devoted to or developed and maintained with native or exotic planting, lawn, ground cover, gardens, trees, shrubs, and other plant materials, decorative outdoor landscape elements, pools, fountains, water features, paved or decorated surfaces of rock, stone, brick, block or similar material (excluding driveways, parking, loading or storage areas), and sculptural elements.

"Late evening activities" means an activity which maintains any hours of operation during the period of eleven p.m. to seven a.m.

"Legal substandard lot" means any parcel of land or lot recorded and legally created by the County or City prior to March 17, 1980, which lot or parcel is of less area than required in the zone; or lots or parcels of record which are reduced to a substandard lot size as a result of required street dedication unless otherwise provided in the City of Cupertino General Plan. The owner of a legally created, substandard property which is less than six thousand square feet but equal to or greater than five thousand square feet may utilize such parcel for residential purposes. The owner of a legally created parcel of less than five thousand square feet may also develop the site as a single-family residential building site if it can be demonstrated that the property was not under the same ownership as any contiguous property on the same street frontage as of or after July 1, 1984.

"Light Fixture" means a complete lighting unit consisting of one or more lamps, and ballast(s), where applicable, together with the parts designed to distribute the light, position and protect the lamp(s) and ballast(s), and connect the lamp(s) to the power supply.

"Light trespass" means light emitted by a light fixture that shines beyond the property on which it is installed.

"Lightwell" means an excavated area required by the Uniform Building Code to provide emergency egress, light and ventilation for below grade rooms.

"Liquor store" means a use requiring a State of California "off-sale general license" (sale for off-site consumption of wine, beer and/or hard liquor) and having fifty percent or more of the total dollar sales accounted for by beverage covered under the off-sale general license.

"Living space" means, for the purposes of Chapter 19.112, the same as that set forth for "living area" in California Government Code Section 65852.2(j)(4). All attic and basement square footage proposed as part of an Accessory Dwelling Unit shall be limited by the maximum size allowed per Chapter 19.112.

"Loading space" means an area used for loading or unloading of goods from a vehicle in connection with the use of the site on which such space is located.

"Lodging" means the furnishing of rooms or groups of rooms within a dwelling unit or an accessory building on a transient basis, whether or not meals are provided to the person. Lodging shall be subject to the residential density requirements of the district in which the use is located.

"Lodging unit" means a room or group of rooms not including a kitchen, used or intended for use by overnight or transient occupants as a single unit, whether located in a hotel or a dwelling unit providing lodging where designed or used for occupancy by more than two persons; each two-person capacity shall be deemed a separate lodging unit for the purpose of determining residential density; each two lodging units shall be considered the equivalent of one dwelling unit.

"Lot" means a parcel or portion of land separated from other parcels or portions by description, as on a subdivision or record of survey map, or by metes and bounds, for purpose of sale, lease or separate use.

1. "Corner lot" means a lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.
2. "Flag lot" means a lot having access to a street by means of a private driveway or parcel of land not otherwise meeting the requirement of this title for lot width.
3. "Interior lot" means a lot other than a corner lot.
4. "Key lot" means the first lot to the rear of a corner lot, the front line of which is a continuation of the side line of the corner lot, and fronting on the street which intersects or intercepts the street on which the corner lot fronts.

"Lot area" means the area of a lot measured horizontally between boundary lot lines, but excluding a portion of a flag lot providing access to a street and lying between a front lot line and the street, and excluding any portion of a lot within the lines of any natural watercourse, river, stream, creek, waterway, channel or flood control or drainage easement and excluding any portion of a lot acquired, for access and street right-of-way purposes, in fee, easement or otherwise.

"Lot coverage" means the following:

1. "Single-family residential use" means the total land area within a site that is covered by buildings, including all projections, but excluding ground-level paving, landscape features, lightwells, and open recreational facilities. Sheds are included in lot coverage.
2. "All other uses except single-family residential" means the total land area within a site that is covered by buildings, but excluding all projections, ground-level paving, landscape features, and open recreational facilities.

"Lot depth" means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no clear rear lot line.

"Lot line" means any boundary of a lot.

1. "Front lot line" means on an interior lot, the lot line abutting a street, or on a corner lot, the shorter lot line abutting a street, or on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained. Lot line length does not include arc as identified on corner parcels.
2. "Interior lot line" means any lot line not abutting a street.
3. "Rear lot line" means the lot line not intersecting a front lot line which is most distant from and the most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.
4. "Side lot line" means any lot line which is not a front or rear lot line.
5. "Street lot line" means any lot line abutting a street.

"Lot of record" means a lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds which has been recorded.

"Lot width" means the horizontal distance between side lot lines, measured at the required front setback line.

"Lower-income household" means a household whose gross income does not exceed that established by Health and Safety Code Section 50079.5, as may be amended.

M. "M" Definitions:

"Major renovation," for purposes of Chapter 19.116, Conversions of Apartment Projects to Common Interest Development, means any renovation for which an expenditure of more than one thousand dollars was made.

"Major repair," for purposes of Chapter 19.116, Conversions of Apartment Projects to Common Interest Development, means any repair for which an expenditure of more than one thousand dollars was made.

"Major Transit Stop," for purposes of Chapter 19.56, Density Bonus, means an existing site, or a site included in the regional transportation plan, that contains a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. A housing development is considered to be within one-half mile of a major transit stop if all parcels within the housing development have no more than 25 percent of their area farther than one-half mile from the stop and if not more than 10 percent of the

units or 100 units, whichever is less, in the housing development are farther than one-half mile from the stop as set forth in Government Code Section 65915(p)(3)(A), as may be amended.

"Manufacturing" means a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing fabrication, assembly, treatment, packaging of products, but excluding basic industrial processing of extracted or raw materials, processes utilizing inflammable or explosive material (i.e., materials which ignite easily under normal manufacturing conditions), and processes which create hazardous or commonly recognized offensive conditions.

"Massage" means any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the human body with the hands or with any mechanical or electrical apparatus or other appliances or devices with or without such supplementary aides as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment or other similar preparations.

"Massage parlor" means a building or portion thereof, or a place where massage is administered for compensation or from which a massage business or service for compensation is operated which is not exempted or regulated by the Massage Establishment Ordinance as contained in Title 9, Health and Sanitation of the Cupertino Municipal Code, Chapter 9.06.

"Maximum allowable residential density," for purposes of Chapter 19.56, Density Bonus, means the maximum density allowed under the zoning ordinance and land use element of the general plan. For purposes of that Chapter, if the maximum density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

"Minor change" means an alteration or modification of an existing plan, development or project which is substantially inferior in bulk, degree or importance to the overall dimension and design of the plan, development or project with no change proposed for the use of the land in question, no change proposed in the character of the structure or structures involved, and no variance required.

"Mobilehome" means a vehicle, other than a motor vehicle, designed or used as semi-permanent housing, designed for human habitation, for carrying persons and property on its own structure, and for being drawn by a motor vehicle, and shall include a trailer coach.

"Mobilehome park" means any area or tract of land where lots are sold, rented, or held out for rent to one or more owners or users of mobilehomes, excluding travel-trailers, for the purpose of permanent or semi-permanent housing.

"Moderate income household" means a household whose gross income does not exceed that established by Section 50093 of the Health and Safety Code, as may be amended.

"Multiple-family use" means the use of a parcel for three or more dwelling units which may be in the same building or in separate buildings on the same parcel.

"Muntins" means strips of wood, metal, or other materials that physically separate and support individual panes of glass in a window or visually separate a single pane of glass in a window into different sections.

N. "N" Definitions:

"Natural grade" means the contour of the land prior to improvements or development, unless otherwise established by a City approved grading plan that is part of a subdivision map approval.

"Nightclub" means an establishment providing alcoholic beverage service and late evening (past eleven p.m.) entertainment, with or without food service.

O. "O" Definitions:

"Office" means:

1. "Administrative or executive offices" including those pertaining to the management of office operations or the direction of enterprise but not including merchandising or sales services.

2. "Medical office" means a use providing consultation, diagnosis, therapeutic, preventative or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans, licensed for such practice by the State of California and including services related to medical research, testing and analysis.

3. "Professional offices" such as those pertaining to the practice of the professions and arts including, but not limited to, accounting, architecture, dentistry, design, engineering, including associated testing and prototype development, but excluding product manufacturing and/or assembly, law and medicine, but not including sale of drugs or prescriptions except as incidental to the principal uses and where there is external evidence of such incidental use.

4. "Office district," for purposes of the Sign Ordinance, means those buildings or groups of buildings for which the permitted uses are professional offices, is within an OA or OP zone or which are designated for offices on the general plan.

"Offset" means the indentation or projection of a wall plane.

"Open" means a space on the ground or on the roof of a structure, uncovered and unenclosed.

"Organizational documents" means the declaration of restrictions, articles of incorporation, bylaws and any contracts for the maintenance, management or operation of all or any part of a common interest development.

"Outdoor recreation use" means a privately owned or operated use providing facilities for outdoor recreation activities, including golf, tennis, swimming, riding or other outdoor sport or recreation, operated predominantly in the open, except for accessory or incidental enclosed services or facilities.

P. "P" Definitions:

"Park" means any open space, reservation, playground, swimming pool, golf course, recreation center, or any other area in the City owned or used by the City or County and devoted to active or passive recreations.

"Parking area" means an unroofed, paved area, delineated by painted or similar markings, intended and designed to accommodate one or more vehicles.

"Parking facility" means an area on a lot or within a building, or both, including one or more parking spaces, together with driveways, aisles, turning and maneuvering areas, clearances and similar features, and meeting the requirements established by this title. Parking facility includes parking lots, garages and parking structures.

1. "Temporary parking facility" means parking lots which are not required under this title and which are intended as interim improvements of property subject to removal at a later date.

"Parking space" means an area on a lot or within a building, used or intended for use for parking a motor vehicle, having permanent means of access to and from a public street or alley independently of any other parking space, and located in a parking facility meeting the requirements established by this title. Parking space is equivalent to the term "parking stall" and does not include driveways, aisles or other features comprising a parking facility as previously defined in this chapter.

"Pennant" means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

"Permit" means a permit issued by the City Council, Planning Commission, Design Review Committee, Director of Community Development, or any other decision body as empowered by the Cupertino Municipal Code, approving architecture, site improvements, buildings, structures, land and/or uses. Permits may include but shall not be limited to Administrative Approvals, Two-story Permits, Minor Residential Permits, Architectural and Site Approvals, Development Permits, Conditional Use Permits, Exceptions, Variances or Subdivision Maps.

"Person" means an individual, group, partnership, firm, association, corporation, trust, governmental agency, governmental official, administrative body, or tribunal or any other form of business or legal entity.

"Personal fitness training center" means a facility providing space and equipment, with or without supervision, for group or individual athletic development, increased skill development in sports activity, or rehabilitative therapy for athletic injury.

"Perspective drawing" means a rendering of a three-dimensional view depicting the height, width, depth, and position of a proposed structure in relation to surrounding properties and structures when viewed from street level.

"Picnic area" means a facility providing tables and cooking devices for preparation and consumption of meals out of doors or within an unenclosed shelter structure.

"Practice range" means a facility providing controlled access to fixed or movable objects which are used to test and measure accuracy of discharge from a weapon.

"Private educational facility" means a privately owned school, including schools owned and operated by religious organizations, offering instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of California.

"Project improvements" means all public road improvements, undergrounding utility improvements, and improvements to the on-site utility networks as required by the City of Cupertino for a common interest development.

"Projection" means architectural elements, not part of the main building support, that cantilevers from a single building wall or roof, involving no supports to the ground other than the one building wall from which the element projects.

"Promotional device" means any sign, display, fixture, placard, vehicle or structure that uses color, form, graphic, symbol, illumination or writing to advertise a special event or the opening of a new business.

"Property" means real property which includes land, that which is affixed to the land, and that which is incidental or appurtenant to the land as defined in Civil Code Sections 658 through 662.

1. Property, Adjoining. "Adjoining property" means any unit of real property, excluding lands used as public streets, sharing one or more common points with another property.

"Provider" means a person who operates a child day care home and is licensed by the State of California.

"Public dancehall" is a building or portion used for dancing purposes to and in which the general public is admitted and permitted to dance, upon payment of any fee other than compensation, or upon payment of a charge for admission, or for which tickets or other devices are sold, or in which a charge is made for the privilege

of dancing with any other person employed for such purpose by the operator of the establishment, including but not limited to taxi dances, but excluding restaurants, hotel rooms and nightclubs in which the dancing is incidental only to other entertainment.

Q. "Q" Definitions:

"Qualified applicant" is a person who has a legal or equitable interest in real property which is the subject of a development agreement, determined pursuant to Section 19.116.070. Qualified applicant includes an authorized agent.

"Qualifying resident" for purposes of Chapter 19.56, Density Bonus, of this Code, means a senior citizen or other persons eligible to reside in a senior citizen housing development.

R. "R" Definitions:

"Recreational open space" means open space within a common interest development (exclusive of required front setback areas) which shall be used exclusively for leisure and recreational purposes, for the use and enjoyment of occupants (and their visitors) of units on the project and to which such occupants (and their visitors) have the right of use and enjoyment.

Accessory structures such as swimming pools, recreational buildings and landscaped areas may be included as open space.

"Recyclable materials" means discards or waste materials that may be separated or mixed, collected and processed, and used as raw materials for new products. For purposes of Chapter 19.108, Beverage Container Redemption and Recycling Centers, recyclable materials do not include hazardous materials.

"Recycling center" means a facility for the collection and/or processing of recyclable materials. Recycling center does not include storage containers or processing activity located on the premises of a commercial or manufacturing use and use solely for the recycling of material generated by that business or manufacturer.

1. "Recycling center, Certified" or "Certified Processor" means a recycling facility certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986.

2. "Recycling center, Mobile" means an automobile, truck, trailer or van licensed by the Department of Motor Vehicles, which is used for the collection of recyclable material. A mobile recycling center also means the bins, boxes or containers transported by trucks, vans, or trailers and used for the collection of recyclable materials. A mobile recycling center may consist of an enclosed vehicle such as box cab or enclosed semi-trailer or an open vehicle such as a flatbed trailer with bins or boxes to contain recyclable materials.

"Recycling facilities" may include the following:

1. "Collection facility" means a facility for the acceptance (donation, redemption or sale) of recyclable materials from the public. Such a facility does not use power-driven processing equipment except as indicated in Chapter 19.108, Beverage Container Redemption and Recycling Centers. Collection facilities may include the following:
 - a. Reverse vending machine(s);
 - b. Small collection facilities which occupy an area of not more than five hundred square feet, and may include:
 - i. A mobile recycling unit,
 - ii. Bulk reverse vending machine or a grouping of reverse vending machines occupying more than fifty square feet,
 - iii. Kiosk type units and bulk vending machines,
 - iv. Unattended containers placed for the donation of recyclable materials;
 - c. Large collection facilities which may occupy an area of more than five hundred square feet, or is on a separate property not appurtenant to a host use, and may include permanent structures.
2. "Processing facility" means a building or enclosed space use for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing. Processing facility includes the following:
 - a. A light processing facility occupies an area of under forty-five thousand square feet of gross collection, processing and storage area and has up to two outbound truck shipments per day. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials sufficient to qualify as a certified processing facility. A light processing facility shall not shred, compact, or bale ferrous metals other than food and beverage containers.
 - b. A heavy processing facility is any processing facility other than a light processing facility.

"Religious institution" means a seminary, retreat, monastery, conference center, or similar use for the conduct of religious activities including accessory housing incidental thereto, but excluding a private educational facility. Any use for which a property tax exemption has been obtained pursuant to Section 3(f) of Article XIII of the Constitution of the State of California and Section 206 of the Revenue and

Taxation Code of the State of California, or successor legislation, or which is used in connection with any church which has received such an exemption, shall be prima facie presumed to be a religious institution.

"Research and development" means a use engaged in study, design, analysis and experimental development of products, processes or services, including incidental manufacturing of products or provisions of services to others.

"Residential care facility" means a building or portion designed or used for the purpose of providing twenty-four-hour-a-day nonmedical residential living accommodations pursuant to the Uniform Building, Housing and Fire Codes, in exchange for payment of money or other consideration, where the duration of tenancy is determined, in whole or in part, by the individual resident's participation in group or individual activities such as counseling, recovery planning, medical or therapeutic assistance. Residential care facility includes, but is not limited to, health facilities as defined in California Health and Safety Code (H&SC Section 1250 et seq.), community care facilities (H&SC Section 1500 et seq.), residential care facilities for the elderly (H&SC Section 1569 et seq.) or facilities for the mentally disordered or otherwise handicapped (W&I Code Section 5000 et seq.), alcoholism or drug abuse recovery or treatment facilities (H&SC Section 11384.11), and other similar care facilities.

"Residential district," for purposes of the Sign Ordinance, means the R1, RHS, R2, R3, R1C, A, and A1 zoning classifications which are consistent with the residential designation of the Cupertino general plan.

Restaurant:

1. Restaurant, Fast-Food. "Fast-food restaurant" means a retail food service establishment in which prepared foods or beverages are served or sold on or in disposable containers, including those establishments where a substantial portion of the patrons may serve themselves and may consume the food and beverages off-site. A separate bar facility for serving alcoholic beverages is not permitted. Any area, tables or rooms reserved for serving alcoholic beverages shall be considered a separate bar facility. Specialty food stores, such as ice cream stores, bakeries or shops, shall not be considered fast-food restaurants.

2. Restaurant, Full Service. "Full-service restaurant" means any restaurant which is not a fast-food restaurant. Alcoholic beverages may be served with meals at a customer's dining table; however, a separate bar facility for serving alcoholic beverages is not permitted without a use permit.

"Reverse vending machine(s)" means an automated mechanical device which accepts one or more types of empty beverage containers, including, but not limited to aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip with a value not less than the containers redemption value, as determined by the State. A reverse vending machine may sort and process

containers mechanically provided that the entire process is enclosed within the machine. In order to accept and temporarily store all three container types in a proportion commensurate with their relative redemption rates, and to meet the requirements of certification as a recycling center, multiple grouping of reverse vending machines may be necessary.

1. A bulk reverse vending machine is a reverse vending machine that is larger than fifty square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container.

S. "S" Definitions:

"Screened" means shielded, concealed, and effectively hidden from view at an elevation of up to eight feet above ground level on adjoining parcels, or from adjoining parcels, within ten feet of a lot line, by a fence, wall, hedge, berm, or similar structure, architectural or landscape feature, or combination thereof.

"Senior citizens" means:

1. Persons at least sixty-two years of age; or
2. Persons at least fifty-five years of age or otherwise qualified to reside in a senior citizen housing development, in accordance with State and federal law.

"Senior citizen housing development" means a housing development with at least thirty-five dwelling units as defined in the Civil Code Section 51.3, or a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code, as may be amended.

"Setback line" means a line within a lot parallel to a corresponding lot line, which is the boundary of any specified front, side or rear yard, or the boundary of any public right-of-way or private road, whether acquired in fee, easement, or otherwise, or a line otherwise established to govern the location of buildings, structures or uses. Where no minimum front, side or rear yards are specified, the setback line shall be coterminous with the corresponding lot line.

Setback Area, Required. "Required setback area" means open space, unoccupied and unobstructed from the ground upward, except as provided in this title, between the lot line and the setback line on the same parcel.

1. Setback Area, Required Front Yard. "Required front-yard setback area" means the setback area extending across the front of a lot between the front lot line and the setback line. Front yards shall be measured either by a line at right angles to the front lot line, or by a radial line in the case of a curved front lot line, except flag lots which is the area extending across the full extent of the buildable portion of the flag lot measured from the property line which is parallel to and nearest the street line and at which point the lot width equals a minimum of sixty

feet. The Director of Community Development shall have the discretion to modify the provisions of this definition when it improves the design relationship of the proposed buildings to adjacent buildings or parcels.

2. Setback Area, Required Rear Yard. "Required rear-yard setback area" means the area extending across the full width of the lot between the rear lot line and the nearest line or point of the main building.

3. Setback Area, Required Side Yard. "Required side-yard setback area" means the area between the side lot line and the nearest line of a building, and extending from the front setback line to the rear setback line.

"Shielded fixture" means a light fixture that is shielded or constructed so that light rays emitted by the lamp(s) are projected below the horizontal plane passing through the lowest point on the light fixture.

"Shopping center" means a group of commercial establishments, planned, developed, owned or managed as a unit, with off-street parking provided on the parcel.

"Shopping center," for purposes of the Sign Ordinance, means a retail entity encompassing three or more tenants within a single building or group of buildings, but within which individual business located in defined tenant spaces are owned and managed separately from the shopping center management.

"Sidewalk site triangle" is a triangular shaped area described in Cupertino Standard Detail 7-6. (See Appendix C, Cupertino Standard Detail; Sidewalk Site Triangle (Sidewalk Clearance at Driveway))

"Sign" means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, to communicate information of any kind to the public.

1. "Animated sign" means any sign which projects action, motion or the illusion thereof, changes intensity of illumination or changes colors, including the likes of balloons, banners and flags, and blowing or air-powered attractions, but excluding electronic readerboard signs and signs that display the current time or temperature.
2. "Blade sign" means a pedestrian oriented sign, adjacent to a pedestrian walkway or sidewalk, attached to a building wall, marquee, awning or arcade with the exposed face of the sign in a plane perpendicular to the plane of the building wall.
3. "Development Identification Sign" means a ground sign at the major entry to a residential development with twenty units or more meant to identify the name and address of the development.

4. "Directional sign" means any sign which primarily displays directions to a particular area, location or site.
5. "Directory sign" means any outdoor listing of occupants of a building or group of buildings.
6. "Electronic readerboard sign" means an electronic sign intended for a periodically-changing advertising message.
7. "Freeway oriented sign" means any sign which is located within six hundred sixty feet and visible from a freeway right- of-way as defined by Section 5200 of the California Business and Professions Code.
8. "Garage sale signs" means any sign used for advertising a garage or patio sale as defined in Chapter 5.16 of the Cupertino Municipal Code.
9. "Ground sign" means any sign permanently affixed to the ground and not supported by a building structure. The height of the sign shall be measured from the grade of the adjoining closest sidewalk to the top of the sign including trim.
10. "Identification sign" means any sign whose sole purpose is to display the name of the site and the names of the occupants, their products or their services.
11. "Illegal sign" means any sign or advertising statuary which was not lawfully erected, maintained, or was not in conformance with the provisions of this title in effect at the time of the erection of the sign or advertising statuary or which was not installed with a valid permit from the City.
12. "Illuminated sign" means any sign utilizing an artificial source of light to enhance its visibility.
13. "Informational sign" means any sign which promotes no products or services, but displays service or general information to the public, including the likes of hours of operation, rest room identifications and hazardous warnings.
14. "Landmark sign" means an existing, legal non-conforming ground sign that has a distinctive architectural style.
15. "Nonconforming sign" means any sign or advertising statuary that was legally erected and had obtained a valid permit in conformance with the ordinance in effect at the time of the erection of the sign but which became nonconforming due to the adoption of the ordinance codified in this title.
16. "Obsolete sign" means any sign that displays incorrect or misleading information, promotes products or services no longer available at that site

- or identifies departed occupants.
17. "Off-site sign" means any sign not located on the premises of the business or entity indicated or advertised by the sign. This definition shall include billboards, poster panels, painted bulletins and other similar advertising displays.
 18. "On-site sign" means a sign directing attention to a business, commodity, service or entertainment conducted, sold or offered upon the same premises as those upon which the sign is maintained.
 19. "Political sign" means a temporary sign that encourages a particular vote in a scheduled election and is posted prior to the scheduled election.
 20. "Portable Sign or Display" means any outdoor sign or display not permanently attached to the ground or a structure on the premises it is intended to occupy and displayed only during business hours. Portable sign or display includes A- frames, flower carts, statues, and other similar devices used for advertising as determined by the Director.
 21. "Project announcement sign" means any temporary sign that displays information pertinent to a current or future site of construction, including the likes of the project name, developers, owners and operators, completion dates, availability and occupants.
 22. "Projecting sign" means any sign other than a wall sign that is attached to and projects from a structure or building face or wall.
 23. "Real estate sign" means a temporary sign indicating that a particular premises is for sale, lease or rent.
 24. "Roof sign" means a sign erected between the lowest and highest points of a roof.
 25. "Street address sign" means any sign that displays only the street address number(s) of the site and, at the option of the property owner, the street name.
 26. "Temporary Sign" means any sign, display, banner or promotional device which is designed or intended to be displayed only during the allowable business hours or for short periods of time as specified by the Director of Community Development.
 27. "V-shaped signs" means any sign consisting of two vertical faces, or essentially vertical faces, with one common edge and which appears as the letter V when viewed directly from above.
 28. "Vehicle sign" means a sign painted on or attached to an operable or movable vehicle; in the case of motor vehicles, "operable" shall be defined as

having a valid license plate.

29. "Wall sign" means any sign that is attached, erected or painted on a structure attached to a building, a canopy structure, or the exterior wall of a building with the exposed face of the sign parallel to the wall.
30. "Window sign" means any sign that is intended to be read from outside of the structure or painted on a window facing a public street, parking lot, pedestrian plaza or walkway accessible to the public.

"Sign Area" for an individually lettered sign without a background, is measured by enclosing the sign copy with a continuous perimeter in simple rectilinear forms. (See Appendix D for examples of sign area calculation)

The sign area for a sign with borders and/or background is measured by enclosing the exterior limits of the border or background with a single continuous perimeter. The necessary supports, uprights, and/ or the base on which such sign is placed, shall be excluded from the sign area.

