

CC 11-2-2021

Study Session #1

SB 9 Objective Standards  
and Regulations

Presentation

# **SB 9 Objective Standards and Regulations**

City Council  
November 2, 2021



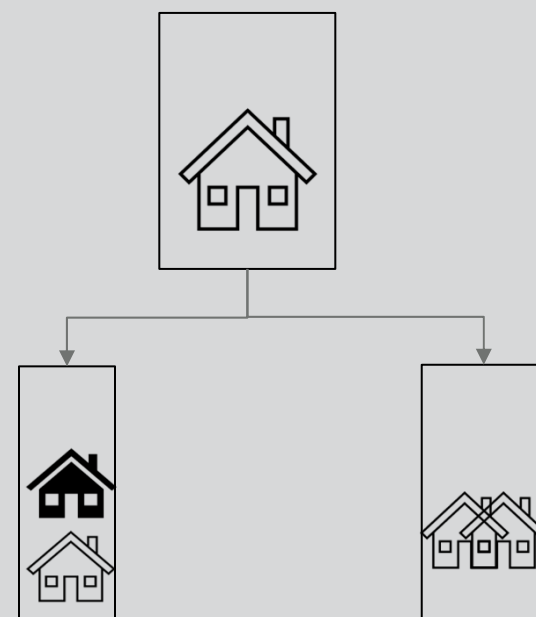
**CITY OF  
CUPERTINO**

## Background

- SB 9 (Atkins, 2021) allows ministerial approval of:



Duplex – attached  
or detached



Urban lot split



## Applicable SB 35 criteria

- Not prime farmland
- Wetlands
- A state designated very high fire severity zone (subject to limitations)
- Delineated earthquake fault zone (subject to limitations)
- 100 year flood zone (subject to exceptions)
- Regulatory floodway (subject to exceptions)
- Part of a conservation or natural resource protection plan or under conservation easement
- Habitat for species protected under state and federal law



## More criteria for both types of SB 9 projects

- Does not result in demolition of BMR or rent controlled units
- Not on property occupied by tenants in past three years
- Not on property that has been withdrawn from rental market under Ellis Act for past 15 years
- Not a property located in a historic district, a State Historic Resources Inventory site, or within county or local landmark or historic property or district



## Urban lot split

### Additional criteria

- Not a parcel created through use of SB 9
- Neither owner of parcel being subdivided nor any person acting in concert with owner has previously subdivided an adjacent parcel using an urban lot split
- Lots created must be limited to residential use
- Applicant must sign affidavit stating that they intend to occupy one unit as principal residence for minimum of three years after lot split



## Development of up to 2 units

### Regulations

- Objective zoning and design review standards may be imposed provided they do not conflict with following:
  - At least 800 sq. ft. units
  - 4 foot side and rear setbacks
  - Only one parking space/unit unless within ½ mile walking distance of either high-quality transit corridor or a major transit stop, or car share vehicle within one block
  - No more than 25% of the exterior walls of an existing unit may be impacted



## **Ministerial approval of lot split Regulations**

- City may impose objective subdivision standards provided they do not conflict with following:
  - New lots must be 40-60% of original
  - Each new lot is at least 1,200 sq. ft.
  - Following cannot be required as conditions of approval:
    - Offsite improvements
    - Correction of existing, non-conforming conditions



Up to 2 units

## Local Regulation Possibilities

### Unit Size and FAR

- At least 800 sq. ft.
- If proposal meets all other regulations, allow additional floor area
- Notes:
  - Current R1 FAR – 45%; RHS FAR – 45%, up to 6,500 sq. ft. max and reduced by slope reduction factor.
  - Council could consider higher or lower FAR, subject to legal constraints

## Local Regulation Possibilities

### Second story setbacks

- Limited to four foot side and rear setbacks
- Notes:
  - If four foot setback proposed, City could adopt objective privacy standards (e.g., opaque, unopenable windows, sill height > 5 feet)
  - Continue to require privacy protection trees and/or shrubs as allowed by current R1 requirements

Up to 2 units

## Local Regulation Possibilities

### Second story balconies/decks

- At City's discretion
- Options for SB 9 projects:
  - Disallow balconies
  - Allow balconies with much larger setbacks
  - Limit balconies to front yards that front public street or other front yards
  - Limit balconies to larger lots (>5,000 sq. ft., wider than 50 feet, and possibly not on lots that have a building feet 5 feet or higher than adjacent properties)

Up to 2 units

## Local Regulations Possibilities

### Parking

- One space per unit, subject to limitations
- Notes:
  - Could require parking to be in an enclosed space of a size that accommodates one car (10' by 20' space)
  - If additional spaces proposed, could require City's existing objective parking space standards

Up to 2 units

## Local Regulations Possibilities

### Basements

- At City's discretion
- Expensive to build
- Environmental impacts
- Options:
  - Disallow on SB 9 project
  - Allow on larger lots with larger setbacks, small lightwells

# Local Regulations Possibilities

## Design standards

- Architectural look?
- Examples:
  - All structures shall have 6" siding
  - All roofing must be at a 4:12 pitch
  - All windows shall have a minimum 3" wide trim or be inset 3"
  - Only one entry feature is allowed facing street

Up to 2 units

## Local Regulation Possibilities