When a sign is separated by thirty-six inches or more, the area of each part may be computed separately.

"Single family residence," for purposes of Chapter 19.112, shall mean one dwelling unit located on a separately owned lot. Single family residence does not include property with only air parcels or condominiums.

"Specialty food stores" means uses such as bakeries, donut shops, ice cream stores, produce markets and meat markets, or similar establishments where food is prepared and/or sold primarily for consumption off the premises.

"Site," for purposes of the Sign Ordinance, means a piece of land as shown on a subdivision map, record of survey map or assessor's parcel map, which constitutes one development site and which may be composed of a single unit of land or contiguous units under common ownership, control, or development agreement.

"Special event," for purposes of the Sign Ordinance means a temporary promotional event including, but not limited to, a special sale on merchandise or services, or grand openings.

"Special Event Banner" means any temporary sign constructed of pliable materials such as canvas, fabric, vinyl plastic or similar materials which will withstand exposure to wind and rain without significant deterioration, and which does not require a building permit for its construction, or installation outside of a building.

"Special needs housing," for purposes of Chapter 19.56, Density Bonus, means any housing, including supportive housing, intended to benefit, in whole or in part, persons identified as having special needs relating to mental health; physical disabilities; developmental disabilities, including without limitation intellectual disability, cerebral palsy, epilepsy, and autism; and risk of homelessness, and housing intended to meet the housing needs of persons eligible for mental health

services funded in whole or in part by the Mental Health Services Fund, as set forth in Government Code Section 65915(p) (3)(C), as may be amended.

"Specified anatomical areas" means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" means:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

"Story" means that portion of a building, excluding a basement, between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

"Street" means a public or private thoroughfare the design of which has been approved by the City which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley as defined in this chapter.

1. Street, Public. "Public street" means all streets, highways, lanes, places, avenues and portions and including extensions in the length and width, which have been dedicated by the owners to public use, acquired for public use, or in which a public easement for roadway purposes exists.

"Street frontage," for purposes of the Sign Ordinance, means the length of a site along or fronting on a public or private street, driveway or other principal thoroughfare, but does not include such length along an alley, watercourse, railroad right-of-way or limited access roadway or freeway. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

1. Structure, Recreational. "Recreational structure" means any affixed accessory structure or portion, which functions for play, recreation or exercise (e.g., pool slides, playhouses, tree houses, swings, climbing apparatus, gazebos, decks, patios, hot tubs and pools) but does not include portable play structures, such as swings or climbing apparatus.

"Structurally attached" means any structure or accessory structure or portion thereof, which is substantially attached or connected by a roof structure or similar physical attachment.

"Supportive housing" (per Government Code Section 65582(f), as may be amended) means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

T. "T" Definitions:

"Target population" (per CA Government Code 65582(g), as may be amended) means persons with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

"Transient" means any individual who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days, and including any individual who actually physically occupies the premises, by permission of any other person entitled to occupancy.

"Transitional housing" (per CA Government Code 65582(h), as may be amended) means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months from beginning of assistance.

"Trim" means the molding, battens, cappings, nailing strips, lattice and platforms which are attached to a sign.

U. "U" Definitions:

"Unobstructed Access," for purposes of Chapter 19.56, Density Bonus, means access to a location if a resident is able to access the location without encountering natural or constructed impediments, as set forth in Government Code Section 65915(p)(2), as may be amended.

"Uplighting" means the placement and orientation of light fixtures such that light rays are directed upward.

"Use" means the conduct of an activity, or the performance of a function or operation, on a parcel or in a building or facility.

1. "Accessory use" means a use which is incidental to and customarily

associated with a specified principal use.

2. "Conditional use" means a use listed by the regulations of any particular district as a conditional use within that district, and allowable solely on a discretionary or conditional basis, subject to issuance of a conditional use permit, and to all other regulations established by this title.

3. "Nonconforming use" means a use which is not a permitted use or conditional use authorized within the district in which it is located, but which was lawfully existing on October 10, 1955; or the date of any amendments thereto, or the application of any district to the property involved, by reason of which adoption or application the use became nonconforming.

4. "Permitted use" means a use listed by the regulations of any particular district as a permitted use within that district, and permitted therein as a matter of right when conducted in accord with the regulations established by this title.

5. "Principal use" means a use which fulfills a primary function of a household, establishment, institution, or other entity. "Useable rear yard" means that area bounded by the rear lot line(s) and the rear building line extended to the side lot lines. The side yard adjacent to a proposed minor addition (e.g., addition equaling ten percent or less of the principal structure) may be included in calculation of usable rear yard area.

V. "V" Definitions:

"Variance application" means an application for which an exception process is not identified in the Municipal Code. "Vehicle" means any boat, bus, trailer, motor home, van, camper (whether or not attached to a pickup truck or other vehicle), mobilehome, motorcycle, automobile, truck, pickup, airplane, boat trailer, truck tractor, truck trailer, utility trailer or recreational vehicle, or parts, or any device by which any person or property may be propelled, moved or drawn upon a public street, excepting a device moved exclusively by human power.

1. Vehicle, Commercial. "Commercial vehicle" means a vehicle of a type required to be registered under the California Vehicle Code used or maintained for the transportation of persons for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of goods.

2. Vehicle, Recreation. "Recreation vehicle" means a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. The term recreation vehicle includes, but is not limited to, trailers, motor coach homes, converted trucks and buses, and boats and boat trailers.

"Very low income household" means a household whose gross income does not exceed that established by Health and Safety Code Section 50105, as may be amended.

"Visual privacy intrusion" means uninterrupted visual access from a residential dwelling or structure into the interior or exterior areas of adjacent residential structures, which area is either completely or partially private, designed for the sole use of the occupant, and/or which serves to fulfill the interior and/or exterior privacy needs of the impacted residence or residences.

W. "W" Definitions:

~~None.~~ **"Watercourse", for purposes of Chapter 19.102, Glass and Lighting Standards, means any natural or artificial arroyo, canal, channel, conduit, creek, culvert, ditch, gully, lake, ravine river, stream, waterway, or wash or other topographic feature on or over which waters flow at least periodically and adjacent areas in which substantial flood damage may occur from overflow or inundation.**

X. "X" Definitions:

None.

Y. "Y" Definitions:

"Yard" means an area within a lot, adjoining a lot line, and measured horizontally, and perpendicular to the lot line for a specified distance, open and unobstructed except for activities and facilities allowed therein by this title.

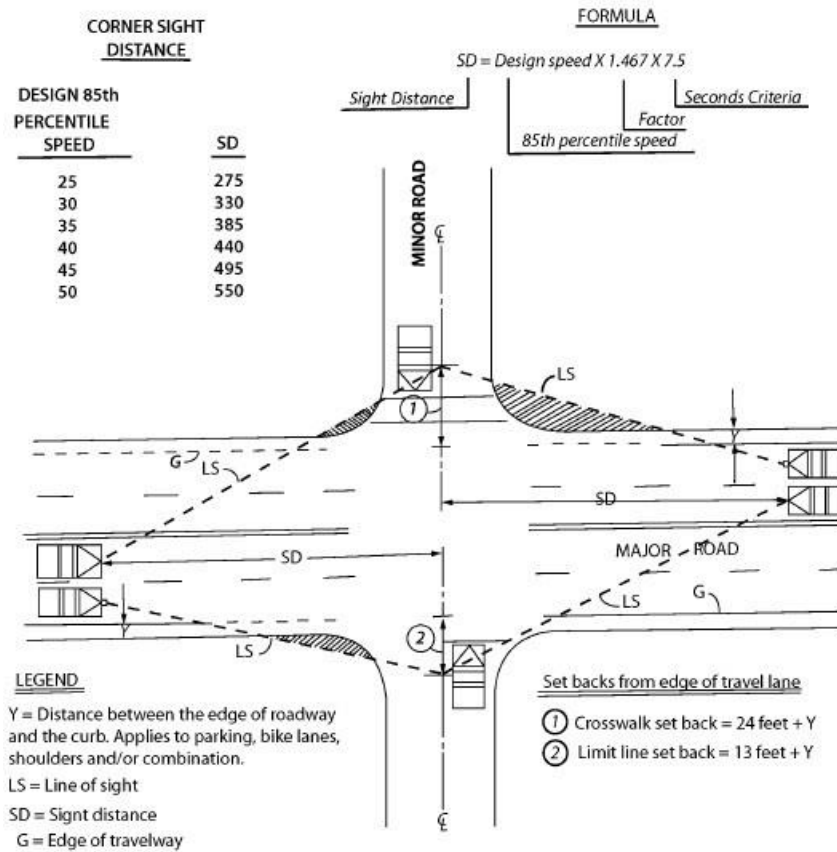
1. "Front yard" means a yard measured into a lot from the front lot line, extending the full width of the lot between the side lot lines intersecting the front lot line.
2. "Rear yard" means a yard measured into a lot from the rear lot line, extending between the side yards; provided that for lots having no defined rear lot line, the rear yard shall be measured into the lot from the rearmost point of the lot depth to a line parallel to the front lot line.
3. "Side yard" means a yard measured into a lot from a side lot line, extending between the front yard and rear lot line.

Z. "Z" Definitions:

None.

Appendix A: Cupertino Standard Detail 7-2 Corner Triangle - Controlled Intersections.

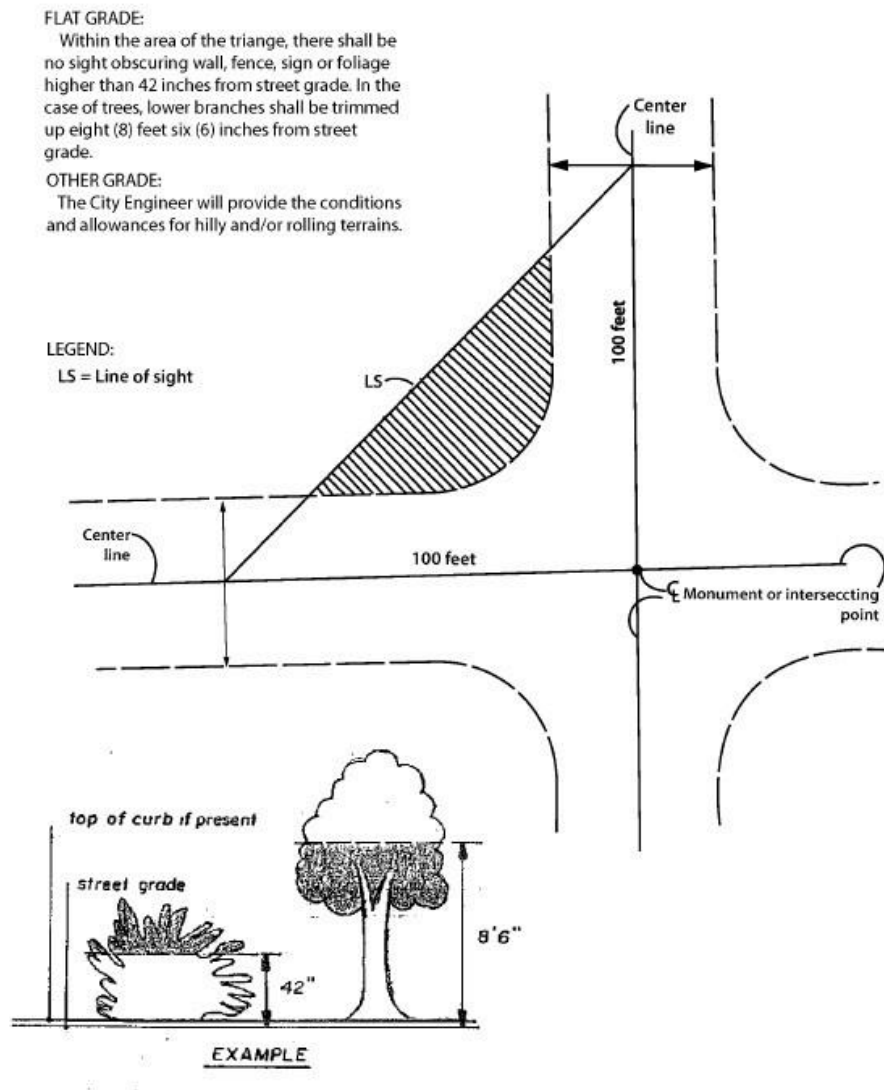
**APPENDIX A:
CUPERTINO STANDARD DETAIL 7-2
CORNER TRIANGLE - CONTROLLED INTERSECTIONS**



Note: To view this Appendix in PDF, click [HERE](#)

Appendix B: Cupertino Standard Detail 7-4 Corner Triangle - Uncontrolled Intersections.

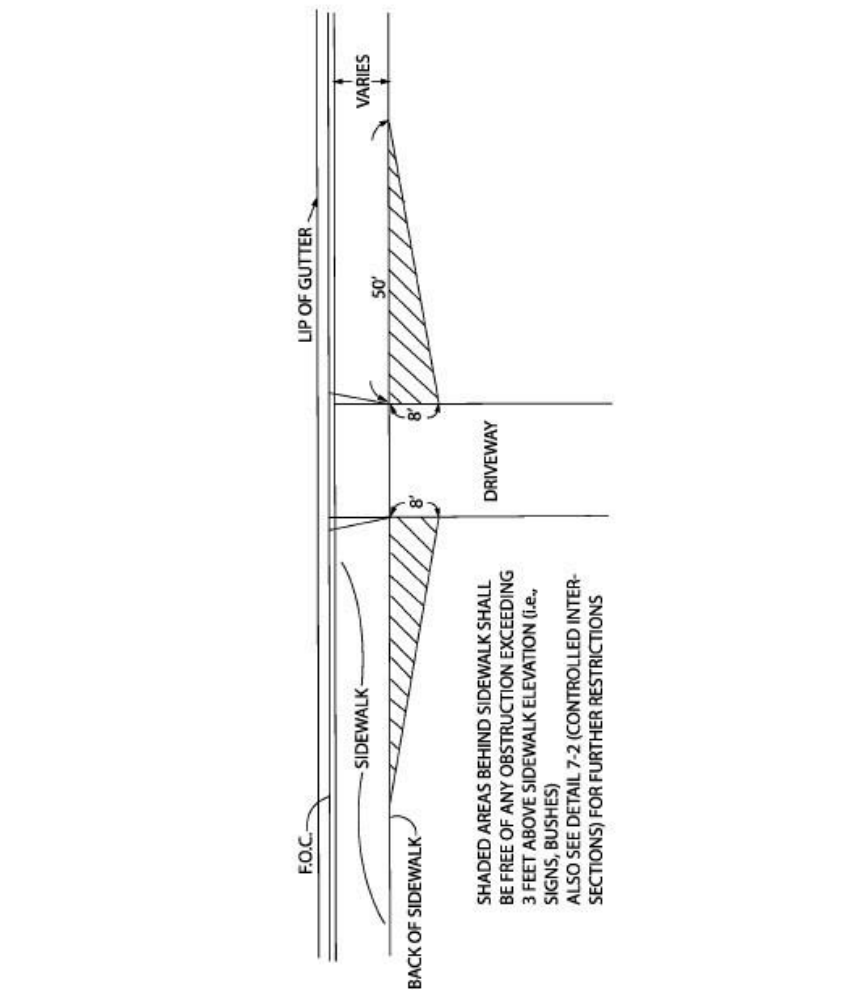
**APPENDIX B:
CUPERTINO STANDARD DETAIL 7-4
CORNER TRIANGLE - UNCONTROLLED INTERSECTIONS**



Note: To view this Appendix in PDF, click [HERE](#)

Appendix C: Cupertino Standard Detail 7-6 Sidewalk Site Triangle (Sidewalk Clearance at Driveways).

APPENDIX C:
CUPERTINO STANDARD DETAIL 7-6
SIDEWALK SITE TRIANGLE (SIDEWALK CLEARANCE AT DRIVEWAYS)



Note: To view this Appendix in PDF, click [HERE](#)

Appendix D: Examples of How to Measure Sign Area.

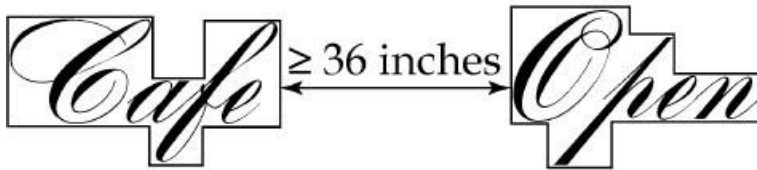
**APPENDIX D:
EXAMPLES OF HOW TO MEASURE SIGN AREA**



Individually lettered sign



Sign with background or borders



Sign separated by 36 inches or more

3. Amendments to Chapter 19.40.060 concerning lighting in Residential Hillside Zones

19.40.060 Building Development Regulations.

All provisions of this section may be deviated from upon obtaining a Hillside Exception in accordance with Section 19.40.070.

Table 19.40.060 sets forth the rules and regulations pertaining to the development of structures on property zoned Residential Hillside (RHS).

Table 19.40.060: Building Development Regulations				
A. Floor Area Ratio (FAR)				
1. Maximum Allowable Development	a. Net lot area < 10,000 square feet	Lesser of: . 6,500 square feet; or . 45% of net lot area times the slope adjustment factor pursuant to Section 19.40.060(A)(2)* * Formula = (0.45 x Net lot area) x (Slope adjustment factor)		
	b. Net lot area 10,000 square feet	Lesser of: . 6,500 square feet; or . 4,500 square feet plus 59.59 square feet for every 1,000 square feet over 10,000 square feet of net lot area, times the slope adjustment factor pursuant to Section 19.40.060(A)(2)* * Formula = (4,500 + ((Net lot area -10000)/1000) (59.59)) x (Slope adjustment factor)		
2. Adjustment Factor based on Average Slope of Net Lot Area			Average Slope	Reduction (1.5 x (Average Slope - 0.1))
	a. Average Slope 10%	No reduction in allowable floor area slope adjustment factor = 1	< 10%	0%
	b. Average slope between	A reduction in allowable floor area by one and one-half percent (1.5%) for each	11%	1.5%
			12%	3.0%
			13%	4.5%
			14%	6.0%
			15%	7.5%
			16%	9.0%
			17%	10.5%
			18%	12.0%
			19%	13.5%
			20%	15.0%
			21%	16.5%
			22%	18.0%
			23%	19.5%

	10% and 30%	percent of slope over 10%. Slope adjustment factor = (1-(1.5 x (average slope of net lot area - 0.1)))	24%	21.0%
			25%	22.5%
			26%	24.0%
			27%	25.5%
			28%	27.0%
			29%	28.5%
	c. Average slope > 30%	Allowable floor area shall be reduced by a constant 30% Slope adjustment factor=(1- 0.3)	30%	30.0%
3. Additional Regulations for Lots Within Clustered Subdivisions where Land is Reserved for Common Open Space				
a. Lot Area for calculating FAR	May count a proportionate share of the reserved private open space to arrive at lot area for purposes of calculating FAR.			
b. Maximum FAR prior to slope consideration	No developable lot in a cluster development can exceed forty-five-percent floor area ratio, prior to applying the slope adjustment factor, when a portion of the private open space is attributed to the lot area for calculating FAR.			
c. Average slope of lot	Calculated on the developable lot only.			
B. Height of Buildings and Structures	Limited to 30 feet			
C. Setbacks				
	First Floor		Second Floor	Habitable Third Floor (or portions of structures taller than 20 feet)
1. Front-yard				
a. Slope ≤ 20%	20 feet	Driveway and garage must be designed to enable vehicles to park off-street	25 feet	25 feet
b. Slope > 20%	10 feet		25 feet	25 feet
2. Side-yard				

a. Interior Side	10 feet	15 feet	20 feet
b. Street Side on Corner Lot	15 feet	15 feet	20 feet
3. Rear-yard	20 feet	25 feet	25 feet
D. Second Story Decks and Patios Minimum Setbacks			
1. Front Yard	-	17 feet	17 feet
2. Side Yard	-	15 feet	15 feet
3. Rear Yard	-	20 feet	20 feet
E. Downhill Facing Elevation			
1. Second Story Downhill Facing Wall Plane Offset			
a. Offset from First Floor Downhill Wall Plane	i. Average of 7 feet 6 inches for 75% of the second story downhill facing wall plane shall be setback and ii. Not less than five feet. iii. The remaining 25% may not extend past the first story wall plane.		
b. Multiple Downhill Facing Wall Planes	Offset shall apply only the primary setback affected.		
c. Offset from First Floor Roofed Porches	i. Offset may be measured from the outside perimeter of first-story roofed porches. ii. Roof of the porch must match, in pitch and style, the roof of the main structure. iii. Porch must be at least 5 feet in width and extend the length of the wall on which it is located.		
2. Maximum Wall Height on Downhill Elevation	15 feet		
F. Permitted Yard Encroachments			
1. Extension of a Legal Non-conforming Wall Plane for structures not located within a prominent	a. Where a building legally constructed according to existing first floor yard and setback regulations at the time of construction encroaches upon present required first floor setbacks, one encroaching side of the existing structure may be extended along existing building lines. b. Only one such extension shall be permitted for the life of the building. c. Encroachments into a required yard which are the result of the granting of a variance may not be further extended. d. Further encroachment into a required setback is not		

ridgeline site line	allowed. I.e., a non-conforming setback may not be further reduced. e. In no case shall any wall plane of a first-story addition be placed closer than three feet to any property line.
2. Architectural Features	a. May extend into a required yard a distance not exceeding three feet. b. No architectural feature, or combination thereof, whether a portion of a principal or accessory structure, may extend closer than three feet to any property line.
G. Accessory Structures (including attached patio covers)	As allowed by Chapter 19.100, Accessory Buildings/Structures
H. Design Standards	
1. Building and Roof Forms	
a. Natural Contours	Building shall follow as closely as possible the primary natural contour of the lot.
b. Building Mass and Roof Pitches	The main building mass shall be on the upslope side of the building and the roof pitches shall trend downslope.
c. Second Story Dormers	Permitted within the second story setbacks as long as they are minor in shape and size.
d. Downhill Elevation of main structure	Shall have a minimum of four offset building and roof elements to provide varied building forms to produce shadow patterns which reduce the impact of visual mass.
e. High Wall Planes	Wall planes exceeding one story or 20 feet in height, whichever is more restrictive, shall contain architectural elements in order to provide relief and to break up expansive wall planes.
2. Colors	
a. Natural Earth Tones	All structures on the lot shall use natural earth tone and/or vegetation colors which complement the natural surroundings. Natural earth-tone and vegetation colors include natural hues of brown, green and shades of gray.
b. Reflectivity Value	Shall not exceed 60 on a flat surface
3. Outdoor Lighting	All outdoor lighting shall <u>meet the requirements in Chapter 19.102.</u> be identified on the site development plan.
a. Tennis Court and Other Recreational Purposes	High intensity lights not permitted.

b. Motion-activated Security Lights	1. Shall not exceed 100 watts and 2. Must be shielded to avoid all off-site intrusion.
c. Other lighting	Must be directed to meet the particular need.
I. Geologic and Soils Reports	
1. Applicability	<p>A geological report prepared by a certified engineering geologist and a soils report prepared by a registered civil engineer qualified in soils mechanics by the State shall be submitted prior to issuance of permits for construction of any building or structure which:</p> <ul style="list-style-type: none"> a. Is located on property in an RHS zoning district which has been designated by the General Plan to be within a geological hazard area; and b. Where an addition, alteration or repair of an existing building or structure include at least one of the following: <ul style="list-style-type: none"> i. The improvements include increasing the occupancy capacity of the dwelling such as adding a bedroom or secondary unit, or ii. The cost of the completed addition, alteration or repairs will, during any period of twelve months, exceed twenty-five percent of the value of the existing improvements as determined by the building official based on current per foot value of the proposed structure to the existing structure's value on a parcel of property. For the purposes of this section, the value of existing improvements shall be deemed to be the estimated cost to rebuild the improvements in kind, which value shall be determined by the building official.

2. Content of Reports	<p>These reports shall contain, in addition to the requirements of Chapter 16.12 of this code, the following:</p> <ul style="list-style-type: none"> a. All pertinent data, interpretations and evaluations, based upon the most current professionally recognized soils and geologic data; b. The significance of the interpretations and evaluations with respect to the actual development or implementation of the intended land use through identification of any significant geologic problems, critically expansive soils or other unstable soil conditions which if not corrected may lead to structural damage or aggravation of these geologic problems both on- and off-site; c. Recommendations for corrective measures deemed necessary to prevent or significantly mitigate potential damages to the proposed project and adjacent properties or to otherwise insure safe development of the property; d. Recommendations for additional investigations that should be made to insure safe development of the property; e. Any other information deemed appropriate by the City Engineer.
3. Incorporation of Recommendations	<p>All building and site plans shall incorporate the above-described corrective measures and must be approved by the City Engineer, prior to building permit issuance.</p>
J. Private Roads and Driveways	
1. Pavement Width and Design	<p>The pavement width and design for a private road or common driveway serving two to five lots and a single-lot driveway shall comply with development standards contained in the Hillside Subdivision Ordinance, Chapter 18.52 of this code.</p>
2. Reciprocal Ingress/Egress Easement and Reciprocal Maintenance Agreement	<p>The property owner for a lot served by a private road or common driveway shall, prior to issuance of building permits, record an appropriate deed restriction guaranteeing the following, to adjoining property owners who utilize the private road or common driveway for the primary access to their lot(s):</p> <ul style="list-style-type: none"> a. Reciprocal ingress/egress easement, and b. Participation in a reciprocal maintenance agreement.

K. Solar Design	The setback and height restrictions provided in this chapter may be varied for a structure utilized for passive or active solar purposes, provided that no such structure shall infringe upon solar easements or adjoining property owners. Variation from the setback or height restrictions of this chapter may be allowed only upon issuance of an Administrative Conditional Use Permit subject to Chapter 19.12.
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4. Amendments to Section 19.60.060 concerning lighting in General Commercial Zoning Districts

19.60.060 Development Standards.

Table 19.60.060 sets forth the rules and regulations pertaining to the development of property located in the General Commercial (CG) zoning district.

Table 19.60.060: Development Standards	
A. Lot Area and Coverage	No minimum lot area or coverage. Must be in conformance with the General Plan or applicable Specific Plan. Must have sufficient area to satisfy off-street parking and loading requirements contained in this title.
B. Height of Buildings and Structures	30 feet unless otherwise permitted by the General Plan or applicable Specific Plan.
C. Required Setbacks for Buildings and Enclosed Patio/Atrium Space	
1. Front Yard	Established based upon special policies contained in the General Plan and/or applicable specific plan to: <ul style="list-style-type: none"> - Insure sufficient space to provide adequate light, air and visibility at intersections; - Assure general conformity to yard requirements of adjacent or nearby zones, lots or parcels; and - Promote excellence of development.

2. Minimum Side and Rear Yard	No side or rear yard setback required unless lot abuts any residential or agricultural-residential zone in which case the following regulations apply:
a. Side Yard Setback	
i. Interior Side	12 feet, or a total setback equal to one foot of additional setback for each foot of height of a commercial building measured from its eave line or top of parapet, whichever is more restrictive.
ii. Street Side of Corner Lot	12 feet
b. Rear Yard Setback	20 feet, or a total setback equal to one and one-half feet of additional setback for each foot of height of a commercial building measured from its eave line or top of parapet, whichever is more restrictive.
D. Noise Standards –	
1. New Construction and uses approved as a Conditional Use that have a high probability of generating noise that adjoin residential districts shall be:	
a. Exterior Walls	Designed to attenuate all noise emanating from interior retail space.
b. Loading Docks and Doors	Located away from residential districts. Required Fire Doors are excluded.
c. Mechanical and other equipment	Air conditioning, exhaust fans, and other mechanical equipment shall be acoustically isolated to comply with the noise ordinance
d. Sound Wall	Install a minimum eight-foot-high masonry sound wall on or adjacent to the common property line
e. Acoustical Engineer	Certified by an acoustical engineer that the above sound attenuation measures comply with the intent of the regulation and the City's community noise ordinance
2. In addition to (1) above, retail structures in a mixed use residential development shall employ noise attenuation techniques recommended by an acoustical engineer to comply with the community noise ordinance.	
E. Lighting – New lighting fixtures for any new site construction or building improvements <u>shall meet the requirements in Chapter 19.102.</u>	

1. Exterior Lighting	Shall be a white type light either metal halide or a comparable color corrected light unless otherwise approved as part of a development plan.
2. Off-site Glare	Light fixtures shall be oriented and designed to preclude any light and direct glare to adjacent residential properties. No direct off-site glare from a light source shall be visible above three feet at a public right of way.
3. Parking Lots, Sidewalks and other areas accessible to pedestrians and automobiles	Shall be illuminated with a uniform and adequate intensity. Typical standards to achieve uniform and adequate intensity are:
a. Average horizontal maintained illumination	Should be between one and three foot candles
b. Maximum to Minimum Ratio	Should be between 6:1 and 10:1
4. Critical Area Illumination	Such as stairways, ramps and main walkways may have a higher illumination
5. Areas around Automatic Teller Machines	Shall meet minimum standards required by the State of California Business and Professions Code.
F. Landscaping Plan	Shall be designed to provide an effective year-round landscaping screen in the setback area adjoining a residential property. The intent of the plan is to screen the building from the rear yard of a residence within five years.

G. Utilities	<p>1. The following amenities and utilities shall be installed subject to the specifications of the subdivision ordinance:</p> <ul style="list-style-type: none"> a. All utilities including water, gas, sanitary and storm sewers, underground power systems, and b. Amenities including, lighting electroliers, curbs, gutters, streets and sidewalks and c. Connections to main systems shall be installed subject to the specifications of the subdivision ordinance of the City. <p>2. All wires, pipes, cables, utilities and connections shall be placed in underground or subsurface conduits subject to the specifications of the subdivision ordinance of the City.</p> <p>3. Underground vaults, or, well screened areas, if underground vaults are deemed to be infeasible by the City Engineer and the Director of Community Development, must be provided for the installation of the necessary utilities.</p>
H. Mechanical Equipment	Air conditioning, exhaust fans, and other mechanical equipment shall be visually screened.

5. Amendments to Section 19.72.050 concerning lighting in Light Industrial (ML) and Industrial Park (MP) zoning districts

19.72.50 Restrictions Related to Emissions.

No use shall be allowed which is or will be offensive by reason of the emission of dust, gas, smoke, noise, fumes, odors, bright lights, vibrations, nuclear radiation, radio frequency interference, or otherwise. Every use shall be operated in such manner that

the volume of sound inherently and recurrently generated shall not exceed sixty-five decibels during the day and fifty-five decibels at night, at any point on the property line on which the use is located, or sixty decibels during the day and fifty-five decibels at night, at any point on the property line on which the use is located where such property line abuts property that is zoned for residential purposes. Noise and sounds shall be appropriately muffled in such manner so as not to be objectionable as to intermittent beat, frequency, or shrillness.

Provided further that prior to issuance of a building permit the Building Inspector may require evidence that adequate controls, measures, or devices have been provided to insure and protect the public interest, health, comfort, convenience, safety and general welfare from such nuisances.

Emissions of noise, vibrations, radiation, light, smoke, fumes or gas, odor, dust and toxic waste shall be limited to quantities indicated in this section. The limitations shall apply at any point outside the boundary of each lot in an ML zone, the boundary assumed, for the purpose of this title, to extend in a vertical plane and below ground. In case of further subdivision or lot split, the limitations shall not apply outside any resulting lot.

A. Vibration. Vibrations in the nonaudible range shall not be of such intensity that they can be perceived without instruments.

B. Radiation. Electromagnetic radiation shall not result in perceptible disturbance of television or radio reception.

C. Light. **In addition to the lighting standards in Chapter 19.102, all development shall meet the following lighting standards:**

- 1.** The intensity of light at the boundary of each lot shall not exceed seventy-five footlamberts from a source of direct light, or one hundred footlamberts from a source of reflected light.
- 2.** The intensity of light at the boundary of an industrial zone, or an industrial area in a planned development (P) zone, shall not exceed fifty footlamberts from a source of direct light, or seventy-five footlamberts from a source of reflected light.
- 3. In the event there is a conflict with Chapter 19.102, the less stringent lighting standards shall apply.**

D. Smoke. No emission shall be permitted at any point, from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 1 on the Ringelmann Smoke Chart, as published by the U.S. Department of Interior, Bureau of Mines,

Informational Circular 8333, May 1967; except that a visible grey smoke of a shade equal to No. 2 on the Ringelmann Smoke Chart may be emitted for four minutes in any thirty minutes.

E. Hazardous and Toxic Materials. The use, handling, storage, and transportation of toxic and hazardous materials shall comply with the provisions of the California Hazardous Materials Regulations (California Administrative Code, Title 22, Division 4). The use, storage, manufacture and disposal of hazardous materials shall be regulated and monitored according to the standards established by the U.S. Environmental Protection Agency (EPA), the California Environmental Protection Agency (Cal/EPA) and any delegated government agencies.

F. Odor. No emission of odorous gases or other odorous matter shall be permitted in such quantities as to be readily detectable without the aid of instruments at the boundaries of the lot or in such concentrations as to create a public nuisance or hazard beyond such boundaries. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail. There is established as a guide in determining such quantities of offensive odors, Table III, Odors Thresholds, in Chapter 5 of Air Pollution Abatement Manual, copyrighted in 1951 by Manufacturing Chemists Association, Inc., Washington, D.C.

G. Fly Ash, Dust, Fumes, Gases and Other Forms of Air Pollution. No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property, or that will result in the collection of heavy gases at ground level. No emission shall be permitted in excess of fifty percent of the standards specified in Table I, Chapter 5 of Industrial Hygiene Standards, Maximum Allowable Concentrations of the Air Pollution Abatement Manual, copyrighted in 1951 by Manufacturing Chemists Association, Inc., Washington, D.C. In no event shall any emission, from any chimney or otherwise, exceed one-tenth of a grain (0.1 grain) per cubic foot of the conveying gas. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of five hundred degrees Fahrenheit and fifty percent excess air.

Wastes. No discharge shall be permitted into any public street or sewer, private sewage disposal system, stream, body of water, or into the ground, of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in sewage treatment, corrode or otherwise damage sewers or pipelines, or otherwise cause the emission of dangerous or offensive elements, except in accordance with standards approved by the California Environmental Protection Agency (Cal/EPA) and any other governmental agency having jurisdiction over the activities.

6. Amendments to Section 19.124.040 concerning lighting in off-street parking**19.124.040 Regulations for Off-Street Parking.**

Table 19.124.040 sets for the rules and regulations for Off-Street Parking.

Table 19.124.040 - Regulations for Off-Street Parking		
A.	Parking Ratio and Dimensions	Table 19.124.040(A) defines the minimum and maximum required number of parking spaces by size and type for specific zoning districts and use within districts.
B.	Residential Lots Fronting on Public or Private Streets	If no on-street parking is available, two additional off-street spaces are required.
C.	Large-Family Day Care Home	Requirements are in addition to minimum requirements of the zoning district. May be on-street, in front of provider's residence. If the provider is relying on on-street parking and the roadway prohibits on-street parking, a semi-circular driveway may be provided, subject to other provisions of the Municipal Code.
1.	Non-resident Employee Parking	Minimum of one parking space for each non-resident employee.
2.	Drop-off Parking	Minimum of one parking space with direct access to the unit, not crossing a street.
D.	Aisle Dimensions	Aisle dimension shall be as required by standard details adopted by the City Engineer and shown in Table 19.124.040(B)
E.	Loading Areas	Loading areas, truck parking spaces and parking spaces for vehicles other than automobiles shall have ample dimensions for the particular use and type of operation, and be designed as required by the City Engineer except in the case of loading areas in the OP and MP zones which are specified in Chapters 19.68 and 19.72.
F.	Planned Development Districts	The parking requirement contained in Table 19.124.040(A) functions as guidelines for projects in planned development zoning districts.

Table 19.124.040 - Regulations for Off-Street Parking		
G.	Mixed-Use and Shared Parking	The minimum parking requirement for developments with more than one land use, or parking facilities being used by one or more properties, shall be determined using Table 19.124.040(C).
H.	Alternative Parking Standards	For all projects not meeting parking requirements in Table 19.124.040(A), (B) or (C), alternative parking arrangements may be approved per Section 19.124.060C
I.	Tandem, Valet and Other Special Parking Arrangements	Tandem, Valet, and other special forms of parking may be approved per Section 19.124.060C.
J.	Minimum Stall Dimensions in Parking Structures	Uni-size space located in a parking garage or other enclosed parking structure intended for non-residential uses is eight and one-half (8.5) feet by eighteen (18) feet.
1.	Space adjacent to a wall or structure on one side	Nine feet by eighteen feet.
2.	Space adjacent to a wall or structure on both sides	Nine and one-half feet by eighteen feet.
K.	Accessible Parking for the Disabled	The accessible parking requirement for the disabled is embodied in Section 1129 B of the California Building Code, as amended, is hereby incorporated into this chapter by reference.
L.	Heavy Equipment	<ol style="list-style-type: none"> 1. May only be stored within entirely enclosed structures or behind six-foot-high fencing in interior side yard and rear yard setback areas; and 2. In no case shall these items be visible from the street even when placed in permitted areas. 3. The provisions in L(1) and L(2) shall not apply to heavy equipment stored on site that is being used for construction or installation of improvements with a valid building or grading permit.
M.	Other Regulations	Outlined in Title 11 of the Municipal Code.

Table 19.124.040 - Regulations for Off-Street Parking			
N.	Landscape Requirements	Applicable to all new centers and centers with a twenty- five percent or greater increase in floor area or a twenty- five percent or greater change in floor area resulting from use permit or architectural and site approval within twelve months shall be required to meet the following minimum landscape requirements. However, the Planning Commission and/or City Council may recommend additional landscaping.	
1.	Minimum Interior Landscaping	As required in Table 19.124.040 (N)(1) below:	
		Table 19.124.040(N)(1):	
		Size of Parking Facility (Sq. Ft.)	Minimum Required Interior Landscaping (% of Total Parking Interior Facility Area)
		Under 14,999	5%
		15,000 - 29,000	7.5%
		30,000 plus	10%
2.	Parking Lot trees	<p>i. Shall be planted or exist at a rate of one tree for every five parking stalls for every ten spaces in a single row.</p> <p>ii. Only fifty percent of the trees located along the perimeter of the parking area may count towards the required number of trees.</p> <p>iii. A parking facility with larger trees with high canopies may be allowed to increase the number of parking stalls (up to 10 parking stalls per tree) depending on the size of the tree and canopy size.</p>	
3.	Landscape Planter Strip	At least three feet wide by the length of the parking space.	
4.	Placement of Trees	Shall be offset to prevent vehicles from bumping into them. The Planning Department shall review and approve final tree locations.	

Table 19.124.040 - Regulations for Off-Street Parking		
5.	Landscape Buffer (inclusive of curbing and vehicle overhang allowance)	<p>i. When parking lot is adjacent to a street, landscape buffer = ten feet wide</p> <p>ii. When adjacent to a side or rear property line, landscape buffer = five feet wide,</p> <p>iii. Buffer between double loading stalls = four feet.</p>
6.	Flat and Raised Curbs, Wheel Stops and Overhang into landscaped areas	<p>i. Landscape areas shall be enclosed by a six-inch wide continuous flat curb allowing parking lot run off into landscaping area, infiltration islands or swales.</p> <p>ii. Concrete wheel stops shall be placed on top of the flat curb and shall be provided at a rate of one per two stalls.</p> <p>iii. Landscape planter strips at the end of the parking aisles adjacent to a driveway shall be enclosed by a six-inch raised concreted curb with drainage outlets to help delineate the driveways or aisles.</p> <p>iv. Parking stall length may be decreased by up to two feet but must provide an equivalent vehicle overhang into landscaped areas.</p>
7.	Planter Strips	<p>i. Curbed planter strips shall be provided at the end of each parking aisle.</p> <p>ii. Landscape planter strip shall be at least three feet wide and the length of a parking stall.</p>
8.	Pedestrian Paths	Where appropriate, provision shall be made to ensure that adequate pedestrian paths are provided throughout the parking lot/landscaped areas.
9.	Minimum Tree Size	Trees require to meet any section of this title shall be a minimum of fifteen gallon size.
10.	Tree Protection	All trees shall be protected by wheel stops, curbing, bollards or other similar barriers as appropriate.
11.	Maintenance	All landscaping shall be continuously maintained.

Table 19.124.040 - Regulations for Off-Street Parking		
O.	Swales and Permeable Surfaces	In order to reduce urban runoff and provide water quality benefits in parking lots, all new parking lots or any substantial alterations to existing parking lots shall incorporate the following design measures to the maximum extent possible:
1.	Bio-swales	Incorporate bio-swales in the required landscaping buffers.
a.	Standards for bio-swales	<p>i. Longitudinal slope of the swale shall be between one percent and five percent.</p> <p>ii. Swales of greater than three percent may be required to install check dams to reduce velocity through swale.</p> <p>iii. Side slope shall not exceed 3:1 (horizontal:vertical).</p> <p>iv. All swales shall be required to provide an adequate under-drain system to prevent ponding. Swales shall be designed to eliminate any ponding of water for more than forty-eight hours.</p>
2.	Permeable surfaces	Use permeable or semi-permeable materials for the parking stalls
P.	Bicycle Parking	Bicycle parking shall be provided in multi-family residential developments and in commercial districts. In commercial districts, bicycle parking shall be conveniently located and adjacent to on-site bicycle circulation pedestrian routes. The bicycle parking facilities shall be one of the following three classification types:
1.	Class I Facility	These facilities are intended for long-term parking and are intended to protect the entire bicycle or its individual components and accessories from theft. The facility also protects the cycle from inclement weather, including wind driven rain. The three design alternatives for Class I facilities are as follows:

Table 19.124.040 - Regulations for Off-Street Parking		
a.	Bicycle Locker	A fully enclosed space accessible only by the owner or operator of the bicycle. Bicycle lockers must be fitted with key locking mechanisms.
b.	Restricted Access	Class III bicycle parking facilities located within a locked room or locked enclosure accessible only to the owners and operators of the bicycle. The maximum capacity of each restricted room shall be ten bicycles. In multiple family residential developments, a common locked garage area with Class II parking facilities shall be deemed restricted access provided the garage is accessible only to the residents of the units for whom the garage is provided.
c.	Enclosed Cages	A fully enclosed chain link enclosure for individual bicycles, where contents are visible from the outside, which can be locked by a user provided lock. This facility may only be used for multiple family residential uses.
2.	Class II Facility	<p>i. Intended for short term parking. A stationary object which the user can lock the frame and both wheels with a user provided lock.</p> <p>ii. The facility shall be designed so that the lock is protected from physical assault.</p> <p>iii. A Class II facility must accept U-shaped locks and padlocks.</p> <p>iv. Class II facilities must be within constant visual range of persons within the adjacent building or located at street floor level.</p>
3.	Class III Facility	<p>i. Intended for short-term parking. A stationary object to which the user may lock the frame and both wheels with a user provided cable or chain and lock.</p> <p>ii. Spacing of the bicycle units shall be designed for a handlebar width of three feet, distance from bottom of wheel to top of handlebar of three feet and six inches</p>

Table 19.124.040 - Regulations for Off-Street Parking		
		and a maximum wheel-to-wheel distance of six feet.
Q.	Parking Lot <u>and</u> Structured Parking Lighting	Applicable to N new lighting fixtures for any new site construction shall meet the following requirements <u>in addition to the requirements of Chapter 19.102:</u>
1.	Exterior Light Color	All exterior lighting shall be a white type light either metal halide or a comparable color corrected light unless otherwise approved as part of a development plan for uniformity, not allowing any dark areas in the parking lot.
2.	Lighting Glare	<p>i. The light fixtures shall be oriented and designed to preclude any light and direct glare to adjacent residential properties.</p> <p>ii. No direct off-site glare from a light source shall be visible above three feet at a public right-of-way.</p>
3.	Lighting Intensity	Parking lots, sidewalks and other areas accessible to pedestrians and automobiles shall be illuminated with a uniform and adequate intensity. Typical standards to achieve uniform and adequate intensity are:
a.	Average Horizontal Maintained Illumination	Between one and three foot-candles
b.	Average Maximum to Minimum Ratio	Should be generally between six and ten to one
c.	Minimum Intensity above Parking Lot Surface	Minimum three foot-candles vertically above the parking lot surface shall be maintained.
4.	Critical Areas	Such as stairways, ramps and main walkways may have a higher illumination.
5.	Automatic Teller Machines (ATM)	Lighting around automatic teller machines shall meet minimum standards required by the State Business and Professions Code.
6-5.	Shatter Resistant Lenses	Shatter resistant lenses should be placed over the light to deter vandalism.

Table 19.124.040 - Regulations for Off-Street Parking		
<u>7.6.</u>	Underground and Structured Parking Lighting	i. Lighting should utilize vandal-resistant fixtures and ii. Maintain a minimum five lux level of color-corrected lighting for maximum efficiency.
<u>8.7.</u>	Parking Garage Entrances	Portal lighting should be provided inside all parking garages entrances.

R. Parking Space Dimension Chart. Parking space dimensions shall be as shown in Table 19.124.040(A):

Table 19.124.040(A)					
Land Use	Zones	Parking Ratio ⁽²⁾	Bicycle Parking	Bicycle Parking Class ⁽⁴⁾	Stall Dimensions (3)
Residential					
Single-Family	R-1/RHS/A1/P	4/DU (2 garage + 2 open)			10 x 20 ea.
Small Lot Single-family, Townhouse	P	2.8/DU (2 garage + 0.8 open)			10 x 20 ea.
Duplex	R2	3/DU (1 ½ enclosed + 1 ½ open)			10 x 20 ea.
High Density Multiple-Family,	R3/P	2/DU (1 covered + 1 open)	1 space per 2 residential units; and	Class I	9.5 x 20 ea.
High Density Multiple Story Condominium			1 space per 10 residential units	Class II	
Public/Quasi-Public/Agriculture					

Table 19.124.040(A)					
Land Use	Zones	Parking Ratio⁽²⁾	Bicycle Parking	Bicycle Parking Class⁽⁴⁾	Stall Dimensions⁽³⁾
Churches, Clubs, Lodges, Theaters	BQ/CG	1/4 seats +1/employee +1/special-purpose vehicle	2% of seats. Minimum two spaces	Class II	Uni-size
Schools and School Offices	BA/BQ	1/employee + 1/56 sq. ft. multipurpose room + 8 visitor spaces/school + 1/3 students at senior H.S. or college level	1 space per 5 students	Class II	Uni-size
Daycare Centers	CG	1/6.5 students			Uni-size
Martial Arts, CG Dance/Art/Music Studios, Tutorial Services, specialized schools (does not include adult tutorial schools or services)	CG	1/4 students plus 1/1 staff at any given time or 1/250 whichever is more restrictive	1 space per 5 students	Class II	Uni-size
Agriculture	A	2 garage + 2 open			10 x 20 ea.
Sanitariums and Rest Homes	BQ	1/doctor +1/3 employees + 1/6 beds			Uni-size
Private Recreation	FP	1/4 seats + 1/employee	1/5,000 sq. ft. Minimum two spaces	Class II	Uni-size

Table 19.124.040(A)					
Land Use	Zones	Parking Ratio⁽²⁾	Bicycle Parking	Bicycle Parking Class⁽⁴⁾	Stall Dimensions⁽³⁾
Gyms, Auditoriums, floor area used Skating Rinks for seating without fixed seats	BA/BQ	1/56 sq. ft. purposes + 1/employee	1/5,000 sq. ft. Minimum two spaces	Class II	Uni-size
Commercial					
Motels/Hotels/Lodging	CG	1/unit + 1/employee (2) (3)	1/20,000 sq. ft.	Class II	Uni-size
Restaurant/Bar and Nightclubs	CG	1/3 seats + 1/employee + 1/36 sq. ft. of dance floor	1/2,000 sq. ft.	Class II	Uni-size
Restaurants without Separate Bar	CG	1/4 seats + 1/employee + 1/36 sq. ft. of dance floor	1/2,000 sq. ft.	Class II	Uni-size
Restaurant - Fast Food	CG	1/3 seats + 1/employee	1/2,000 sq. ft.	Class II	Uni-size
Specialty Foods	CG	1/3 seats or 1/250 sq. ft. whichever is more	1/2,000 sq. ft.	Class II	Uni-size
Bowling Alleys	CG	7/lane + 1/employee	1/5,000 sq. ft.	Class II	Uni-size
			1/1,250 sq. ft. up to 25,000 sq. ft. 1/2,500 sq. ft. between 25,000 – 50,000 sq. ft.		

Table 19.124.040(A)					
Land Use	Zones	Parking Ratio ⁽²⁾	Bicycle Parking	Bicycle Parking Class ⁽⁴⁾	Stall Dimensions (3)
General	CG	1/250 sq. ft.	1/5,000 sq. ft. over 50,000 sq. ft.	Class II	Uni-size
			1/5,000 sq. ft. Bulky Merchandise (5)		
Industrial					
Manufacturing	ML	1/450 sq. ft.	1/12,000 sq. ft.	Class I	Uni-size
Office/Prototype Manufacturing	ML/OA	1/285 sq. ft.	/1,250 sq. ft. or 1/15 employees, whichever is more restrictive.	Class I	Uni-size
Office					
Corporate/ Administrative/ General Multi-Tenant	CG/OP	1/285 sq. ft.	1/1,250 sq. ft. or 1/15 employees, whichever is more restrictive.	Class I	Uni-size
Medical and Dental Office	CG	1/175 sq. ft.	1/1,250 sq. ft.	Class II	Uni-size

Notes:

1. Refer to Table 19.124.040(B) for uni-size stall dimensions.
2. Refer to standard details table for requirements for handicapped parking.
3. See 19.124.040(J) for stall dimensions in parking structures.
4. See 19.124.040(P) for description of bicycle parking classes.
5. Retail space devoted to the handling of bulky merchandise such as motor vehicles, machinery or furniture, excluding grocery stores.

Table 19.124.040(B)					
Type of Parking Stall	Angle (In Degrees)	Stall Width	Aisle Width (One-Way Aisle)	Aisle Width (Two-Way Aisle)	Car Space Depth
		(A)	(B)	(B)	(C)
Uni-Size	0°	8.5	10.0	18.0	22.0
	30°	8.5	10.0	18.0	18.0
	35°	8.5	10.0	18.0	18.0
	40°	8.5	10.0	18.0	18.0
	45°	8.5	10.0	18.0	18.0
	50°	8.5	10.0	18.0	18.0
	55°	8.5	11.5	18.5	18.0
	60°	8.5	13.0	19.0	18.0
	65°	8.5	14.5	19.5	18.0
	70°	8.5	16.0	20.0	18.0
	90°	8.5	N/A	22.0	18.0

NOTES TO TABLE:

* - For handicap accessible spaces, please refer to § 1118A.4 of 1994 Uniform Building Code.

* - For further information, please refer to the Public Works Department Standard Details.

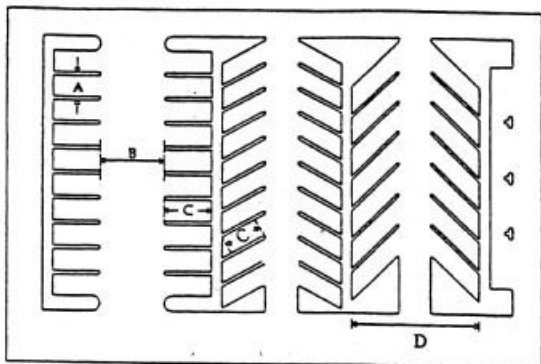


Table 19.124.040(C): Calculating Shared Parking for Mixed-Use Developments

Weekday Weekend Nighttime					
	Weekday		Weekend		Nighttime
	Daytime	Evening	Daytime	Evening	(midnight - 6:00 a.m.)
	(9:00 a.m. - 4:00 p.m.)	(6:00 p.m. - midnight)	(9:00 a.m. - 4:00 p.m.)	(6:00 p.m. - midnight)	
Residential	75%	100%	80%	100%	100%
Office/Industrial	100%	10%	10%	5%	5%
Retail	60%	90%	100%	70%	5%
Hotel	75%	100%	75%	100%	10%
Restaurant	100%	100%	100%	100%	10%
Entertainment / Recreational	40%	100%	80%	100%	10%

1. Determine the minimum amount of parking required for each land use as though it were a separate use;
2. Multiply each amount by the corresponding percentage for each of the five time periods;
3. Calculate the column total for each time period;
4. The column total with the highest value is the parking space requirement.

1301387.2

[19.08.010 -19.08.020 – No Change]

19.08.30 Definitions.

Throughout this title the following words and phrases shall have the meanings ascribed in this section.

A. "A" Definitions:

"Abandon" means to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

"Abutting" means having property or district lines in common.

"Accessory building" means a building which is incidental to and customarily associated with a specific principal use or facility and which meets the applicable conditions set forth in Chapter 19.100, Accessory Buildings/Structures.

"Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
3. "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. Junior accessory dwelling units must include an efficiency kitchen, which must include both a cooking facility with appliances and a food preparation counter and storage cabinets that are of a reasonable size in relation to the size of the unit. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure, as defined in California Government Code Section 6582.22.

"Accessory structure" means a subordinate structure, the use of which is purely incidental to that of the main building and which shall not contain living or sleeping quarters. Examples include a deck, tennis courts, trellis or car shelter. Fences eight feet or less are excluded.

"Addition" means any construction which increases the size of a building or facility in terms of site coverage, height, length, width, or gross floor area ratio.

"Adjacent property" means property that abuts the subject property, including property whose only contiguity to the subject site is a single point and property directly opposite the subject property and located across a street.

"Adult bookstore" means a building or portion thereof used by an establishment having as a substantial or significant portion of its stock in trade for sale to the public or certain members thereof, books, magazines, and other publications which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined.

"Adult cabaret" means a building or portion thereof used for dancing purposes thereof or area used for presentation or exhibition or featuring of topless or bottomless dancers, strippers, male or female impersonators or similar entertainers, for observations by patrons or customers.

"Adult motion picture theater" means a building or portion thereof or area, open or enclosed, used for the presentation of motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined, for observation by patrons or customers.

"Advertising statuary" means a structure or device of any kind or character for outdoor advertising purposes which displays or promotes a particular product or service, but without name identification.

"Aerial" means a stationary transmitting and/or receiving wireless communication device consisting of one or any combination of the elements listed below:

1. "Antenna" means a horizontal or vertical element or array, panel or dish that may be attached to a mast or a tower for the purpose of transmitting or receiving radio or microwave frequency signals.
2. "Mast" means a vertical element consisting of a tube or rod which supports an antenna.
3. "Tower" means a vertical framework of cross elements which supports either an antenna, mast or both.
4. "Guy wires" means wires necessary to insure the safety and stability of an antenna, mast or both.

"Affordable housing cost" means the amount set forth in the Health and Safety Code Section 50052.5, as may be amended.

"Affordable rent" means the amount set forth in the Health and Safety Code Section 50053, as may be amended. "Affordable units" means housing units available at affordable rent or affordable housing cost to lower or moderate income households.

"Agriculture" means the tilling of the soil, the raising of crops, horticulture, agriculture, livestock farming, dairying, or animal husbandry, including slaughterhouses, fertilizer yards, bone yard, or plants for the reduction of animal matter or any other similar use.

"Alley" means a public or private vehicular way less than thirty feet in width affording a secondary means of vehicular access to abutting property.

"Alteration", for purposes of the Sign Ordinance, means any permanent change to a sign.

"Alteration" means any construction or physical change in the arrangement of rooms or the supporting members of a building or structure, or change in the relative position of buildings or structures on a site, or substantial change in appearances of any building or structure.

1. "Incidental alteration" means any alteration to interior partitions or interior supporting members of a structure which does not increase the structural strength of the structure; any alteration to electrical, plumbing, heating, air conditioning, ventilating, or other utility services, fixtures, or appliances; any addition, closing, or change in size of doors or windows in the exterior walls; or any replacement of a building facade which does not increase the structural strength of the structure.

2. "Structural alteration" means any alteration not deemed an incidental alteration.

"Amusement park" means a commercial facility which supplies various forms of indoor and outdoor entertainment and refreshments.

Animal:

1. Animal, Adult. "Adult animal" means any animal four months of age or older.

2. Animal, Large. "Large animal" means any equine, bovine, sheep, goat or swine or similar domestic or wild animal, as determined by the Planning Commission.

3. Animal, Small. "Small animal" means animals which are commonly found in single-family residential areas such as chickens, ducks, geese, rabbits, dogs, cats, etc.

"Animal care" means a use providing grooming, housing, medical care, or other services to animals, including veterinary services, animal hospitals, overnight or short-term boarding ancillary to veterinary care, indoor or outdoor kennels, and similar services.

"Apartment" means a room or a suite of two or more rooms which is designed for, intended for, and occupied by one family doing its cooking there.

"Apartment house" means a building designed and used to house three or more families, living independently of each other.

"Apartment project" means a rental housing development consisting of two or more dwelling units.

"Approval Body" means the Director of Community Development and his/her designee, the Planning Commission or City Council depending upon context.

"Architectural feature" means any part or appurtenance of a building or structure which is not a portion of the living area of the building or structure. Examples include: cornices, canopies, eaves, awnings, fireplaces, or projecting window elements. Patio covers or any projection of the floor area shall not constitute an architectural projection.

"Architectural projection," for purposes of the Sign Ordinance, means any permanent extension from the structure of a building, including the likes of canopies, awnings and

fascia.

"Atrium" means a courtyard completely enclosed by walls and/or fences.

"Attic" means an area between the ceiling and roof of a structure, which is unconditioned (not heated or cooled) and uninhabitable.

"Automotive service station" means a use providing gasoline, oil, tires, small parts and accessories, and services incidental thereto, for automobiles, light trucks, and similar motor vehicles. Automotive maintenance and repair (minor) may be conducted on the site. The sale of food or grocery items on the same site is prohibited except for soft drinks and snack foods, either from automatic vending machines or from shelves. The sale of alcoholic beverages on the site is governed by Chapter 19.132, Concurrent Sale of Alcoholic Beverages and Gasoline.

"Automotive repair and maintenance (minor)" means the supplying of routine automotive services such as lubrication, engine tune-ups, smog certificates, servicing of tires, brakes, batteries and similar accessories, and minor repairs involving engine accessories. Any repair which requires the engine, drive train, transmission assembly, exhaust system, or drive train parts to be removed from a motor vehicle or requires the removal of internal parts shall not be considered minor. Body and paint shop operations are not minor repairs or maintenance.

"Average slope" means the ratio between vertical and horizontal distance expressed in percent; the mathematical expression is based upon the formula described below:

$$S = \frac{I \times L \times 100}{A}$$

S = Average slope of ground in percent;

L = Combined length in feet of all contours on parcel;

I = Contour interval in feet;

A = Area of parcel in square feet.

B. "B" Definitions:

"Banks" means financial institutions including federally-chartered banks, savings and loan associations, industrial loan companies, and credit unions providing retail banking services to individuals and businesses. This classification does not include payday lending businesses or check cashing businesses. The term "payday lending business" as used herein means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code Section 23001(d), as amended from time to time. The term "check cashing business" as used herein means a retail business owned or operated by a "check casher" as that term is defined in California Civil Code Section 1789.31 as amended from time to time.

"Basement" means any floor below the first story in a building that is fully submerged below grade except for lightwells required for light, ventilation and emergency egress. A basement may have a maximum exterior wall height of two feet between natural grade

and ceiling.

"Bird-safe design" means when building design, site planning, design features, materials, exterior and interior lighting, are designed and developed to reduce hazardous conditions for birds.

"Bird-safe development" means development that incorporates bird-safe design and bird-safe treatment.

"Bird-safe treatment" means treatment to glass that provides visual cues to birds and reduce the likelihood of bird collisions.

"Bird-sensitive area", for purposes of Chapter 19.102, Glass and Lighting Standards, means parcels that are in or within 300' of the Wildland Urban Interface; within 300 feet of watercourses; in Residential Hillside areas; and within 300 feet of public and private, open spaces and parks that are dominated by vegetation, including vegetated landscaping, forest, meadows, grassland, or wetlands.

"Block" means any lot or group of contiguous lots bounded on all sides by streets, railroad rights-of-way, or waterways, and not traversed by any street, railroad right-of-way or waterway.

"Boarding house" means any building used for the renting of rooms or providing of table board for from three to five persons, inclusive, over the age of sixteen years, who are not members of the same family.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy when any portion of a building is completely separated from every other portion by a "Fire Barrier" as defined by the California Building Code, then each portion shall be deemed to be a separate building.

1. "Attached building" means buildings which are structurally connected by any structural members or wall, excluding decks, patios or fences.

"Building coverage" means that portion of the net lot area encompassed within the outermost wall line which defines a building enclosure.

"Building frontage" means the length or the surface of the building wall which faces, and is visible to the general public from, a private or public right-of-way or driveway.

"Business" or "commerce" means the purchase, sale or other transaction involving the handling or disposition of any article, substance or commodity for profit or livelihood, including, in addition, office buildings, offices, shops for the sale of personal services, garages, outdoor advertising signs and structures, hotels and motels, and recreational and amusement enterprises conducted for profit.

"Business or trade school" means a use, except a college or university, providing education or training in business, commerce, language, or similar activity or pursuit, and not otherwise defined as a home occupation.

C. "C" Definitions:

"Canopy" means any roof-like structure, either attached to another structure or freestanding, or any extension of a roof line, constructed for the purpose of protection from the elements or aesthetic purposes in connection with outdoor living.

"Car shelter" means a roofed structure or a part of a building not enclosed by walls, intended and designed to accommodate one or more vehicles.

"Caretaker" means a person or persons employed for the purpose of protecting the principal use of the property or structure.

"Centerline" means the centerline as established by the County Surveyor of Santa Clara County, the City Engineer, or by the State Division of Highways of the State of California.

"Changeable copy sign" means any sign, or portion, which provides for each manual changes to the visible message without changing structural surfaces, including the likes of theater marquees and gasoline service station price signs, but excluding electronic reader board signs and signs which display the current time or temperature.

"Change of face" means any changes to the letter style, size, color, background, or message.

"Change of use" means the replacement of an existing use by a new use, or a change in the nature of an existing use, but not including a change in ownership, tenancy or management where the previous nature of the use, line of business, or other function is substantially unchanged.

"Child" means a person who is under eighteen years of age.

"Child day care facility" means a facility, licensed by the State or County, which provides non-medical care to children in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four-hour basis. Child day care facility includes day care centers, employer sponsored child-care centers and family day care homes.

"Church" means a use providing facilities for organized religious worship and religious education incidental thereto, but excluding a private educational facility. A property tax exemption obtained pursuant to Section 3(f) of Article XIII of the Constitution of the State of California and Section 206 of the Revenue and Taxation Code of the State of California, or successor legislation, constitutes prima facie evidence that such use is a church as defined in this section.

"College" or "university" means an educational institution of higher learning which offers a course of studies designed to culminate in the issuance of a degree or defined by Section 94110 of the Education Code of the State of California, or successor legislation.

"Collocation" means the placement of aerials and other facilities belonging to two or more communication service providers on a single mast or building.

"Commercial recreation" means a use providing recreation, amusement, or entertainment services, including theaters, bowling lanes, billiard parlors, skating arenas, and similar services, operated on a private or for-profit basis, but excluding uses defined as outdoor

recreation services.

"Community center" means a place, structure, area, or other facility used for and providing religious, fraternal, social and/or recreational programs generally open to the public and designated to accommodate and serve a significant segment of the community.

"Commercial district," for purposes of the Sign Ordinance, means an area of land designated for commercial use in the current Cupertino General Plan.

"Common interest development" means the following, all definitions of which are based upon Civil Code Section 4100 or subsequent amendments:

1. A condominium project,
2. A community apartment project,
3. A stock cooperative, or
4. A planned development.

"Community organization" means a nonprofit organization based in the City and whose activities benefit the City, its residents, employees, or businesses.

"Concession" means a benefit offered by the City to facilitate construction of eligible projects as defined by the provisions of Chapter 19.56, Density Bonus. Benefits may include, but are not limited to, priority processing, fee deferments and waivers, granting of variances, and relaxation of otherwise applicable permit conditions or other concessions required by law.

"Condominium conversion" or "Conversion" means a change in the type of ownership of a parcel (or parcels) of land, together with the existing attached structures, to that defined as a common interest development, regardless of the present or prior use of such land and structures and whether substantial improvements have been made or are to be made to such structure.

"Condominium project" or "project" includes the real property and any structures thereon, or any structures to be constructed thereon, which are to be divided into condominium ownership.

"Condominium units" or "units" means the individual spaces within a condominium project owned as individual estates. "Congregate residence" means any building or portion which contains facilities for living, sleeping and sanitation, as required by the California Building Code and may include facilities for eating and cooking for occupancies other than a family. A congregate residence may be a shelter, convent or monastery but does not include jails, hospitals, nursing homes, hotels or lodging houses.

"Convalescent facility" means a use other than a residential care home providing inpatient services for persons requiring medical attention, but not providing surgical or emergency medical services.

"Convenience market" means a use or activity that includes the retail sale of food,

beverages, and small personal convenience items, including sale of food in disposable containers primarily for off-premises consumption, and typically found in establishments with long or late hours of operation and in relatively small buildings, but excluding delicatessens and other specialty food shops and establishments which have a sizable assortment of fresh fruits, vegetables, and fresh-cut meats.

"Corner triangle" means a triangular-shaped area bounded by the following, unless deemed otherwise by the City Engineer:

1. The intersection of the tangential extension of front and street side property lines as formed by the intersection of two public rights-of-way abutting the said property lines; and
2. The third boundary of the triangular-shaped area shall be a line connecting the front and side property lines at a distance of forty feet from the intersection of the tangential extension of front and side property lines.

"Corner triangle," for purposes of the Sign Ordinance, means a triangular-shaped area of land adjacent to an intersection of public rights-of-way, as further defined in Cupertino Standard Details Drawings Nos. 7-2 and 7-4. (See Appendix A, Cupertino Standard Detail 7-2; Corner Triangle–Controlled Intersections, and B, Cupertino Standard Detail 7-4; Corner Triangle–Uncontrolled Intersections for details.)

"Court" means an open, unoccupied space, other than a yard, on the same lot with a building or buildings and which is bounded on two or more sides by such building or buildings, including the open space in a house court or court apartment providing access.

"Covered parking" means a carport or garage that provides full overhead protection from the elements with ordinary roof coverings. Canvas, lath, fiberglass and vegetation are not ordinary roof coverings and cannot be used in providing a covered parking space.

D. "D" Definitions:

"Day care center" means any child day care facility, licensed by the State or County, other than a family day care home, and includes infant centers, preschools, and extended day care facilities.

Day Care Home, Family. "Family day care home" means a home, licensed by the State or County, which regularly provides care, protection and supervision for fourteen or fewer children, in the provider's own home, for periods of less than twenty-four hours per day, while the parents or guardian are away, and includes the following:

1. "Large-family day care home," which means a home which provides family day care for seven to fourteen children, inclusive, including children under the age of ten years who reside at the home, as set forth in the California Health and Safety Code Section 1597.465;
2. "Small-family day care home," which means a home which provides family day care to eight or fewer children, including children under the age of ten years who resides at the home, as set forth in the California Health and Safety Code Section 1597.44.

"Decorative statuary," for purposes of the Sign Ordinance, means any structure or device of any kind or character placed solely for aesthetic purposes and not to promote any product or service.

"Demonstrated safety" means a condition requiring protection from the threat of danger, harm, or loss, including but not limited to the steepness of a roadway or driveway that may create a hazardous parking situation in front of a gate.

"Demonstrated security" means a condition requiring protection from the potential threat of danger, harm or loss, including but not limited to a location that is isolated and invisible from public view or that has experienced documented burglary, theft, vandalism or trespassing incidences.

"Density bonus" means a density increase over the otherwise maximum allowable residential density in accordance with the provisions of Chapter 19.56 as of the date of the project application.

"Developer" means the owner or subdivider with a controlling proprietary interest in the proposed common interest development, or the person or organization making application, or a qualified applicant who has entered into a development agreement pursuant to the procedures specified in Chapter 19.144.

"Development agreement" means a development agreement enacted by legislation between the City and a qualified applicant pursuant to Government Code Sections 65864 through 65869.5.

"Development standard" means a site or construction regulation, including, but not limited to, a setback requirement, a floor area ratio, and onsite open-space requirement, or a parking ratio that applies to a development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

"District" means a portion of the property within the City within which certain uses of land, premises and buildings are permitted and certain other uses of land, premises and buildings are prohibited, and within which certain yards and other open spaces are required and certain building site areas are established for buildings, all as set forth and specified in this title.

"Drinking establishment" means an activity that is primarily devoted to the selling of alcoholic beverages for consumption on the premises.

"Drive-through establishment" means an activity where a portion of retailing or the provision of service can be conducted without requiring the customer to leave his or her car.

"Driveway" means any driveway that provides direct access to a public or private street.

Driveway, Curved. "Curved driveway" means a driveway with access to the front property line which enters the garage from the side at an angle of sixty degrees or greater to the front curblin and which contains a functional twenty-foot-deep parking area that

does not overhang the front property line.

"Duplex" means a building, on a lot under one ownership, containing not more than two kitchens, designed and used as two dwelling units, of comparable size independent of each other.

"Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, occupied or intended for occupancy on a non-transient basis and having not more than one kitchen.

E. "E" Definitions:

"Economically feasible" means when a housing development can be built with a reasonable rate of return. The housing developer's financial ability to build the project shall not be a factor.

Emergency Shelter:

"Emergency shelter, rotating" means a facility that provides temporary housing with minimal supportive services and meets criteria in Section 19.76.030(2).

"Emergency shelter, permanent" means a permanently operated facility that provides temporary housing with minimal supportive services and meets criteria in Section 19.76.030(3).

"Employee Housing" means accommodations for employees as defined by Health and Safety Code 17008, as may be amended.

"Enclosed" means a covered space fully surrounded by walls, including windows, doors and similar openings or architectural features, or an open space of less than one hundred square feet fully surrounded by a building or walls exceeding eight feet in height.

"Entry feature" means a structural element, which leads to an entry door.

"Equestrian center" means a facility for the shelter, display, exhibition, keeping, exercise or riding of horses, ponies or mules, or vehicles drawn by such animals, with related pasture lands, corrals and trails.

"Equipment yard" means a use providing for maintenance, servicing or storage of motor vehicles, equipment or supplies; or for the dispatching of service vehicles; or distribution of supplies or construction materials required in connection with a business activity, public utility service, transportation service, or similar activity, including but not limited to, a construction material yard, corporation yard, vehicular service center or similar use.

F. "F" Definitions:

"Facility" means a structure, building or other physical contrivance or object.

1. "Accessory facility" means a facility which is incidental to, and customarily associated with a specified principal facility and which meets the applicable conditions set forth in Chapter 19.80.

2. "Noncomplying facility" means a facility which is in violation of any of the site development regulations or other regulations established by this title, but was lawfully existing on October 10, 1955, or any amendment to this title, or the application of any district to the property involved by reason of which the adoption or application the facility becomes noncomplying.

3. "Principal facilities" means a main building or other facility which is designed and constructed for or occupied by a principal use.

"Family" means an individual or group of persons living together who constitute a bona fide single housekeeping unit in a dwelling unit. "Family" shall not be construed to include a fraternity, sorority, club, or other group of persons occupying a hotel, lodging house, or institution of any kind.

"Fence" means a man-made structure which is designed, intended or used to protect, defend or obscure the interior property of the owner from the view, trespass or passage of others upon that property.

"Fence height" means the vertical distance from the highest point of the fence (excluding post caps) to the finish grade adjoining the fence. In a case where the finish grade is different for each side of the fence, the grade with the highest elevation shall be utilized in determining the fence height.

"Financial institutions" means a company engaged in the business of dealing with monetary transactions, such as deposits, loans, investments and currency exchange. This classification does not include payday lending businesses or check cashing businesses. The term "payday lending business" as used herein means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code Section 23001(d), as amended from time to time. The term "check cashing business" as used herein means a retail business owned or operated by a "check casher" as that term is defined in California Civil Code Section 1789.31 as amended from time to time.

"First floor" means that portion of a structure less than or equal to twenty feet in height, through which a vertical line extending from the highest point of exterior construction to the appropriate adjoining grade, passes through one story.

"Flag" means any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

"Floor area" means the total area of all floors of a building measured to the outside surfaces of exterior walls, and including the following:

1. Halls;
2. Base of stairwells;
3. Base of elevator shafts;
4. Services and mechanical equipment rooms;
5. Interior building area above fifteen feet in height between any floor level and the

ceiling above;

6. Basements with lightwells that do not conform to Section 19.28.070(I);
7. Residential garages;
8. Roofed arcades, plazas, walkways, porches, breezeways, porticos, courts, and similar features substantially enclosed by exterior walls;
9. Sheds and accessory structures.

"Floor area" shall not include the following:

1. Basements with lightwells that conform to Section 19.28.070(I);
2. Lightwells;
3. Attic areas;
4. Parking facilities, other than residential garages, accessory to a permitted conditional use and located on the same site;
5. Roofed arcades, plazas, walkways, porches, breezeways, porticos, courts and similar features not substantially enclosed by exterior walls.

"Floor area ratio" means the ratio of gross floor area on a lot to the lot area.

"Foot-lambert" means a unit measurement of the brightness of light transmitted through or reflected from an object or surface.

"Freeway" means any public roadway so designated by the State of California.

"Front wall" means the wall of a building or other structure nearest the street upon which the building faces, but excluding certain architectural features as defined in this chapter.

G. "G" Definitions:

"Garage" means an accessory building (completely enclosed) or an attached building used primarily for the storage of motor vehicles.

"Gasoline service station" means any place of business which offers for sale any motor vehicle fuel to the public.

"Glare" means the effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, which causes annoyance, discomfort, or loss of visual performance and ability.

"Glass features", for purposes of Chapter 19.102, Glass and Lighting Standards, means such features as free-standing glass walls, wind barriers, skywalks, balconies, greenhouses, and rooftop appurtenances.

"Grade" or "finished grade" means the lowest point of adjacent ground elevation of the finished surface of the ground paving, or sidewalk, excluding areas where grade has been raised by means of a berm, planter box, or similar landscaping feature, unless required for drainage, within the area between the building and the property line, or when the

property line is more than five feet from the building, between the building and a line five feet from the building.

"Gross lot area" means the horizontal area included within the property lines of a site plus the street area bounded by the street centerline up to thirty feet distant from the property line, the street right-of-way line and the extended side yard to the street centerline.

"Guest room" means a room which is intended, arranged or designed to be occupied by occasional visitors or nonpaying guests of the occupants of the dwelling unit in which the room is located, and which contains no kitchen facilities.

H. "H" Definitions:

"Habitable floor" means the horizontal space between a floor area of at least seventy square feet and the ceiling height measuring at least seven feet six inches above it, except for a kitchen which shall have a ceiling height not less than seven feet above the floor.

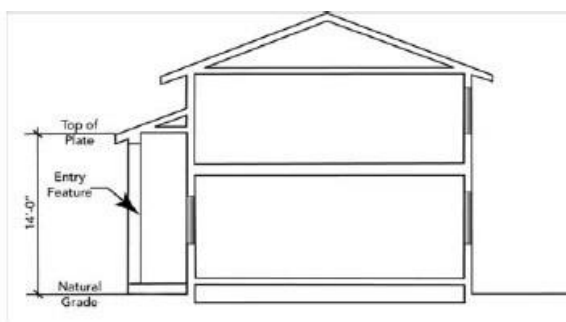
"Habitable space" means space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartment, closets, halls, storage or utility space and similar areas are not considered habitable space.

"Heavy equipment" means any mechanical or motorized device that is not a vehicle or a commercial vehicle as defined in Section 19.08.030(V), including, but not limited to, a backhoe, cement mixer, crane, ditch witch, dozer, earth mover, generator, grader, tractor or any similar device.

"Height" means a vertical distance measured parallel to the natural grade to the highest point of exterior construction, exclusive of chimneys, antennas or other appurtenances, except that entry features are measured to the top of the wall plate.

Height restriction shall be established by establishing a line parallel to the natural grade.

"Height", for purposes of the Accessory Buildings/Structures, encompasses the entire wall plane nearest the property line, including roof, eaves, and any portion of the foundation visible above the adjoining finished grade.



HEIGHT LIMIT FOR ENTRY FEATURES

"Home occupation" means a business, profession, occupation or trade activity which is performed by the resident(s) of a dwelling unit within that dwelling unit, or a yard area or garage associated with that dwelling unit, or a yard area or garage associated with that

unit, for purposes of generating income, by means of the manufacture, and/or sale of goods and/or services, but which activity is clearly incidental to the use of the dwelling for residential purposes.

"Hospital" means a facility for providing medical, psychiatric or surgical services for sick or injured persons, primarily on an inpatient basis, and including ancillary

facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and service to patients, employees or visitors.

"Hotel" means a facility containing rooms or groups of rooms, generally without individual kitchen facilities, used or intended to be used by temporary overnight occupants, whether on a transient or residential occupancy basis, and whether or not eating facilities are available on the premises. Hotel includes motel, motor hotel, tourist court, or similar use, but does not include mobilehome parks or similar uses.

"Household pets" means small animals commonly found in residential areas such as chickens, ducks, geese, rabbits, dogs, and cats, but excluding animals such as any bovine or equine animal, or any goat, sheep or swine. This title does not regulate the keeping of small household pets, such as fish, birds or hamsters, which is incidental to any permitted use.

However, no animal including household pets may be kept, maintained and/or raised for commercial purposes except where permitted with required permits.

"Household type" means whether the occupants of the housing units are very low income, lower income, moderate income, or senior citizens.

"Housing development" means for the purposes of Chapter 19.56, Density Bonus, a development project for five or more residential units. For the purposes of that chapter, "housing development" also includes a subdivision or common interest development, approved by the City that consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in Government Code Section 65863.4(d), where the result of the rehabilitation would be a net increase in available residential units.

I. "T" Definitions:

"Industrial district," for purposes of the Sign Ordinance, means all ML districts and any other zoning classifications which are consistent with the industrial designation of the Cupertino general plan.

"Institutional district," for purposes of the Sign Ordinance, means all BQ, PR, FP, and BA districts and other zoning classifications and uses which are considered institutional in nature and are consistent with the institutional or quasi-public designation of the general plan.

J. "J" Definitions:

"Junkyard" means the use of more than two hundred square feet of the area of any lot for the storage or keeping of junk, including scrap metals or other scrap material, and/or for the dismantling or wrecking of automobiles or other vehicles or machinery.

K. "K" Definitions:

"Kitchen" means an area in habitable space used for the preparation of food and including at least three of the following:

1. Cooking appliance(s) or provision for a cooking appliance (such as 220V outlets, gas connections and space for appliances between counters;
2. Counter;
3. Refrigerator;
4. Sink.

L. "L" Definitions:

"Landscaping" means an area devoted to or developed and maintained with native or exotic planting, lawn, ground cover, gardens, trees, shrubs, and other plant materials, decorative outdoor landscape elements, pools, fountains, water features, paved or decorated surfaces of rock, stone, brick, block or similar material (excluding driveways, parking, loading or storage areas), and sculptural elements.

"Late evening activities" means an activity which maintains any hours of operation during the period of eleven p.m. to seven a.m.

"Legal substandard lot" means any parcel of land or lot recorded and legally created by the County or City prior to March 17, 1980, which lot or parcel is of less area than required in the zone; or lots or parcels of record which are reduced to a substandard lot size as a result of required street dedication unless otherwise provided in the City of Cupertino General Plan. The owner of a legally created, substandard property which is less than six thousand square feet but equal to or greater than five thousand square feet may utilize such parcel for residential purposes. The owner of a legally created parcel of less than five thousand square feet may also develop the site as a single-family residential building site if it can be demonstrated that the property was not under the same ownership as any contiguous property on the same street frontage as of or after July 1, 1984.

"Light Fixture" means a complete lighting unit consisting of one or more lamps, and ballast(s), where applicable, together with the parts designed to distribute the light, position and protect the lamp(s) and ballast(s), and connect the lamp(s) to the power supply.

"Light trespass" means light emitted by a light fixture that shines beyond the property on which it is installed.

"Lightwell" means an excavated area required by the Uniform Building Code to provide emergency egress, light and ventilation for below grade rooms.

"Liquor store" means a use requiring a State of California "off-sale general license" (sale for off-site consumption of wine, beer and/or hard liquor) and having fifty percent or more of the total dollar sales accounted for by beverage covered under the off-sale general license.

"Living space" means, for the purposes of Chapter 19.112, the same as that set forth for "living area" in California Government Code Section 65852.2(j)(4). All attic and basement square footage proposed as part of an Accessory Dwelling Unit shall be limited by the maximum size allowed per Chapter 19.112.

"Loading space" means an area used for loading or unloading of goods from a vehicle in connection with the use of the site on which such space is located.

"Lodging" means the furnishing of rooms or groups of rooms within a dwelling unit or an accessory building on a transient basis, whether or not meals are provided to the person. Lodging shall be subject to the residential density requirements of the district in which the use is located.

"Lodging unit" means a room or group of rooms not including a kitchen, used or intended for use by overnight or transient occupants as a single unit, whether located in a hotel or a dwelling unit providing lodging where designed or used for occupancy by more than two persons; each two-person capacity shall be deemed a separate lodging unit for the purpose of determining residential density; each two lodging units shall be considered the equivalent of one dwelling unit.

"Lot" means a parcel or portion of land separated from other parcels or portions by description, as on a subdivision or record of survey map, or by metes and bounds, for purpose of sale, lease or separate use.

1. "Corner lot" means a lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.
2. "Flag lot" means a lot having access to a street by means of a private driveway or parcel of land not otherwise meeting the requirement of this title for lot width.
3. "Interior lot" means a lot other than a corner lot.
4. "Key lot" means the first lot to the rear of a corner lot, the front line of which is a continuation of the side line of the corner lot, and fronting on the street which intersects or intercepts the street on which the corner lot fronts.

"Lot area" means the area of a lot measured horizontally between boundary lot lines, but excluding a portion of a flag lot providing access to a street and lying between a front lot line and the street, and excluding any portion of a lot within the lines of any natural watercourse, river, stream, creek, waterway, channel or flood control or drainage easement and excluding any portion of a lot acquired, for access and street right-of-way purposes, in fee, easement or otherwise.

"Lot coverage" means the following:

1. "Single-family residential use" means the total land area within a site that is covered

by buildings, including all projections, but excluding ground-level paving, landscape features, lightwells, and open recreational facilities. Sheds are included in lot coverage.

2. "All other uses except single-family residential" means the total land area within a site that is covered by buildings, but excluding all projections, ground-level paving, landscape features, and open recreational facilities.

"Lot depth" means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no clear rear lot line.

"Lot line" means any boundary of a lot.

1. "Front lot line" means on an interior lot, the lot line abutting a street, or on a corner lot, the shorter lot line abutting a street, or on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained. Lot line length does not include arc as identified on corner parcels.

2. "Interior lot line" means any lot line not abutting a street.

3. "Rear lot line" means the lot line not intersecting a front lot line which is most distant from and the most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.

4. "Side lot line" means any lot line which is not a front or rear lot line.

5. "Street lot line" means any lot line abutting a street.

"Lot of record" means a lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds which has been recorded.

"Lot width" means the horizontal distance between side lot lines, measured at the required front setback line.

"Lower-income household" means a household whose gross income does not exceed that established by Health and Safety Code Section 50079.5, as may be amended.

M. "M" Definitions:

"Major renovation," for purposes of Chapter 19.116, Conversions of Apartment Projects to Common Interest Development, means any renovation for which an expenditure of more than one thousand dollars was made.

"Major repair," for purposes of Chapter 19.116, Conversions of Apartment Projects to Common Interest Development, means any repair for which an expenditure of more than one thousand dollars was made.

"Major Transit Stop," for purposes of Chapter 19.56, Density Bonus, means an existing site, or a site included in the regional transportation plan, that contains a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the

morning and afternoon peak commute periods. A housing development is considered to be within one-half mile of a major transit stop if all parcels within the housing development have no more than 25 percent of their area farther than one-half mile from the stop and if not more than 10 percent of the units or 100 units, whichever is less, in the housing development are farther than one-half mile from the stop as set forth in Government Code Section 65915(p)(3)(A), as may be amended.

"Manufacturing" means a use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing fabrication, assembly, treatment, packaging of products, but excluding basic industrial processing of extracted or raw materials, processes utilizing inflammable or explosive material (i.e., materials which ignite easily under normal manufacturing conditions), and processes which create hazardous or commonly recognized offensive conditions.

"Massage" means any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the human body with the hands or with any mechanical or electrical apparatus or other appliances or devices with or without such supplementary aides as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment or other similar preparations.

"Massage parlor" means a building or portion thereof, or a place where massage is administered for compensation or from which a massage business or service for compensation is operated which is not exempted or regulated by the Massage Establishment Ordinance as contained in Title 9, Health and Sanitation of the Cupertino Municipal Code, Chapter 9.06.

"Maximum allowable residential density," for purposes of Chapter 19.56, Density Bonus, means the maximum density allowed under the zoning ordinance and land use element of the general plan. For purposes of that Chapter, if the maximum density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

"Minor change" means an alteration or modification of an existing plan, development or project which is substantially inferior in bulk, degree or importance to the overall dimension and design of the plan, development or project with no change proposed for the use of the land in question, no change proposed in the character of the structure or structures involved, and no variance required.

"Mobilehome" means a vehicle, other than a motor vehicle, designed or used as semi-permanent housing, designed for human habitation, for carrying persons and property on its own structure, and for being drawn by a motor vehicle, and shall include a trailer coach.

"Mobilehome park" means any area or tract of land where lots are sold, rented, or held out for rent to one or more owners or users of mobilehomes, excluding travel-trailers, for the purpose of permanent or semi-permanent housing.

"Moderate income household" means a household whose gross income does not exceed

that established by Section 50093 of the Health and Safety Code, as may be amended.

"Multiple-family use" means the use of a parcel for three or more dwelling units which may be in the same building or in separate buildings on the same parcel.

"Muntins" means strips of wood, metal, or other materials that physically separate and support individual panes of glass in a window or visually separate a single pane of glass in a window into different sections.

N. "N" Definitions:

"Natural grade" means the contour of the land prior to improvements or development, unless otherwise established by a City approved grading plan that is part of a subdivision map approval.

"Nightclub" means an establishment providing alcoholic beverage service and late evening (past eleven p.m.) entertainment, with or without food service.

O. "O" Definitions:

"Office" means:

1. "Administrative or executive offices" including those pertaining to the management of office operations or the direction of enterprise but not including merchandising or sales services.
2. "Medical office" means a use providing consultation, diagnosis, therapeutic, preventative or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans, licensed for such practice by the State of California and including services related to medical research, testing and analysis.
3. "Professional offices" such as those pertaining to the practice of the professions and arts including, but not limited to, accounting, architecture, dentistry, design, engineering, including associated testing and prototype development, but excluding product manufacturing and/or assembly, law and medicine, but not including sale of drugs or prescriptions except as incidental to the principal uses and where there is external evidence of such incidental use.
4. "Office district," for purposes of the Sign Ordinance, means those buildings or groups of buildings for which the permitted uses are professional offices, is within an OA or OP zone or which are designated for offices on the general plan.

"Offset" means the indentation or projection of a wall plane.

"Open" means a space on the ground or on the roof of a structure, uncovered and unenclosed.

"Organizational documents" means the declaration of restrictions, articles of incorporation, bylaws and any contracts for the maintenance, management or operation of all or any part of a common interest development.

"Outdoor recreation use" means a privately owned or operated use providing facilities for outdoor recreation activities, including golf, tennis, swimming, riding or other outdoor sport or recreation, operated predominantly in the open, except for accessory or incidental enclosed services or facilities.

P. "P" Definitions:

"Park" means any open space, reservation, playground, swimming pool, golf course, recreation center, or any other area in the City owned or used by the City or County and devoted to active or passive recreations.

"Parking area" means an unroofed, paved area, delineated by painted or similar markings, intended and designed to accommodate one or more vehicles.

"Parking facility" means an area on a lot or within a building, or both, including one or more parking spaces, together with driveways, aisles, turning and maneuvering areas, clearances and similar features, and meeting the requirements established by this title. Parking facility includes parking lots, garages and parking structures.

1. "Temporary parking facility" means parking lots which are not required under this title and which are intended as interim improvements of property subject to removal at a later date.

"Parking space" means an area on a lot or within a building, used or intended for use for parking a motor vehicle, having permanent means of access to and from a public street or alley independently of any other parking space, and located in a parking facility meeting the requirements established by this title. Parking space is equivalent to the term "parking stall" and does not include driveways, aisles or other features comprising a parking facility as previously defined in this chapter.

"Pennant" means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

"Permit" means a permit issued by the City Council, Planning Commission, Design Review Committee, Director of Community Development, or any other decision body as empowered by the Cupertino Municipal Code, approving architecture, site improvements, buildings, structures, land and/or uses. Permits may include but shall not be limited to Administrative Approvals, Two-story Permits, Minor Residential Permits, Architectural and Site Approvals, Development Permits, Conditional Use Permits, Exceptions, Variances or Subdivision Maps.

"Person" means an individual, group, partnership, firm, association, corporation, trust, governmental agency, governmental official, administrative body, or tribunal or any other form of business or legal entity.

"Personal fitness training center" means a facility providing space and equipment, with or without supervision, for group or individual athletic development, increased skill development in sports activity, or rehabilitative therapy for athletic injury.

"Perspective drawing" means a rendering of a three-dimensional view depicting the height, width, depth, and position of a proposed structure in relation to surrounding properties and structures when viewed from street level.

"Picnic area" means a facility providing tables and cooking devices for preparation and consumption of meals out of doors or within an unenclosed shelter structure.

"Practice range" means a facility providing controlled access to fixed or movable objects which are used to test and measure accuracy of discharge from a weapon.

"Private educational facility" means a privately owned school, including schools owned and operated by religious organizations, offering instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of California.

"Project improvements" means all public road improvements, undergrounding utility improvements, and improvements to the on-site utility networks as required by the City of Cupertino for a common interest development.

"Projection" means architectural elements, not part of the main building support, that cantilevers from a single building wall or roof, involving no supports to the ground other than the one building wall from which the element projects.

"Promotional device" means any sign, display, fixture, placard, vehicle or structure that uses color, form, graphic, symbol, illumination or writing to advertise a special event or the opening of a new business.

"Property" means real property which includes land, that which is affixed to the land, and that which is incidental or appurtenant to the land as defined in Civil Code Sections 658 through 662.

1. Property, Adjoining. "Adjoining property" means any unit of real property, excluding lands used as public streets, sharing one or more common points with another property.

"Provider" means a person who operates a child day care home and is licensed by the State of California.

"Public dancehall" is a building or portion used for dancing purposes to and in which the general public is admitted and permitted to dance, upon payment of any fee other than compensation, or upon payment of a charge for admission, or for which tickets or other devices are sold, or in which a charge is made for the privilege of dancing with any other person employed for such purpose by the operator of the establishment, including but not limited to taxi dances, but excluding restaurants, hotel rooms and nightclubs in which the dancing is incidental only to other entertainment.

Q. "Q" Definitions:

"Qualified applicant" is a person who has a legal or equitable interest in real property which is the subject of a development agreement, determined pursuant to Section 19.116.070. Qualified applicant includes an authorized agent.

"Qualifying resident" for purposes of Chapter 19.56, Density Bonus, of this Code, means a senior citizen or other persons eligible to reside in a senior citizen housing development.

R. "R" Definitions:

"Recreational open space" means open space within a common interest development (exclusive of required front setback areas) which shall be used exclusively for leisure and recreational purposes, for the use and enjoyment of occupants (and their visitors) of units on the project and to which such occupants (and their visitors) have the right of use and enjoyment.

Accessory structures such as swimming pools, recreational buildings and landscaped areas may be included as open space.

"Recyclable materials" means discards or waste materials that may be separated or mixed, collected and processed, and used as raw materials for new products. For purposes of Chapter 19.108, Beverage Container Redemption and Recycling Centers, recyclable materials do not include hazardous materials.

"Recycling center" means a facility for the collection and/or processing of recyclable materials. Recycling center does not include storage containers or processing activity located on the premises of a commercial or manufacturing use and use solely for the recycling of material generated by that business or manufacturer.

1. "Recycling center, Certified" or "Certified Processor" means a recycling facility certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986.

2. "Recycling center, Mobile" means an automobile, truck, trailer or van licensed by the Department of Motor Vehicles, which is used for the collection of recyclable material. A mobile recycling center also means the bins, boxes or containers transported by trucks, vans, or trailers and used for the collection of recyclable materials. A mobile recycling center may consist of an enclosed vehicle such as box cab or enclosed semi-trailer or an open vehicle such as a flatbed trailer with bins or boxes to contain recyclable materials.

"Recycling facilities" may include the following:

1. "Collection facility" means a facility for the acceptance (donation, redemption or sale) of recyclable materials from the public. Such a facility does not use power-driven processing equipment except as indicated in Chapter 19.108, Beverage Container Redemption and Recycling Centers. Collection facilities may include the following:

- a. Reverse vending machine(s);
- b. Small collection facilities which occupy an area of not more than five hundred square feet, and may include:
 - i. A mobile recycling unit,
 - ii. Bulk reverse vending machine or a grouping of reverse vending machines occupying more than fifty square feet,

- iii. Kiosk type units and bulk vending machines,
- iv. Unattended containers placed for the donation of recyclable materials;
- c. Large collection facilities which may occupy an area of more than five hundred square feet, or is on a separate property not appurtenant to a host use, and may include permanent structures.

2. "Processing facility" means a building or enclosed space use for the collection and processing of recyclable materials. Processing means the preparation of material for efficient shipment or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing. Processing facility includes the following:

- a. A light processing facility occupies an area of under forty-five thousand square feet of gross collection, processing and storage area and has up to two outbound truck shipments per day. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting of source-separated recyclable materials and repairing of reusable materials sufficient to qualify as a certified processing facility. A light processing facility shall not shred, compact, or bale ferrous metals other than food and beverage containers.
- b. A heavy processing facility is any processing facility other than a light processing facility.

"Religious institution" means a seminary, retreat, monastery, conference center, or similar use for the conduct of religious activities including accessory housing incidental thereto, but excluding a private educational facility. Any use for which a property tax exemption has been obtained pursuant to Section 3(f) of Article XIII of the Constitution of the State of California and Section 206 of the Revenue and Taxation Code of the State of California, or successor legislation, or which is used in connection with any church which has received such an exemption, shall be prima facie presumed to be a religious institution.

"Research and development" means a use engaged in study, design, analysis and experimental development of products, processes or services, including incidental manufacturing of products or provisions of services to others.

"Residential care facility" means a building or portion designed or used for the purpose of providing twenty-four-hour-a-day nonmedical residential living accommodations pursuant to the Uniform Building, Housing and Fire Codes, in exchange for payment of money or other consideration, where the duration of tenancy is determined, in whole or in part, by the individual resident's participation in group or individual activities such as counseling, recovery planning, medical or therapeutic assistance. Residential care facility includes, but is not limited to, health facilities as defined in California Health and Safety Code (H&SC Section 1250 et seq.), community care facilities (H&SC Section 1500 et seq.), residential care facilities for the elderly (H&SC Section 1569 et seq.) or facilities for the mentally disordered or otherwise handicapped (W&I Code Section 5000 et seq.), alcoholism or drug abuse recovery or treatment facilities (H&SC Section 11384.11), and

other similar care facilities.

"Residential district," for purposes of the Sign Ordinance, means the R1, RHS, R2, R3, R1C, A, and A1 zoning classifications which are consistent with the residential designation of the Cupertino general plan.

Restaurant:

1. Restaurant, Fast-Food. "Fast-food restaurant" means a retail food service establishment in which prepared foods or beverages are served or sold on or in disposable containers, including those establishments where a substantial portion of the patrons may serve themselves and may consume the food and beverages off-site. A separate bar facility for serving alcoholic beverages is not permitted. Any area, tables or rooms reserved for serving alcoholic beverages shall be considered a separate bar facility. Specialty food stores, such as ice cream stores, bakeries or shops, shall not be considered fast-food restaurants.
2. Restaurant, Full Service. "Full-service restaurant" means any restaurant which is not a fast-food restaurant. Alcoholic beverages may be served with meals at a customer's dining table; however, a separate bar facility for serving alcoholic beverages is not permitted without a use permit.

"Reverse vending machine(s)" means an automated mechanical device which accepts one or more types of empty beverage containers, including, but not limited to aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip with a value not less than the containers redemption value, as determined by the State. A reverse vending machine may sort and process containers mechanically provided that the entire process is enclosed within the machine. In order to accept and temporarily store all three container types in a proportion commensurate with their relative redemption rates, and to meet the requirements of certification as a recycling center, multiple grouping of reverse vending machines may be necessary.

1. A bulk reverse vending machine is a reverse vending machine that is larger than fifty square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container.

S. "S" Definitions:

"Screened" means shielded, concealed, and effectively hidden from view at an elevation of up to eight feet above ground level on adjoining parcels, or from adjoining parcels, within ten feet of a lot line, by a fence, wall, hedge, berm, or similar structure, architectural or landscape feature, or combination thereof. "Senior citizens" means:

1. Persons at least sixty-two years of age; or
2. Persons at least fifty-five years of age or otherwise qualified to reside in a senior citizen housing development, in accordance with State and federal law.

"Senior citizen housing development" means a housing development with at least thirty-five dwelling units as defined in the Civil Code Section 51.3, or a mobilehome park that

limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code, as may be amended.

"Setback line" means a line within a lot parallel to a corresponding lot line, which is the boundary of any specified front, side or rear yard, or the boundary of any public right-of-way or private road, whether acquired in fee, easement, or otherwise, or a line otherwise established to govern the location of buildings, structures or uses. Where no minimum front, side or rear yards are specified, the setback line shall be coterminous with the corresponding lot line.

Setback Area, Required. "Required setback area" means open space, unoccupied and unobstructed from the ground upward, except as provided in this title, between the lot line and the setback line on the same parcel.

1. Setback Area, Required Front Yard. "Required front-yard setback area" means the setback area extending across the front of a lot between the front lot line and the setback line. Front yards shall be measured either by a line at right angles to the front lot line, or by a radial line in the case of a curved front lot line, except flag lots which is the area extending across the full extent of the buildable portion of the flag lot measured from the property line which is parallel to and nearest the street line and at which point the lot width equals a minimum of sixty feet. The Director of Community Development shall have the discretion to modify the provisions of this definition when it improves the design relationship of the proposed buildings to adjacent buildings or parcels.
2. Setback Area, Required Rear Yard. "Required rear-yard setback area" means the area extending across the full width of the lot between the rear lot line and the nearest line or point of the main building.
3. Setback Area, Required Side Yard. "Required side-yard setback area" means the area between the side lot line and the nearest line of a building, and extending from the front setback line to the rear setback line.

"Shielded fixture" means a light fixture that is shielded or constructed so that light rays emitted by the lamp(s) are projected below the horizontal plane passing through the lowest point on the light fixture.

"Shopping center" means a group of commercial establishments, planned, developed, owned or managed as a unit, with off-street parking provided on the parcel.

"Shopping center," for purposes of the Sign Ordinance, means a retail entity encompassing three or more tenants within a single building or group of buildings, but within which individual business located in defined tenant spaces are owned and managed separately from the shopping center management.

"Sidewalk site triangle" is a triangular shaped area described in Cupertino Standard Detail 7-6. (See Appendix C, Cupertino Standard Detail; Sidewalk Site Triangle (Sidewalk Clearance at Driveway))

"Sign" means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, to communicate information of any kind to the public.

1. "Animated sign" means any sign which projects action, motion or the illusion thereof, changes intensity of illumination or changes colors, including the likes of balloons, banners and flags, and blowing or air-powered attractions, but excluding electronic readerboard signs and signs that display the current time or temperature.
2. "Blade sign" means a pedestrian oriented sign, adjacent to a pedestrian walkway or sidewalk, attached to a building wall, marquee, awning or arcade with the exposed face of the sign in a plane perpendicular to the plane of the building wall.
3. "Development Identification Sign" means a ground sign at the major entry to a residential development with twenty units or more meant to identify the name and address of the development.
4. "Directional sign" means any sign which primarily displays directions to a particular area, location or site.
5. "Directory sign" means any outdoor listing of occupants of a building or group of buildings.
6. "Electronic readerboard sign" means an electronic sign intended for a periodically-changing advertising message.
7. "Freeway oriented sign" means any sign which is located within six hundred sixty feet and visible from a freeway right-of-way as defined by Section 5200 of the California Business and Professions Code.
8. "Garage sale signs" means any sign used for advertising a garage or patio sale as defined in Chapter 5.16 of the Cupertino Municipal Code.
9. "Ground sign" means any sign permanently affixed to the ground and not supported by a building structure. The height of the sign shall be measured from the grade of the adjoining closest sidewalk to the top of the sign including trim.
10. "Identification sign" means any sign whose sole purpose is to display the name of the site and the names of the occupants, their products or their services.
11. "Illegal sign" means any sign or advertising statuary which was not lawfully erected, maintained, or was not in conformance with the provisions of this title in effect at the time of the erection of the sign or advertising statuary or which was not installed with a valid permit from the City.
12. "Illuminated sign" means any sign utilizing an artificial source of light to enhance its visibility.
13. "Informational sign" means any sign which promotes no products or services, but displays service or general information to the public, including the likes of hours of operation, rest room identifications and hazardous warnings.

14. "Landmark sign" means an existing, legal non-conforming ground sign that has a distinctive architectural style.
15. "Nonconforming sign" means any sign or advertising statuary that was legally erected and had obtained a valid permit in conformance with the ordinance in effect at the time of the erection of the sign but which became nonconforming due to the adoption of the ordinance codified in this title.
16. "Obsolete sign" means any sign that displays incorrect or misleading information, promotes products or services no longer available at that site or identifies departed occupants.
17. "Off-site sign" means any sign not located on the premises of the business or entity indicated or advertised by the sign. This definition shall include billboards, poster panels, painted bulletins and other similar advertising displays.
18. "On-site sign" means a sign directing attention to a business, commodity, service or entertainment conducted, sold or offered upon the same premises as those upon which the sign is maintained.
19. "Political sign" means a temporary sign that encourages a particular vote in a scheduled election and is posted prior to the scheduled election.
20. "Portable Sign or Display" means any outdoor sign or display not permanently attached to the ground or a structure on the premises it is intended to occupy and displayed only during business hours. Portable sign or display includes A- frames, flower carts, statues, and other similar devices used for advertising as determined by the Director.
21. "Project announcement sign" means any temporary sign that displays information pertinent to a current or future site of construction, including the likes of the project name, developers, owners and operators, completion dates, availability and occupants.
22. "Projecting sign" means any sign other than a wall sign that is attached to and projects from a structure or building face or wall.
23. "Real estate sign" means a temporary sign indicating that a particular premises is for sale, lease or rent.
24. "Roof sign" means a sign erected between the lowest and highest points of a roof.
25. "Street address sign" means any sign that displays only the street address number(s) of the site and, at the option of the property owner, the street name.
26. "Temporary Sign" means any sign, display, banner or promotional device which is designed or intended to be displayed only during the allowable business hours or for short periods of time as specified by the Director of Community Development.
27. "V-shaped signs" means any sign consisting of two vertical faces, or essentially vertical faces, with one common edge and which appears as the letter V when viewed directly from above.

28. "Vehicle sign" means a sign painted on or attached to an operable or movable vehicle; in the case of motor vehicles, "operable" shall be defined as having a valid license plate.

29. "Wall sign" means any sign that is attached, erected or painted on a structure attached to a building, a canopy structure, or the exterior wall of a building with the exposed face of the sign parallel to the wall.

30. "Window sign" means any sign that is intended to be read from outside of the structure or painted on a window facing a public street, parking lot, pedestrian plaza or walkway accessible to the public.

"Sign Area" for an individually lettered sign without a background, is measured by enclosing the sign copy with a continuous perimeter in simple rectilinear forms. (See Appendix D for examples of sign area calculation)

The sign area for a sign with borders and/or background is measured by enclosing the exterior limits of the border or background with a single continuous perimeter. The necessary supports, uprights, and/ or the base on which such sign is placed, shall be excluded from the sign area.

When a sign is separated by thirty-six inches or more, the area of each part may be computed separately.

"Single family residence," for purposes of Chapter 19.112, shall mean one dwelling unit located on a separately owned lot. Single family residence does not include property with only air parcels or condominiums.

"Specialty food stores" means uses such as bakeries, donut shops, ice cream stores, produce markets and meat markets, or similar establishments where food is prepared and/or sold primarily for consumption off the premises.

"Site," for purposes of the Sign Ordinance, means a piece of land as shown on a subdivision map, record of survey map or assessor's parcel map, which constitutes one development site and which may be composed of a single unit of land or contiguous units under common ownership, control, or development agreement.

"Special event," for purposes of the Sign Ordinance means a temporary promotional event including, but not limited to, a special sale on merchandise or services, or grand openings.

"Special Event Banner" means any temporary sign constructed of pliable materials such as canvas, fabric, vinyl plastic or similar materials which will withstand exposure to wind and rain without significant deterioration, and which does not require a building permit for its construction, or installation outside of a building.

"Special needs housing," for purposes of Chapter 19.56, Density Bonus, means any housing, including supportive housing, intended to benefit, in whole or in part, persons identified as having special needs relating to mental health; physical disabilities; developmental disabilities, including without limitation intellectual disability, cerebral

palsy, epilepsy, and autism; and risk of homelessness, and housing intended to meet the housing needs of persons eligible for mental health services funded in whole or in part by the Mental Health Services Fund, as set forth in Government Code Section 65915(p) (3)(C), as may be amended.

"Specified anatomical areas" means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered. "Specified sexual activities" means:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

"Story" means that portion of a building, excluding a basement, between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

"Street" means a public or private thoroughfare the design of which has been approved by the City which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley as defined in this chapter.

1. Street, Public. "Public street" means all streets, highways, lanes, places, avenues and portions and including extensions in the length and width, which have been dedicated by the owners to public use, acquired for public use, or in which a public easement for roadway purposes exists.

"Street frontage," for purposes of the Sign Ordinance, means the length of a site along or fronting on a public or private street, driveway or other principal thoroughfare, but does not include such length along an alley, watercourse, railroad right- of-way or limited access roadway or freeway.

"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

1. Structure, Recreational. "Recreational structure" means any affixed accessory structure or portion, which functions for play, recreation or exercise (e.g., pool slides, playhouses, tree houses, swings, climbing apparatus, gazebos, decks, patios, hot tubs and pools) but does not include portable play structures, such as swings or climbing apparatus.

"Structurally attached" means any structure or accessory structure or portion thereof, which is substantially attached or connected by a roof structure or similar physical attachment.

"Supportive housing" (per Government Code Section 65582(f), as may be amended) means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

T. "T" Definitions:

"Target population" (per CA Government Code 65582(g), as may be amended) means persons with low incomes having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

"Transient" means any individual who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days, and including any individual who actually physically occupies the premises, by permission of any other person entitled to occupancy.

"Transitional housing" (per CA Government Code 65582(h), as may be amended) means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months from beginning of assistance.

"Trim" means the molding, battens, cappings, nailing strips, lattice and platforms which are attached to a sign.

U. "U" Definitions:

"Unobstructed Access," for purposes of Chapter 19.56, Density Bonus, means access to a location if a resident is able to access the location without encountering natural or constructed impediments, as set forth in Government Code Section 65915(p)(2), as may be amended.

"Uplighting" means the placement and orientation of light fixtures such that light rays are directed upward.

"Use" means the conduct of an activity, or the performance of a function or operation, on a parcel or in a building or facility.

1. "Accessory use" means a use which is incidental to and customarily associated with a specified principal use.
2. "Conditional use" means a use listed by the regulations of any particular district as a conditional use within that district, and allowable solely on a discretionary or conditional basis, subject to issuance of a conditional use permit, and to all other regulations established by this title.

3. "Nonconforming use" means a use which is not a permitted use or conditional use authorized within the district in which it is located, but which was lawfully existing on October 10, 1955; or the date of any amendments thereto, or the application of any district to the property involved, by reason of which adoption or application the use became nonconforming.

4. "Permitted use" means a use listed by the regulations of any particular district as a permitted use within that district, and permitted therein as a matter of right when conducted in accord with the regulations established by this title.

5. "Principal use" means a use which fulfills a primary function of a household, establishment, institution, or other entity. "Useable rear yard" means that area bounded by the rear lot line(s) and the rear building line extended to the side lot

lines. The side yard adjacent to a proposed minor addition (e.g., addition equaling ten percent or less of the principal

structure) may be included in calculation of usable rear yard area.

V. "V" Definitions:

"Variance application" means an application for which an exception process is not identified in the Municipal Code. "Vehicle" means any boat, bus, trailer, motor home, van, camper (whether or not attached to a pickup truck or other

vehicle), mobilehome, motorcycle, automobile, truck, pickup, airplane, boat trailer, truck tractor, truck trailer, utility trailer or recreational vehicle, or parts, or any device by which any person or property may be propelled, moved or drawn upon a public street, excepting a device moved exclusively by human power.

1. Vehicle, Commercial. "Commercial vehicle" means a vehicle of a type required to be registered under the California Vehicle Code used or maintained for the transportation of persons for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of goods.

2. Vehicle, Recreation. "Recreation vehicle" means a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. The term recreation vehicle includes, but is not limited to, trailers, motor coach homes, converted trucks and buses, and boats and boat trailers.

"Very low income household" means a household whose gross income does not exceed that established by Health and Safety Code Section 50105, as may be amended.

"Visual privacy intrusion" means uninterrupted visual access from a residential dwelling or structure into the interior or exterior areas of adjacent residential structures, which area is either completely or partially private, designed for the sole use of the occupant, and/or which serves to fulfill the interior and/or exterior privacy needs of the impacted residence or residences.

W. "W" Definitions:

None. "Watercourse", for purposes of Chapter 19.102, Glass and Lighting Standards, means any natural or artificial arroyo, canal, channel, conduit, creek, culvert, ditch, gully, lake, ravine river, stream, waterway, or wash or other topographic feature on or over which waters flow at least periodically and adjacent areas in which substantial flood damage may occur from overflow or inundation.

X. "X" Definitions:

None.

Y. "Y" Definitions:

"Yard" means an area within a lot, adjoining a lot line, and measured horizontally, and perpendicular to the lot line for a specified distance, open and unobstructed except for activities and facilities allowed therein by this title.

1. "Front yard" means a yard measured into a lot from the front lot line, extending the full width of the lot between the side lot lines intersecting the front lot line.
2. "Rear yard" means a yard measured into a lot from the rear lot line, extending between the side yards; provided that for lots having no defined rear lot line, the rear yard shall be measured into the lot from the rearmost point of the lot depth to a line parallel to the front lot line.
3. "Side yard" means a yard measured into a lot from a side lot line, extending between the front yard and rear lot line.

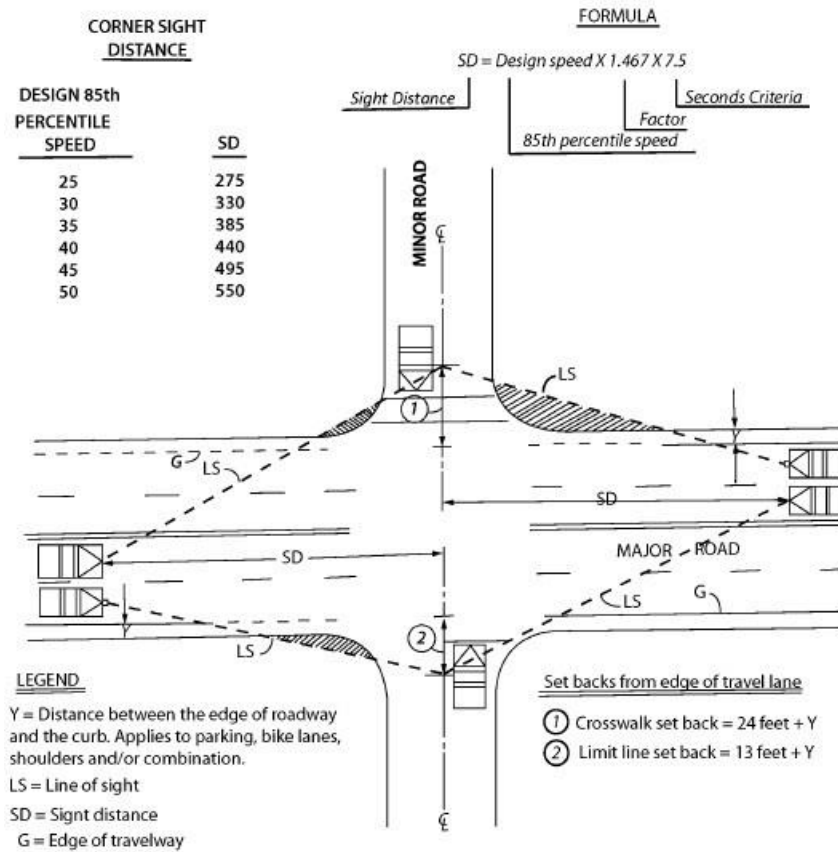
Z. "Z" Definitions:

None.

(Ord. 20-2199, §§ 1 - 3, 2020; Ord. 17-2170, § 1, 2017; Ord. 17-2169, § 2, 2017; Ord. 17-2165, § 2, 2017; Ord. 16-2157, §§ 1, 2, 2016; Ord. 16-2159, §§ 1-4, 2016; Ord. 16-2149, § 3, 2016; Ord. 16-2140, §§ 1-5, 2016; Ord. 14-2125, § 3 (part), 2014; Ord. 2085, § 2 (part), 2011; Ord. 11-2074, (part), 2011; Ord. 2056, (part), 2010; Ord. 1894, § 1, 2002; Ord. 1891, (part), 2002; Ord. 1863, (part), 2000; Ord. 1809, 2000; Ord. 1784, (part), 1998; Ord. 1725, (part), 1996; Ord. 1688, § 3 (part), 1995; Ord. 1657, (part), 1994; Ord. 1654, 1994; Ord. 1637, (part), 1993; Ord. 1635, (part), 1993; Ord. 1618, (part), 1993; Ord. 1607, § 1, 1992; Ord. 1601, Exh. A (part), 1992)

Appendix A: Cupertino Standard Detail 7-2 Corner Triangle - Controlled Intersections.

APPENDIX A: CUPERTINO STANDARD DETAIL 7-2 CORNER TRIANGLE - CONTROLLED INTERSECTIONS



Note: To view this Appendix in PDF, click [HERE](#)

Appendix B: Cupertino Standard Detail 7-4 Corner Triangle - Uncontrolled Intersections.

APPENDIX B: CUPERTINO STANDARD DETAIL 7-4 CORNER TRIANGLE - UNCONTROLLED INTERSECTIONS

FLAT GRADE:

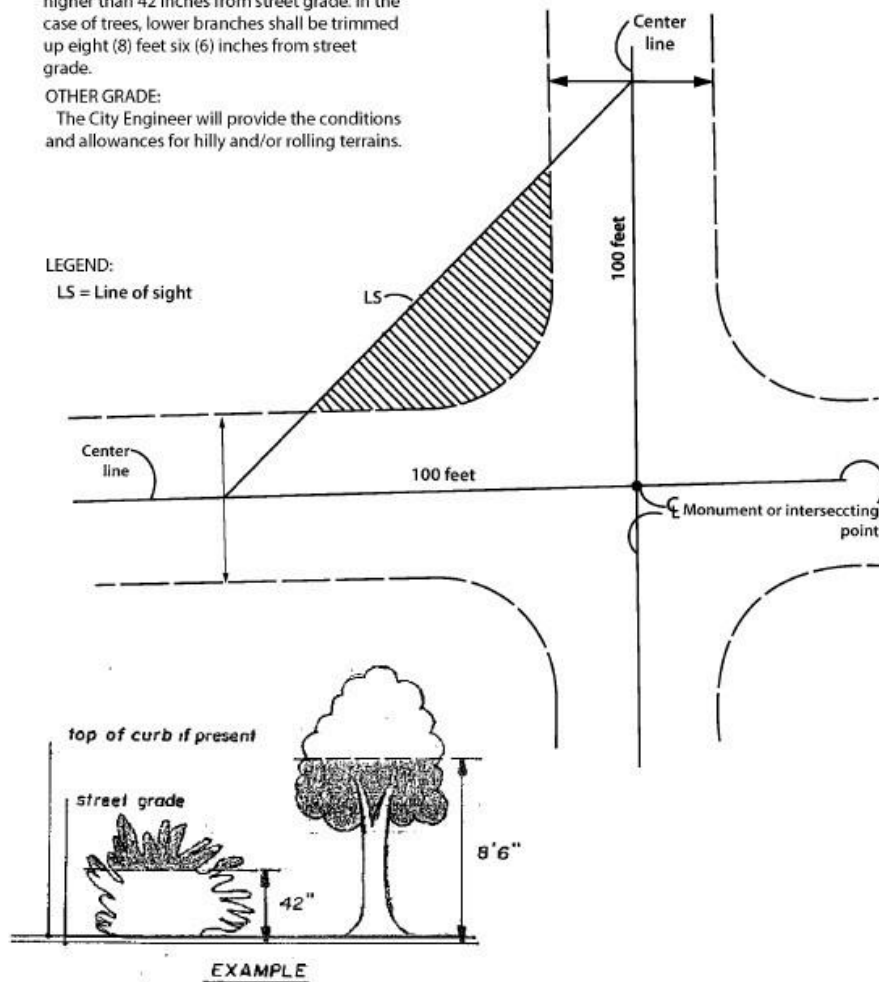
Within the area of the triangle, there shall be no sight obscuring wall, fence, sign or foliage higher than 42 inches from street grade. In the case of trees, lower branches shall be trimmed up eight (8) feet six (6) inches from street grade.

OTHER GRADE:

The City Engineer will provide the conditions and allowances for hilly and/or rolling terrains.

LEGEND:

LS = Line of sight



Note: To view this Appendix in PDF, click [HERE](#)

Appendix D: Examples of How to Measure Sign Area.

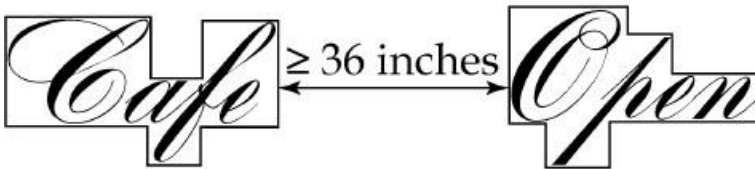
APPENDIX D: EXAMPLES OF HOW TO MEASURE SIGN AREA



Individually lettered sign



Sign with background or borders



Sign separated by 36 inches or more

Note: To view this Appendix in PDF, click [HERE](#)

[Chapter 19.12 -19.40.050 – No Change]**19.40.060 Building Development Regulations.**

All provisions of this section may be deviated from upon obtaining a Hillside Exception in accordance with Section 19.40.070.

Table 19.40.060 sets forth the rules and regulations pertaining to the development of structures on property zoned Residential Hillside (RHS).

Table 19.40.060: Building Development Regulations				
A. Floor Area Ratio (FAR)				
1. Maximum Allowable Development	a. Net lot area < 10,000 square feet	Lesser of: . 6,500 square feet; or . 45% of net lot area times the slope adjustment factor pursuant to Section 19.40.060(A)(2)* * Formula = (0.45 x Net lot area) x (Slope adjustment factor)		
	b. Net lot area 10,000 square feet	Lesser of: . 6,500 square feet; or . 4,500 square feet plus 59.59 square feet for every 1,000 square feet over 10,000 square feet of net lot area, times the slope adjustment factor pursuant to Section 19.40.060(A)(2)* * Formula = (4,500 + ((Net lot area -10000)/1000) (59.59)) x (Slope adjustment factor)		
			Average Slope	Reduction (1.5 x (Average Slope - 0.1))
	a. Average Slope 10%	No reduction in allowable floor area slope adjustment factor = 1	< 10%	0%
			11%	1.5%

Table 19.40.060: Building Development Regulations

2. Adjustment Factor based on Average Slope of Net Lot Area	b. Average slope between 10% and 30%	A reduction in allowable floor area by one and one-half percent (1.5%) for each percent of slope over 10%. Slope adjustment factor = $(1 - (1.5 \times (\text{average slope of net lot area} - 0.1)))$	12%	3.0%
			13%	4.5%
			14%	6.0%
			15%	7.5%
			16%	9.0%
			17%	10.5%
			18%	12.0%
			19%	13.5%
			20%	15.0%
			21%	16.5%
			22%	18.0%
			23%	19.5%
			24%	21.0%
			25%	22.5%
			26%	24.0%
			27%	25.5%
			28%	27.0%
			29%	28.5%
	c. Average slope > 30%	Allowable floor area shall be reduced by a constant 30% Slope adjustment factor= $(1 - 0.3)$	30%	30.0%
3. Additional Regulations for Lots Within Clustered Subdivisions where Land is Reserved for Common Open Space				
a. Lot Area for calculating FAR	May count a proportionate share of the reserved private open space to arrive at lot area for purposes of calculating FAR.			
b. Maximum FAR prior to slope consideration	No developable lot in a cluster development can exceed forty-five-percent floor area ratio, prior to applying the slope adjustment factor, when a portion of the private open space is attributed to the			

Table 19.40.060: Building Development Regulations				
	lot area for calculating FAR.			
c. Average slope of lot	Calculated on the developable lot only.			
B. Height of Buildings and Structures	Limited to 30 feet			
C. Setbacks				
	First Floor		Second Floor	Habitable Third Floor (or portions of structures taller than 20 feet)
1. Front-yard				
a. Slope ≤ 20%	20 feet	Driveway and garage must be designed to enable vehicles to park off-street	25 feet	25 feet
b. Slope > 20%	10 feet		25 feet	25 feet
2. Side-yard				
a. Interior Side	10 feet		15 feet	20 feet
b. Street Side on Corner Lot	15 feet		15 feet	20 feet
3. Rear-yard	20 feet		25 feet	25 feet
D. Second Story Decks and Patios Minimum Setbacks				
1. Front Yard	-		17 feet	17 feet
2. Side Yard	-		15 feet	15 feet
3. Rear Yard	-		20 feet	20 feet
E. Downhill Facing Elevation				
1. Second Story Downhill Facing Wall Plane Offset				
a. Offset from First Floor Downhill Wall	i. Average of 7 feet 6 inches for 75% of the second story downhill facing wall plane shall be setback and ii. Not less than five feet.			

Table 19.40.060: Building Development Regulations

Plane	iii. The remaining 25% may not extend past the first story wall plane.
b. Multiple Downhill Facing Wall Planes	Offset shall apply only the primary setback affected.
c. Offset from First Floor Roofed Porches	<p>i. Offset may be measured from the outside perimeter of first-story roofed porches.</p> <p>ii. Roof of the porch must match, in pitch and style, the roof of the main structure.</p> <p>iii. Porch must be at least 5 feet in width and extend the length of the wall on which it is located.</p>
2. Maximum Wall Height on Downhill Elevation	15 feet
F. Permitted Yard Encroachments	
1. Extension of a Legal Non-conforming Wall Plane for structures not located within a prominent ridgeline site line	<p>a. Where a building legally constructed according to existing first floor yard and setback regulations at the time of construction encroaches upon present required first floor setbacks, one encroaching side of the existing structure may be extended along existing building lines.</p> <p>b. Only one such extension shall be permitted for the life of the building.</p> <p>c. Encroachments into a required yard which are the result of the granting of a variance may not be further extended.</p> <p>d. Further encroachment into a required setback is not allowed. I.e., a non-conforming setback may not be further reduced.</p> <p>e. In no case shall any wall plane of a first-story addition be placed closer than three feet to any property line.</p>
2. Architectural Features	<p>a. May extend into a required yard a distance not exceeding three feet.</p> <p>b. No architectural feature, or combination thereof, whether a portion of a principal or accessory structure, may extend closer than three feet to any property line.</p>
G. Accessory Structures (including attached	

Table 19.40.060: Building Development Regulations

patio covers)	As allowed by Chapter 19.100, Accessory Buildings/Structures
H. Design Standards	
1. Building and Roof Forms	
a. Natural Contours	Building shall follow as closely as possible the primary natural contour of the lot.
b. Building Mass and Roof Pitches	The main building mass shall be on the upslope side of the building and the roof pitches shall trend downslope.
c. Second Story Dormers	Permitted within the second story setbacks as long as they are minor in shape and size.
d. Downhill Elevation of main structure	Shall have a minimum of four offset building and roof elements to provide varied building forms to produce shadow patterns which reduce the impact of visual mass.
e. High Wall Planes	Wall planes exceeding one story or 20 feet in height, whichever is more restrictive, shall contain architectural elements in order to provide relief and to break up expansive wall planes.
2. Colors	
a. Natural Earth Tones	All structures on the lot shall use natural earth tone and/or vegetation colors which complement the natural surroundings. Natural earth-tone and vegetation colors include natural hues of brown, green and shades of gray.
b. Reflectivity Value	Shall not exceed 60 on a flat surface
3. Outdoor Lighting	All outdoor lighting shall <u>meet the requirements in Chapter 19.102. be identified on the site development plan.</u>
<u>a. Tennis Court and Other Recreational Purposes</u>	<u>High-intensity lights not permitted.</u>
<u>b. Motion-activated Security Lights</u>	<u>1. Shall not exceed 100 watts and</u> <u>2. Must be shielded to avoid all off-site intrusion.</u>
<u>c. Other lighting</u>	<u>Must be directed to meet the particular need.</u>
I. Geologic and Soils Reports	
	A geological report prepared by a certified engineering geologist and a soils report prepared by a registered civil

MOVED TO CHAPTER 19.102

Table 19.40.060: Building Development Regulations

<p>1. Applicability</p>	<p>engineer qualified in soils mechanics by the State shall be submitted</p> <p>prior to issuance of permits for construction of any building or structure which:</p> <ul style="list-style-type: none"> a. Is located on property in an RHS zoning district which has been designated by the General Plan to be within a geological hazard area; and b. Where an addition, alteration or repair of an existing building or structure include at least one of the following: <ul style="list-style-type: none"> i. The improvements include increasing the occupancy capacity of the dwelling such as adding a bedroom or secondary unit, or ii. The cost of the completed addition, alteration or repairs will, during any period of twelve months, exceed twenty-five percent of the value of the existing improvements as determined by the building official based on current per foot value of the proposed structure to the existing structure's value on a parcel of property. For the purposes of this section, the value of existing improvements shall be deemed to be the estimated cost to rebuild the improvements in kind, which value shall be determined by the building official.
<p>2. Content of Reports</p>	<p>These reports shall contain, in addition to the requirements of Chapter 16.12 of this code, the following:</p> <ul style="list-style-type: none"> a. All pertinent data, interpretations and evaluations, based upon the most current professionally recognized soils and geologic data; b. The significance of the interpretations and evaluations with respect to the actual development or implementation of the intended land use through identification of any significant geologic problems, critically expansive soils or other unstable soil conditions which if not corrected may lead to structural damage or aggravation of these geologic problems both on- and off-site; c. Recommendations for corrective measures deemed necessary to prevent or significantly mitigate potential damages to the proposed project and adjacent properties or to otherwise insure safe development of the property;

Table 19.40.060: Building Development Regulations	
	<p>d. Recommendations for additional investigations that should be made to insure safe development of the property;</p> <p>e. Any other information deemed appropriate by the City Engineer.</p>
3. Incorporation of Recommendations	All building and site plans shall incorporate the above-described corrective measures and must be approved by the City Engineer, prior to building permit issuance.
J. Private Roads and Driveways	
1. Pavement Width and Design	The pavement width and design for a private road or common driveway serving two to five lots and a single-lot driveway shall comply with development standards contained in the Hillside Subdivision Ordinance, Chapter 18.52 of this code.
2. Reciprocal Ingress/Egress Easement and Reciprocal Maintenance Agreement	<p>The property owner for a lot served by a private road or common driveway shall, prior to issuance of building permits, record an appropriate deed restriction guaranteeing the following, to adjoining property owners who utilize the private road or common driveway for the primary access to their lot(s):</p> <p>a. Reciprocal ingress/egress easement, and</p> <p>b. Participation in a reciprocal maintenance agreement.</p>
K. Solar Design	The setback and height restrictions provided in this chapter may be varied for a structure utilized for passive or active solar purposes, provided that no such structure shall infringe upon solar easements or adjoining property owners. Variation from the setback or height restrictions of this chapter may be allowed only upon issuance of an Administrative Conditional Use Permit subject to Chapter 19.12.

[19.40.070 -19.60.050 – No Change]

19.60.060 Development Standards.

Table 19.60.060 sets forth the rules and regulations pertaining to the development of property located in the General Commercial (CG) zoning district.

Table 19.60.060: Development Standards	
A. Lot Area and Coverage	No minimum lot area or coverage. Must be in conformance with the General Plan or applicable Specific Plan. Must have sufficient area to satisfy off-street parking and loading requirements contained in this title.
B. Height of Buildings and Structures	30 feet unless otherwise permitted by the General Plan or applicable Specific Plan.
C. Required Setbacks for Buildings and Enclosed Patio/Atrium Space	
1. Front Yard	<p>Established based upon special policies contained in the General Plan and/or applicable specific plan to:</p> <ul style="list-style-type: none"> - Insure sufficient space to provide adequate light, air and visibility at intersections; - Assure general conformity to yard requirements of adjacent or nearby zones, lots or parcels; and - Promote excellence of development.
2. Minimum Side and Rear Yard	No side or rear yard setback required unless lot abuts any residential or agricultural- residential zone in which case the following regulations apply:
a. Side Yard Setback	
i. Interior Side	12 feet, or a total setback equal to one foot of additional setback for each foot of height of a commercial building measured from its eave line or top of parapet, whichever is more restrictive.
ii. Street Side of Corner Lot	12 feet
b. Rear Yard Setback	20 feet, or a total setback equal to one and one-half feet of additional setback for each foot of height of a commercial building measured from its eave line or top of parapet, whichever is more restrictive.
D. Noise Standards –	
1. New Construction and uses approved as a Conditional Use that have a high	

Table 19.60.060: Development Standards

probability of generating noise that adjoin residential districts shall be:

a. Exterior Walls	Designed to attenuate all noise emanating from interior retail space.
b. Loading Docks and Doors	Located away from residential districts. Required Fire Doors are excluded.
c. Mechanical and other equipment	Air conditioning, exhaust fans, and other mechanical equipment shall be acoustically isolated to comply with the noise ordinance
d. Sound Wall	Install a minimum eight-foot-high masonry sound wall on or adjacent to the common property line
e. Acoustical Engineer	Certified by an acoustical engineer that the above sound attenuation measures comply with the intent of the regulation and the City's community noise ordinance

2. In addition to (1) above, retail structures in a mixed use residential development shall employ noise attenuation techniques recommended by an acoustical engineer to comply with the community noise ordinance.

E. Lighting – New lighting fixtures for any new site construction or building improvements shall meet the requirements in Chapter 19.102.:

<u>1. Exterior Lighting</u>	Shall be a white type light either metal halide or a comparable color corrected light unless otherwise approved as part of a development plan.
<u>2. Off-site Glare</u>	Light fixtures shall be oriented and designed to preclude any light and direct glare to adjacent residential properties. No direct off-site glare from a light source shall be visible above three feet at a public right of way.
<u>3. Parking Lots, Sidewalks and other areas accessible to pedestrians and automobiles</u>	Shall be illuminated with a uniform and adequate intensity. Typical standards to achieve uniform and adequate intensity are:
<u>a. Average horizontal maintained illumination</u>	Should be between one and three foot-candles
<u>b. Maximum to Minimum Ratio</u>	Should be between 6:1 and 10:1

MOVED TO CHAPTER 19.102

Table 19.60.060: Development Standards	
<u>4. Critical Area Illumination</u>	<u>Such as stairways, ramps and main walkways may have a higher illumination</u>
<u>5. Areas around Automatic Teller Machines</u>	<u>Shall meet minimum standards required by the State of California Business and Professions Code.</u>
F. Landscaping Plan	Shall be designed to provide an effective year-round landscaping screen in the setback area adjoining a residential property. The intent of the plan is to screen the building from the rear yard of a residence within five years.
G. Utilities	<p>1. The following amenities and utilities shall be installed subject to the specifications of the subdivision ordinance:</p> <ul style="list-style-type: none"> a. All utilities including water, gas, sanitary and storm sewers, underground power systems, and b. Amenities including, lighting electroliers, curbs, gutters, streets and sidewalks and c. Connections to main systems shall be installed subject to the specifications of the subdivision ordinance of the City. <p>2. All wires, pipes, cables, utilities and connections shall be placed in underground or subsurface conduits subject to the specifications of the subdivision ordinance of the City.</p> <p>3. Underground vaults, or, well screened areas, if underground vaults are deemed to be infeasible by the City Engineer and the Director of Community Development, must be provided for the installation of the necessary utilities.</p>
H. Mechanical Equipment	Air conditioning, exhaust fans, and other mechanical equipment shall be visually screened.

[Chapter 19.64 -19.72.040 – No Change]

19.72.50 Restrictions Related to Emissions.

No use shall be allowed which is or will be offensive by reason of the emission of dust, gas, smoke, noise, fumes, odors, bright lights, vibrations, nuclear radiation, radio frequency interference, or otherwise. Every use shall be operated in such manner that the volume of sound inherently and recurrently generated shall not exceed sixty-five decibels during the day and fifty-five decibels at night, at any point on the property line on which the use is located, or sixty decibels during the day and fifty-five decibels at night, at any point on the property line on which the use is located where such property line abuts property that is zoned for residential purposes. Noise and sounds shall be appropriately muffled in such manner so as not to be objectionable as to intermittent beat, frequency, or shrillness.

Provided further that prior to issuance of a building permit the Building Inspector may require evidence that adequate controls, measures, or devices have been provided to insure and protect the public interest, health, comfort, convenience, safety and general welfare from such nuisances.

Emissions of noise, vibrations, radiation, light, smoke, fumes or gas, odor, dust and toxic waste shall be limited to quantities indicated in this section. The limitations shall apply at any point outside the boundary of each lot in an ML zone, the boundary assumed, for the purpose of this title, to extend in a vertical plane and below ground. In case of further subdivision or lot split, the limitations shall not apply outside any resulting lot.

A. Vibration. Vibrations in the nonaudible range shall not be of such intensity that they can be perceived without instruments.

B. Radiation. Electromagnetic radiation shall not result in perceptible disturbance of television or radio reception.

C. Light. In addition to the lighting standards in Chapter 19.102, all development shall meet the following lighting standards:

1. The intensity of light at the boundary of each lot shall not exceed seventy-five footlamberts from a source of direct light, or one hundred footlamberts from a source of reflected light.

2. The intensity of light at the boundary of an industrial zone, or an industrial area in a planned development (P) zone, shall not exceed fifty footlamberts from a source of direct light, or seventy-five footlamberts from a source of reflected light.

2.3. In the event there is a conflict with Chapter 19.102, the less stringent lighting standards shall apply.

D. Smoke. No emission shall be permitted at any point, from any chimney or otherwise, of visible grey smoke of a shade equal to or darker than No. 1 on the Ringelmann Smoke Chart, as published by the U.S. Department of Interior, Bureau of Mines, Informational Circular 8333, May 1967; except that a visible grey smoke of a shade equal to No. 2 on the Ringelmann Smoke Chart may be emitted for four minutes in any thirty minutes.

E. Hazardous and Toxic Materials. The use, handling, storage, and transportation of

toxic and hazardous materials shall comply with the provisions of the California Hazardous Materials Regulations (California Administrative Code, Title 22, Division 4). The use, storage, manufacture and disposal of hazardous materials shall be regulated and monitored according to the standards established by the U.S. Environmental Protection Agency (EPA), the California Environmental Protection Agency (Cal/EPA) and any delegated government agencies.

F. Odor. No emission of odorous gases or other odorous matter shall be permitted in such quantities as to be readily detectable without the aid of instruments at the boundaries of the lot or in such concentrations as to create a public nuisance or hazard beyond such boundaries. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if the primary safeguard system should fail. There is established as a guide in determining such quantities of offensive odors, Table III, Odors Thresholds, in Chapter 5 of Air Pollution Abatement Manual, copyrighted in 1951 by Manufacturing Chemists Association, Inc., Washington, D.C.

G. Fly Ash, Dust, Fumes, Gases and Other Forms of Air Pollution. No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property, or that will result in the collection of heavy gases at ground level. No emission shall be permitted in excess of fifty percent of the standards specified in Table I, Chapter 5 of Industrial Hygiene Standards, Maximum Allowable Concentrations of the Air Pollution Abatement Manual, copyrighted in 1951 by Manufacturing Chemists Association, Inc., Washington, D.C. In no event shall any emission, from any chimney or otherwise, exceed one-tenth of a grain (0.1 grain) per cubic foot of the conveying gas. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of five hundred degrees Fahrenheit and fifty percent excess air.

H. Wastes. No discharge shall be permitted into any public street or sewer, private sewage disposal system, stream, body of water, or into the ground, of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in sewage treatment, corrode or otherwise damage sewers or pipelines, or otherwise cause the emission of dangerous or offensive elements, except in accordance with standards approved by the California Environmental Protection Agency (Cal/EPA) and any other governmental agency having jurisdiction over the activities.

[19.72.060 – Chapter 19.100 – No Change]

CHAPTER 19.102 GLAZING AND LIGHTING STANDARDS

19.102.010 Purpose**19.102.020 Applicability of regulations****19.102.030 Bird Safe Development Requirements****19.102.040 Outdoor Lighting Requirements****19.102.010 Purpose**

The purpose of this chapter is to regulate design and construction of structures and accessory elements in all zoning districts to protect the natural environment, particularly enhancing bird-safety and reducing light pollution. This Chapter establishes regulations to reduce bird mortality from windows or other specific glass features that are known to increase the risk of bird collisions and to reduce light pollution that is known to contribute to bird mortality and reduced visibility of the night sky.

19.102.020 Applicability of regulations

Whenever an applicant is required to obtain a building permit or a Permit pursuant to Title 19, the project shall meet the requirements of this Chapter. The following table indicates the applicability of regulations by type of project:

<u>Type of Development</u>	<u>Applicable Sections</u>
<u>A. New primary or accessory building or structure construction</u>	<u>Sections 19.102.030 and 19.102.040</u>
<u>B. Complete or Partial Remodel of primary or accessory buildings or structures</u>	<u>Sections 19.102.030 and 19.102.040 apply to remodeled portions</u>
<u>C. Landscaping projects (in conjunction with or separate from a construction project)</u>	<u>Section 19.102.040</u>
<u>D. New or replacement glass windows, doors, or features</u>	<u>Section 19.102.030 applies to new windows, doors, or features</u>
<u>E. New or replacement exterior lighting</u>	<u>Section 19.102.040</u>
<u>F. Exemptions</u>	<u>See Section 19.102.030(E) and Section 19.102.040 (D)</u>

19.102.030 Bird-safe Development Requirements

A. Application submittal requirements: In addition to the applicable application submittal requirements of Section 19.12.080, all projects that are subject to the bird-safe development requirements shall also submit the following:

1. Elevation drawings indicating the bird-safe treatment and how the proposed treatment meets the requirements;

2. Cross sections, if required;
3. Other exhibits indicating consideration and incorporation of the regulations in Section 19.102.030 (B), (C), and (D); and
4. Biologist report in support of alternative compliance method pursuant to Section 19.102.030 (B)(4), if proposed.

B. Fenestration and Glass Requirements

1. Façades of all projects subject to bird-safe development requirements shall have:
 - a. No more than 10% of the surface area of the façade be untreated glass between the ground and 60 feet above ground.
 - b. No more than 5% of the surface area of the façade be untreated glass between 60 feet above ground and up.
2. Standard Compliance Treatments: The Planning Division may maintain a list of acceptable bird-safe treatments that may be updated from time to time. The list may include, but not be limited to acceptable treatments, such as opaque glass, window muntins, exterior insect screens, exterior netting, or special glass treatments such as fritting to provide visual cues and reduce the likelihood of bird collisions.
3. Alternative Compliance Method: Property owners/applicants may propose an alternate compliance method recommended by a qualified biologist, in order to meet the requirements and intent of this section. The alternate compliance method shall be peer-reviewed by a third-party consultant, paid for by the applicant, and subject to the approval of the Director of Community Development.

A.C. Non-residential Indoor Lighting Requirements: Install time switch control devices or automatic occupancy sensors on non-emergency interior lights that are programmed to turn off at eleven p.m. or within two hours after the business is closed.

D. Bird-Safe Design Requirements. All projects subject to bird-safe development requirements shall:

1. Avoid the funneling of flight paths along buildings or trees towards a building façade.
2. Avoid use of highly reflective glass or highly transparent glass.
3. Not include untreated glass skyways or walkways, balconies, freestanding glass walls, transparent building corners; or other design elements through which trees, landscape areas, water features or the sky are visible from the exterior or from one side of the transparent element to the other.

E. Exemptions: The following are exempted from bird-safe treatment regulations of subsection 19.102.030(B):

1. Any historic structure, either as set forth in the General Plan Figure LU-3 Historic Resources or listed on the State or National Historical Registers;
2. First floor commercial storefronts, up to a height of 15';

3. Residential development in R1 zoning districts outside of Bird-Sensitive Areas; and,
4. 100% affordable housing developments.

19.102.040 Outdoor Lighting Requirements

A. Submittal Requirements: In addition to the applicable submittal requirements of Section 19.12.080, projects subject to outdoor lighting regulations must submit the following information:

1. A site plan indicating the location of all outdoor lighting fixtures.
2. A description of each lighting fixture. This description may include, but not be limited to, manufacturer's catalog cuts and drawings (including sections if requested), lamp types, and lumen outputs.
3. Photometric plans, prepared, stamped and signed by a licensed electrical engineer, depicting the location of all outdoor lighting fixtures and building-mounted lighting fixtures and a maximum ten-foot by ten-foot grid of both the initial and maintained lighting levels on the site, including any impact on adjacent properties.
4. The project lighting plan shall indicate how lighting has been coordinated with any associated landscaping plan to prevent site planning conflicts.
5. Any other information the Director may determine is necessary to ensure that the proposed lighting is in compliance with the provisions of this Chapter.
6. Any of the submittal requirements may be waived by the Director of Community Development when determined to be unnecessary for determining compliance with the provision of this Chapter.

B. Outdoor Lighting Standards

1. All outdoor lighting shall be fully shielded fixtures, directed downward to meet the particular need and away from adjacent properties and rights-of way to avoid light trespass, except:
 - a. Low-voltage Landscape Lighting. Low-voltage landscape lighting, such as that used to illuminate fountains, shrubbery, trees, and walkways, do not have to be shielded fixtures and may use uplighting, provided that they use no more than ten (10) watt equivalent LED and not directed toward the right-of-way.
 - b. Architectural Features: Uplighting may be used to highlight special architectural features.
 - c. Public Art: Alternative lighting standards may be used to illuminate public art or serve as public art subject to the review and approval by the Fine Arts Commission.
 - d. Historic Lighting Fixtures: Lighting fixtures that are historic or that exhibit a historical period appearance, as determined by the Director of Community Development, need not be fully shielded.
2. Illumination Levels
 - a. No light, combination of lights, or activity shall cast light exceeding one (1) foot-candle onto an adjacent or nearby property, with the illumination level measured at the property line between the lot on which the light is located and the adjacent lot, at the point nearest to the light source.

- a-b. No direct off-site glare from a light source shall be visible above three feet at a public right-of-way.
- c. The maximum light intensity on a site shall not exceed a maintained value of ten foot-candles, when measured at finished grade.
- b-d. Parking lots, sidewalks and other areas accessible to pedestrians and automobiles on properties with four or more units, mixed-use development, and non-residential development shall be illuminated with uniform and adequate intensity. Typical standards to achieve uniform and adequate intensity are:
 - i. Average horizontal maintained illumination should be between one and three foot-candles
 - ii. Maximum to minimum ratio should be between 6:1 and 10:1
- e. Critical areas of illumination such as stairways, ramps, and main walkways may have a higher illumination.
- 3. All light sources shall have a maintained correlated color temperature of three thousand (3,000) Kelvin or less.
- 4. All outdoor lighting shall be extinguished by 11:00 p.m. or when people are no longer present in exterior areas, whichever is later, except for:
 - i. Critical lighting pursuant to section 2 (e) above
 - ii. Any lighting at building entrances, parking areas, and driveways area required to remain illuminated after 11:00 p.m. by the California Building Code or state law; and,
 - iii. Lighting of an appropriate intensity, allowed in conjunction with uses that are permitted to operate past 11:00 p.m., with a conditional use permit.
- 5. Automated control systems, such as motion sensors and timers, shall be used to meet the outdoor lighting requirements.
 - a. Photocells or photocontrols shall be used to extinguish all outdoor lighting automatically when sufficient daylight is available.
 - b. All lighting activated by motion sensors shall extinguish no more than 10 minutes after activation.
 - c. Automated controls shall be full programmable and supported by battery or similar backup.
- 2.6. Security Lighting may be provided to protect persons and property. When security lighting is utilized the following standards shall apply, in addition to other applicable standards:
 - a. Security lighting shall be controlled by a programmable motion-sensor device, except where continuous lighting is required by the California Building Code.
 - b. Floodlights shall not be permitted.
 - c. Security lights intended to illuminate a perimeter, such as a fence line, are permitted only if such lights do not result in light trespass.
 - d. Motion-activated security lights shall not use lamps that exceed 100 watts.
- 7. Lighting design standards:

- a. Lighting fixtures must be of a design that complements building and landscaping design.
- b. Lighting fixtures shall be appropriate in height, intensity, and scale to the use they are serving. Parking lot lights in non-residential zones shall not exceed a height of 21 feet, and any wall-mounted lights shall not exceed a height of 12 feet, measured from the adjacent grade to the bottom of the fixture.
- 8. Service Station Canopies: The following standards shall apply to service station canopy lighting, in addition to all other applicable standards:
 - a. Lighting fixtures in the ceiling of canopies shall be fully recessed in the canopy.
 - b. Light fixtures shall not be mounted on top of the fascia of such canopies.
 - c. The fascia of such canopies shall not be illuminated, except for approved signage in compliance with Chapter 19.104.

3.9. Areas around Automatic Teller Machines shall meet minimum standards required by the State of California Business and Professions Code.

10. All lighting must comply with the requirements of the California Building Code. Should a conflict exist with the provisions of this Chapter, the standards in the California Building Code shall prevail.

11. Lighting in ML zones shall additionally comply with the standards in Chapter 19.72.

C. Prohibited Lighting: The following types of lighting are prohibited:

- 1. Outdoor lighting that blinks, flashes, or rotates except those that may be permitted pursuant to Chapter 10.26.
- 2. Outdoor flood lights that project above the horizontal plane.
- 3. Lighting that unnecessarily illuminates any other lot or substantially interferes with use or enjoyment of that lot.
- 4. High-intensity discharge lighting for recreation courts on private property.
- 5. Spotlights.

D. Exemptions: The following types of lighting are exempt from the lighting requirements of the Chapter:

- 1. Lighting within the public right-of-way and public parks
- 2. Permitted lighting for signs
- 3. Lighting to illuminate address signs
- 4. Temporary construction or emergency lighting
- 5. Short-term lighting authorized by a special events permit
- 6. Holiday seasonal lighting during the period of October 15 through January 15 of each year
- 7. Required lighting to comply with Building Code or state law

[Chapter 19.104 -19.124.030 – No Change]

19.124.040 Regulations for Off-Street Parking.

Table 19.124.040 sets for the rules and regulations for Off-Street Parking.

Table 19.124.040 - Regulations for Off-Street Parking		
A.	Parking Ratio and Dimensions	Table 19.124.040(A) defines the minimum and maximum required number of parking spaces by size and type for specific zoning districts and use within districts.
B.	Residential Lots Fronting on Public or Private Streets	If no on-street parking is available, two additional off-street spaces are required.
C.	Large-Family Day Care Home	Requirements are in addition to minimum requirements of the zoning district. May be on-street, in front of provider's residence. If the provider is relying on on-street parking and the roadway prohibits on-street parking, a semi-circular driveway may be provided, subject to other provisions of the Municipal Code.
1.	Non-resident Employee Parking	Minimum of one parking space for each non-resident employee.
2.	Drop-off Parking	Minimum of one parking space with direct access to the unit, not crossing a street.
D.	Aisle Dimensions	Aisle dimension shall be as required by standard details adopted by the City Engineer and shown in Table 19.124.040(B)
E.	Loading Areas	Loading areas, truck parking spaces and parking spaces for vehicles other than automobiles shall have ample dimensions for the particular use and type of operation, and be designed as required by the City Engineer except in the case of loading areas in the OP and MP zones which are specified in Chapters 19.68 and 19.72.
F.	Planned Development Districts	The parking requirement contained in Table 19.124.040(A) functions as guidelines for projects in planned development zoning districts.
G.	Mixed-Use and Shared Parking	The minimum parking requirement for developments with more than one land use, or parking facilities being used by one or more properties, shall be determined using Table 19.124.040(C).
H.	Alternative Parking Standards	For all projects not meeting parking requirements in Table 19.124.040(A), (B) or (C), alternative parking arrangements may be approved per Section 19.124.060C

Table 19.124.040 - Regulations for Off-Street Parking		
I.	Tandem, Valet and Other Special Parking Arrangements	Tandem, Valet, and other special forms of parking may be approved per Section 19.124.060C.
J.	Minimum Stall Dimensions in Parking Structures	Uni-size space located in a parking garage or other enclosed parking structure intended for non-residential uses is eight and one-half (8.5) feet by eighteen (18) feet.
1.	Space adjacent to a wall or structure on one side	Nine feet by eighteen feet.
2.	Space adjacent to a wall or structure on both sides	Nine and one-half feet by eighteen feet.
K.	Accessible Parking for the Disabled	The accessible parking requirement for the disabled is embodied in Section 1129 B of the California Building Code, as amended, is hereby incorporated into this chapter by reference.
L.	Heavy Equipment	<ol style="list-style-type: none"> May only be stored within entirely enclosed structures or behind six-foot-high fencing in interior side yard and rear yard setback areas; and In no case shall these items be visible from the street even when placed in permitted areas. The provisions in L(1) and L(2) shall not apply to heavy equipment stored on site that is being used for construction or installation of improvements with a valid building or grading permit.
M.	Other Regulations	Outlined in Title 11 of the Municipal Code.
N.	Landscape Requirements	Applicable to all new centers and centers with a twenty-five percent or greater increase in floor area or a twenty-five percent or greater change in floor area resulting from use permit or architectural and site approval within twelve months shall be required to meet the following minimum landscape requirements. However, the Planning Commission and/or City Council may recommend additional landscaping.
		As required in Table 19.124.040 (N)(1) below:
		Table 19.124.040(N)(1):

Table 19.124.040 - Regulations for Off-Street Parking

		Size of Parking Facility (Sq. Ft.)	Minimum Required Interior Landscaping (% of Total Parking Interior Facility Area)
1.	Minimum Interior Landscaping	Under 14,999	5%
		15,000 - 29,000	7.5%
		30,000 plus	10%
2.	Parking Lot trees	<p>i. Shall be planted or exist at a rate of one tree for every five parking stalls for every ten spaces in a single row.</p> <p>ii. Only fifty percent of the trees located along the perimeter of the parking area may count towards the required number of trees.</p> <p>iii. A parking facility with larger trees with high canopies may be allowed to increase the number of parking stalls (up to 10 parking stalls per tree) depending on the size of the tree and canopy size.</p>	
3.	Landscape Planter Strip	At least three feet wide by the length of the parking space.	
4.	Placement of Trees	Shall be offset to prevent vehicles from bumping into them. The Planning Department shall review and approve final tree locations.	
5.	Landscape Buffer (inclusive of curbing and vehicle overhang allowance)	<p>i. When parking lot is adjacent to a street, landscape buffer = ten feet wide</p> <p>ii. When adjacent to a side or rear property line, landscape buffer = five feet wide,</p> <p>iii. Buffer between double loading stalls = four feet.</p>	

Table 19.124.040 - Regulations for Off-Street Parking

6.	Flat and Raised Curbs, Wheel Stops and Overhang into landscaped areas	<p>i. Landscape areas shall be enclosed by a six-inch wide continuous flat curb allowing parking lot run off into landscaping area, infiltration islands or swales.</p> <p>ii. Concrete wheel stops shall be placed on top of the flat curb and shall be provided at a rate of one per two stalls.</p> <p>iii. Landscape planter strips at the end of the parking aisles adjacent to a driveway shall be enclosed by a six-inch raised concreted curb with drainage outlets to help delineate the driveways or aisles.</p> <p>iv. Parking stall length may be decreased by up to two feet but must provide an equivalent vehicle overhang into landscaped areas.</p>
7.	Planter Strips	<p>i. Curbed planter strips shall be provided at the end of each parking aisle.</p> <p>ii. Landscape planter strip shall be at least three feet wide and the length of a parking stall.</p>
8.	Pedestrian Paths	Where appropriate, provision shall be made to ensure that adequate pedestrian paths are provided throughout the parking lot/landscaped areas.
9.	Minimum Tree Size	Trees require to meet any section of this title shall be a minimum of fifteen gallon size.
10.	Tree Protection	All trees shall be protected by wheel stops, curbing, bollards or other similar barriers as appropriate.
11.	Maintenance	All landscaping shall be continuously maintained.
O.	Swales and Permeable Surfaces	In order to reduce urban runoff and provide water quality benefits in parking lots, all new parking lots or any substantial alterations to existing parking lots shall incorporate the following design measures to the maximum extent possible:
1.	Bio-swales	Incorporate bio-swales in the required landscaping buffers.

Table 19.124.040 - Regulations for Off-Street Parking

a.	Standards for bio-swales	<p>i. Longitudinal slope of the swale shall be between one percent and five percent.</p> <p>ii. Swales of greater than three percent may be required to install check dams to reduce velocity through swale.</p> <p>iii. Side slope shall not exceed 3:1 (horizontal:vertical).</p> <p>iv. All swales shall be required to provide an adequate under-drain system to prevent ponding. Swales shall be designed to eliminate any ponding of water for more than forty-eight hours.</p>
2.	Permeable surfaces	Use permeable or semi-permeable materials for the parking stalls
P.	Bicycle Parking	Bicycle parking shall be provided in multi-family residential developments and in commercial districts. In commercial districts, bicycle parking shall be conveniently located and adjacent to on-site bicycle circulation pedestrian routes. The bicycle parking facilities shall be one of the following three classification types:
1.	Class I Facility	These facilities are intended for long-term parking and are intended to protect the entire bicycle or its individual components and accessories from theft. The facility also protects the cycle from inclement weather, including wind driven rain. The three design alternatives for Class I facilities are as follows:
a.	Bicycle Locker	A fully enclosed space accessible only by the owner or operator of the bicycle. Bicycle lockers must be fitted with key locking mechanisms.
b.	Restricted Access	Class III bicycle parking facilities located within a locked room or locked enclosure accessible only to the owners and operators of the bicycle. The maximum capacity of each restricted room shall be ten bicycles. In multiple family residential developments, a common locked garage area with Class II parking facilities shall be deemed restricted access provided the garage is accessible only to the residents of the units for whom the garage is provided.

Table 19.124.040 - Regulations for Off-Street Parking

c.	Enclosed Cages	A fully enclosed chain link enclosure for individual bicycles, where contents are visible from the outside, which can be locked by a user provided lock. This facility may only be used for multiple family residential uses.
2.	Class II Facility	<p>i. Intended for short term parking. A stationary object which the user can lock the frame and both wheels with a user provided lock.</p> <p>ii. The facility shall be designed so that the lock is protected from physical assault.</p> <p>iii. A Class II facility must accept U-shaped locks and padlocks.</p> <p>iv. Class II facilities must be within constant visual range of persons within the adjacent building or located at street floor level.</p>
3.	Class III Facility	<p>i. Intended for short-term parking. A stationary object to which the user may lock the frame and both wheels with a user provided cable or chain and lock.</p> <p>ii. Spacing of the bicycle units shall be designed for a handlebar width of three feet, distance from bottom of wheel to top of handlebar of three feet and six inches and a maximum wheel-to-wheel distance of six feet.</p>
Q.	Parking Lot <u>and</u> <u>Structured Parking</u> Lighting	Applicable to n New lighting fixtures for any new site construction shall meet the following requirements, <u>in addition to the requirements of Chapter 19.102:</u>
1.	Exterior Light Color	All exterior lighting shall be a white type light either metal halide or a comparable color corrected light unless otherwise approved as part of a development plan for uniformity, not allowing any dark areas in the parking lot.
2.	Lighting Glare	<p>i. The light fixtures shall be oriented and designed to preclude any light and direct glare to adjacent residential properties.</p> <p>ii. No direct off-site glare from a light source shall be visible above three feet at a public right-of-way.</p>
3.	Lighting Intensity	Parking lots, sidewalks and other areas accessible to pedestrians and automobiles shall be illuminated with a uniform and adequate intensity. Typical standards to

Table 19.124.040 - Regulations for Off-Street Parking		
		achieve uniform and adequate intensity are:
a.	Average Horizontal Maintained Illumination	Between one and three foot-candles
b.	Average Maximum to Minimum Ratio	Should be generally between six and ten to one
c.	Minimum Intensity above Parking Lot Surface	Minimum three foot-candles vertically above the parking lot surface shall be maintained.
4.	Critical Areas	Such as stairways, ramps and main walkways may have a higher illumination.
5.	Automatic Teller Machines (ATM)	Lighting around automatic teller machines shall meet minimum standards required by the State Business and Professions Code.
56.	Shatter Resistant Lenses	Shatter resistant lenses should be placed over the light to deter vandalism.
67.	Underground <u>and Structured Parking Lighting</u>	i. Underground <u>Lighting</u> should <u>shall</u> utilize vandal-resistant fixtures and ii. Maintain a minimum five lux level of color-corrected lighting for maximum efficiency.
78.	Parking Garage Entrances	Portal lighting should be provided inside all parking garages entrances.

R. Parking Space Dimension Chart. Parking space dimensions shall be as shown in Table 19.124.040(A):

Table 19.124.040(A)					
Land Use	Zones	Parking Ratio ⁽²⁾	Bicycle Parking	Bicycle Parking Class ⁽⁴⁾	Stall Dimensions ⁽³⁾
Residential					
Single-Family	R-1/RHS/A1/P	4/DU (2 garage + 2 open)			10 x 20 ea.

Table 19.124.040(A)

Land Use	Zones	Parking Ratio ⁽²⁾	Bicycle Parking	Bicycle Parking Class ⁽⁴⁾	Stall Dimensions ⁽³⁾
Small Lot Single-family, Townhouse	P	2.8/DU (2 garage + 0.8 open)			10 x 20 ea.
Duplex	R2	3/DU (1 ½ enclosed + 1 ½ open)			10 x 20 ea.
High Density Multiple-Family,	R3/P	2/DU (1 covered + 1 open)	1 space per 2 residential units; and	Class I	9.5 x 20 ea.
High Density Multiple Story Condominium			1 space per 10 residential units	Class II	
Public/Quasi-Public/Agriculture					
Churches, Clubs, Lodges, Theaters	BQ/CG	1/4 seats +1/employee +1/special- purpose vehicle	2% of seats. Minimum two spaces	Class II	Uni-size
Schools and School Offices	BA/BQ	1/employee + 1/56 sq. ft. multipurpose room + 8 visitor spaces/school + 1/3 students at senior H.S. or college level	1 space per 5 students	Class II	Uni-size
Daycare Centers	CG	1/6.5 students			Uni-size
Martial Arts, CG Dance/Art/Music Studios, Tutorial Services, specialized schools (does not include adult tutorial schools or services)	CG	1/4 students plus 1/1 staff at any given time or 1/250 whichever is more restrictive	1 space per 5 students	Class II	Uni-size

Table 19.124.040(A)

Land Use	Zones	Parking Ratio⁽²⁾	Bicycle Parking	Bicycle Parking Class⁽⁴⁾	Stall Dimensions⁽³⁾
Agriculture	A	2 garage + 2 open			10 x 20 ea.
Sanitariums and Rest Homes	BQ	1/doctor + 1/3 employees + 1/6 beds			Uni-size
Private Recreation	FP	1/4 seats + 1/employee	1/5,000 sq. ft. Minimum two spaces	Class II	Uni-size
Gyms, Auditoriums, floor area used Skating Rinks for seating without fixed seats	BA/BQ	1/56 sq. ft. purposes + 1/employee	1/5,000 sq. ft. Minimum two spaces	Class II	Uni-size
Commercial					
Motels/Hotels/Lodging	CG	1/unit + 1/employee (2) (3)	1/20,000 sq. ft.	Class II	Uni-size
Restaurant/Bar and Nightclubs	CG	1/3 seats + 1/employee + 1/36 sq. ft. of dance floor	1/2,000 sq. ft.	Class II	Uni-size
Restaurants without Separate Bar	CG	1/4 seats + 1/employee + 1/36 sq. ft. of dance floor	1/2,000 sq. ft.	Class II	Uni-size
Restaurant - Fast Food	CG	1/3 seats + 1/employee	1/2,000 sq. ft.	Class II	Uni-size
Specialty Foods	CG	1/3 seats or 1/250 sq. ft. whichever is more	1/2,000 sq. ft.	Class II	Uni-size
Bowling Alleys	CG	7/lane + 1/employee	1/5,000 sq. ft.	Class II	Uni-size

Table 19.124.040(A)

Land Use	Zones	Parking Ratio(2)	Bicycle Parking	Bicycle Parking Class(4)	Stall Dimensions (3)
General	CG	1/250 sq. ft.	1/1,250 sq. ft. up to 25,000 sq. ft.	Class II	Uni-size
			1/2,500 sq. ft. between 25,000 – 50,000 sq. ft.		
			1/5,000 sq. ft. over 50,000 sq. ft.		
			1/5,000 sq. ft. Bulky Merchandise (5)		
Industrial					
Manufacturing	ML	1/450 sq. ft.	1/12,000 sq. ft.	Class I	Uni-size
Office/Prototype Manufacturing	ML/OA	1/285 sq. ft.	/1,250 sq. ft. or 1/15 employees, whichever is more restrictive.	Class I	Uni-size
Office					
Corporate/ Administrative/General Multi-Tenant	CG/OP	1/285 sq. ft.	1/1,250 sq. ft. or 1/15 employees, whichever is more restrictive.	Class I	Uni-size
Medical and Dental Office	CG	1/175 sq. ft.	1/1,250 sq. ft.	Class II	Uni-size

Notes:

1. Refer to Table 19.124.040(B) for uni-size stall dimensions.
2. Refer to standard details table for requirements for handicapped parking.
3. See 19.124.040(J) for stall dimensions in parking structures.
4. See 19.124.040(P) for description of bicycle parking classes.
5. Retail space devoted to the handling of bulky merchandise such as motor vehicles, machinery or furniture, excluding grocery stores.

Table 19.124.040(B)					
Type of Parking Stall	Angle (In Degrees)	Stall Width	Aisle Width (One-Way Aisle)	Aisle Width (Two-Way Aisle)	Car Space Depth
		(A)	(B)	(B)	(C)
Uni-Size	0°	8.5	10.0	18.0	22.0
	30°	8.5	10.0	18.0	18.0
	35°	8.5	10.0	18.0	18.0
	40°	8.5	10.0	18.0	18.0
	45°	8.5	10.0	18.0	18.0
	50°	8.5	10.0	18.0	18.0
	55°	8.5	11.5	18.5	18.0
	60°	8.5	13.0	19.0	18.0
	65°	8.5	14.5	19.5	18.0
	70°	8.5	16.0	20.0	18.0
	90°	8.5	N/A	22.0	18.0

NOTES TO TABLE:

* - For handicap accessible spaces, please refer to § 1118A.4 of 1994 Uniform Building Code.

* - For further information, please refer to the Public Works Department Standard Details.

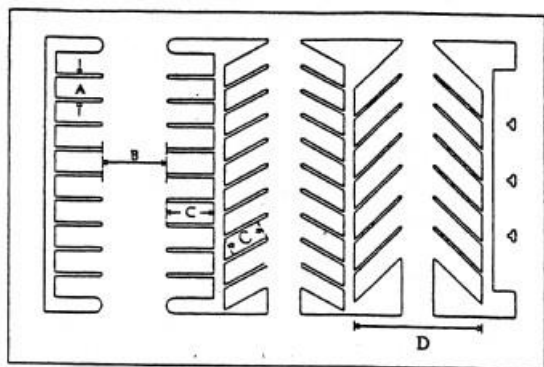


Table 19.124.040(C): Calculating Shared Parking for Mixed-Use Developments

Weekday Weekend Nighttime					
	Weekday		Weekend		Nighttime
	Daytime	Evening	Daytime	Evening	
	(9:00 a.m. - 4:00 p.m.)	(6:00 p.m. - midnight)	(9:00 a.m. - 4:00 p.m.)	(6:00 p.m. - midnight)	(midnight - 6:00 a.m.)
Residential	75%	100%	80%	100%	100%
Office/ Industrial	100%	10%	10%	5%	5%
Retail	60%	90%	100%	70%	5%
Hotel	75%	100%	75%	100%	10%
Restaurant	100%	100%	100%	100%	10%
Entertainment / Recreational	40%	100%	80%	100%	10%

1. Determine the minimum amount of parking required for each land use as though it were a separate use;
2. Multiply each amount by the corresponding percentage for each of the five time periods;
3. Calculate the column total for each time period;
4. The column total with the highest value is the parking space requirement.

Attachment G

Draft String Lighting Regulations

**Italicized text indicates proposed additions*

19.102.040 (A) Outdoor Lighting Standards

1. All outdoor lighting shall be fully shielded fixtures, directed downward to meet the particular need and away from adjacent properties and rights-of way to avoid light trespass, except:
 - a. Low-voltage Landscape Lighting: Low-voltage landscape lighting, such as that used to illuminate fountains, shrubbery, trees, and walkways, do not have to be shielded fixtures and may use uplighting, provided that they use no more than ten (10) watt equivalent LED and not directed toward the right-of-way.
 - b. Architectural Features: Uplighting may be used to highlight special architectural features.
 - c. Public Art: Alternative lighting standards may be used to illuminate public art or serve as public art subject to the review and approval by the Fine Arts Commission.
 - d. Historic Lighting Fixtures: Lighting fixtures that are historic or that exhibit a historical period appearance, as determined by the Director of Community Development, need not be fully shielded.
 - e. *String Lighting: String Lighting may be used in compliance with Section 19.102.040 (B) (12).*

19.102.040 (B) (12) String Lighting Regulations

- a. *String lighting is different from holiday and/or seasonal lighting, and in addition to subsections (b) and (c) as applicable below, shall not be:*
 1. *Blinking and/or chasing lights*
 2. *Installed or attached to fences*
 3. *Secured with materials or in a manner that will puncture the skin or restrict the growth of any living landscape feature.*
 4. *More than a 2.8-watt system.*
- a. *Residential Areas: String lighting is permitted subject to the following requirements:*
 1. *It shall not illuminate more than fifty (50) percent of the rear yard or 500 sq. ft., whichever is more restrictive.*
 2. *It shall not be visible from the City right-of-way.*
 3. *It shall be used primarily to illuminate patio areas.*

4. *It shall be extinguished by 11:00 p.m.*
- c. *Commercial and Mixed-Use Commercial Areas: String lighting may be permitted subject to the following requirements, with approval of the Director of Community Development:*
 1. *Any development or property is permitted to submit one application for string lighting, which shall include all uses of string lighting on the development or property.*
 2. *It shall not illuminate an area greater than:*
 - i. *Five (5) percent of the building(s) footprint of a shopping center, and,*
 - ii. *Fifteen (15) percent for a freestanding commercial building not part of a shopping center.*
 3. *It is limited to the lighting of the following:*
 - i. *Living landscape features (trees, shrubs, etc.) if used in combination with other highlighting or pedestrian lighting fixtures within the immediate area, and,*
 - ii. *Designated outside dining or display areas.*



CITY OF CUPERTINO

Agenda Item

20-8396

Agenda Date: 12/1/2020
Agenda #: 12.

Subject: Updated Administrative Procedures Within the Community Funding Grant Policy.

Review and adopt updated administrative procedures within the Community Funding Grant Policy, including an earlier submission date for applications, program funding range, and affirmation that all qualified applicant materials will be brought to City Council.



PARKS AND RECREATION DEPARTMENT

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TELEPHONE: (408) 777-3120 • FAX: (408) 777-1305
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: December 1, 2020

Subject

Updated Administrative Procedures Within the Community Funding Grant Policy.

Recommended Action

Review and adopt updated administrative procedures within the Community Funding Grant Policy, including an earlier submission date for applications, program funding range, and affirmation that all qualified applicant materials will be brought to City Council.

Discussion

The Community Funding Grant Policy was adopted in Fiscal Year 2012-2013 and was recently updated with new requirements and procedures, following best practices, and recommendations from the Parks and Recreation Commission. Adjustments included the establishment of a funding cap per applicant and a tiered funding evaluation structure for all applications.

The current procedure is summarized as follows:

- Applications are announced February 1 and due to the City by March 1.
- Staff review submitted applications for completeness and eligibility, and contact applicants if additional information or clarification is needed.
- Qualified applications are provided to the Parks and Recreation Commission for review and evaluation (generally during the April meeting).
- Applications recommended for funding by the Parks and Recreation Commission are brought to City Council for their review.
- City Council determines which applications will receive funding (generally in June), which is appropriated within the City's budget.
- Grant recipients provide an annual project report to the City the following fiscal year, describing how the awarded funds were spent.

To address concerns that were brought forward during the FY 20-21 implementation of the policy, the following amendments are recommended for review and approval:

1. The application will be made available at the beginning of January, with the submission deadline moved up to February 1.
2. The program will have an established funding range of \$70,000 to \$90,000, based on a three-year average of awarded grant funds.
3. City Council will review all eligible applications, with consideration of the recommended rankings by the Parks and Recreation Commission.

The establishment of an earlier deadline provides more time for applications to be fully vetted by staff and reviewed by the Parks and Recreation Commission and City Council, prior to the budget approval meeting in June. The establishment of the funding range for the entire program provides a big picture consideration during the evaluation process.

Sustainability Impact

No sustainability impact.

Fiscal Impact

The established funding range will be set at \$70,000 to \$90,000 in the City's budget for FY 2021-22.

Prepared by: Kevin Khuu, Management Analyst

Rachelle Sander, Recreation Supervisor

Reviewed by: Joanne Magrini, Director of Parks and Recreation

Kristina Alfaro, Director of Administrative Services

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A – Current Community Funding Policy

B – Updated Community Funding Policy (Redline Version)

C – Updated Community Funding Policy (Clean Version)

Fiscal Policies – Community Funding Grant Policy

PURPOSE

The City of Cupertino currently provides funding to local non-profit organizations in the areas of social services, fine arts and other programs for the general public. The policy provides a framework for the City's Community Funding Grant Program and guides the administration of the program and decision-making process. It also provides guidance on key aspects of the City's Community Funding Grant Program processes including: Eligibility, Evaluation Criteria, Restrictions/Guidelines, and Procedure.

SCOPE

All requests for funding must comply with this policy.

POLICY

During the annual budgeting process, the City Council will determine the amount to appropriate for the Community Funding Grant Program. The Administrative Services Department shall approve or deny an applicant's request based upon the eligibility criteria set forth below. Community Grants, subject to availability of funds, shall not exceed \$20,000 per applicant, per year. In all cases, the City reserves the right to reject any and all applications in the event the Administrative Services Department identifies a potential conflict of interest or the appearance of a conflict of interest. Submission of an application in no way obligates the City to award a grant and the City reserves the right to reject any or all applications, for any reason, at any time.

Eligibility

To receive consideration for a Community Funding Grant, grant requests must:

- Be made or sponsored by a 501(c)(3) non-profit organization with experienced staff capable of implementing and managing the program/project/event.
- Identify how the funds will be used to benefit the Cupertino community.
- Be for one-time, project specific needs and not ongoing, operational costs.
- Have more than 75% of the requested funds allocated for direct service costs versus administrative costs.
- Be complete and submitted by the application deadline.

Evaluation Criteria

- Impact on and benefit to the Cupertino community
- Community need for the program/project/event
- Alignment with City priorities
- Uniqueness of the program/project/event
- Qualifications and experience of the organization and its staff

- Reasonable cost
- Demonstrated effort to secure funding from other sources and/or establishing partnerships with other community or city organizations
- Clarity, completeness, and accuracy of grant application
- Past performance and compliance with requirements if a recurring applicant

Applications will be sorted into two categories:

- *New applicants*
- *Past recipients*

Applications in each category will be evaluated using a tiered structure based on the dollar amount requested for award as follows:

- < \$999.99
- \$1,000.00 - \$4,999.99
- \$5,000.00 – \$9,999.99
- \$10,000.00 - \$20,000.00

Restrictions/Guidelines

- An organization that is applying for multiple grants shall only submit one application.
- Proceeds generated from the funded activity may only be used for the conducted activity.
- If requested, recipients must provide full financial statements for the organization.
- Admission to or participation in the event must be "free of charge" unless approved by Parks & Recreation Commission.
- If an applicant makes a grant request directly to a member of the City Council, whether individually or as a group, the Council shall refer the applicant to the Administrative Services Department for a Grant application to be reviewed in accordance with this policy.
- Grant recipients shall acknowledge the City contribution in formal promotional materials and efforts related to the funded activity. Any use of the City logo must be approved by the City's Public Information Officer.

Procedure

1. Applicants submit timely and complete grant applications by March 1 to the Administrative Services Department for review.
2. The Administrative Services Department reviews application for compliance with eligibility criteria and availability of funds. Staff may seek additional information from applicant as necessary.
3. Eligible applications will be reviewed by the Parks and Recreation Commission for a recommendation to the City Council regarding grant approval and funding amounts,

which typically happens in April. All applicants are strongly encouraged to attend the Parks and Recreation Commission meeting in April.

4. City Council will make the final decision on grant amounts for each applicant as part of the budget adoption which typically happens in June.
5. Grant recipients shall submit a written report to the Administrative Services Department to show proof that the grant funds have been spent in the manner and for the purposes stated on the application, including information about the number of persons served and other results that benefit Cupertino.
 - Due by the 15th business day of July following the Fiscal Year in which grant funds are disbursed.
 - Failure to submit a written report by the July deadline could result in the loss of grant funding eligibility in the future.

Fiscal Policies – Community Funding Grant Policy

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~~The City has established the Community Funding Grant Program, subject to availability of funds, with a range of \$70,000 to \$90,000 in total funding available. Community Funding Grants shall not exceed \$20,00 per applicant, per year. During the annual budgeting process, the City Council will determine the organizations to be awarded funds through the amount to appropriate for the Community Funding Grant Program. The Administrative Services Department~~ City Staff shall review applications for completeness and review the qualifications and accuracy approve or deny an applicant's request based upon the eligibility criteria set forth below. ~~Community Grants, subject to availability of funds, shall not exceed \$20,000 per applicant, per year.~~ In all cases, the City reserves the right to reject any and all applications in the event ~~the Administrative Services Department identifies~~ staff identifies a potential conflict of interest or the appearance of a conflict of interest. Submission of an application in no way obligates the City to award a grant and the City reserves the right to reject any or all applications, for any reason, at any time.

Eligibility

To receive consideration for a Community Funding Grant, grant requests must:

- Be made or sponsored by a 501(c)(3) non-profit organization with experienced ~~staff~~ members capable of implementing and managing the program/project/event.
- Identify how the funds will be used to benefit the Cupertino community.
- Be awarded only once per project for one-time, project
- For specific needs, ~~and~~ not ongoing, operational costs.
- Have more than 75% of the requested funds allocated for direct service costs versus administrative costs.
- Be complete and submitted by the application deadline.

Evaluation Criteria

- Impact on and benefit to the Cupertino community
- Community need for the program/project/event
- Alignment with City ~~priorities~~ mission and values
- Uniqueness of the program/project/event

- Qualifications and experience of the organization and its staffmembers
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 - Applicants will be expected to reimburse the City any funding awarded and not used for their program/project/event.

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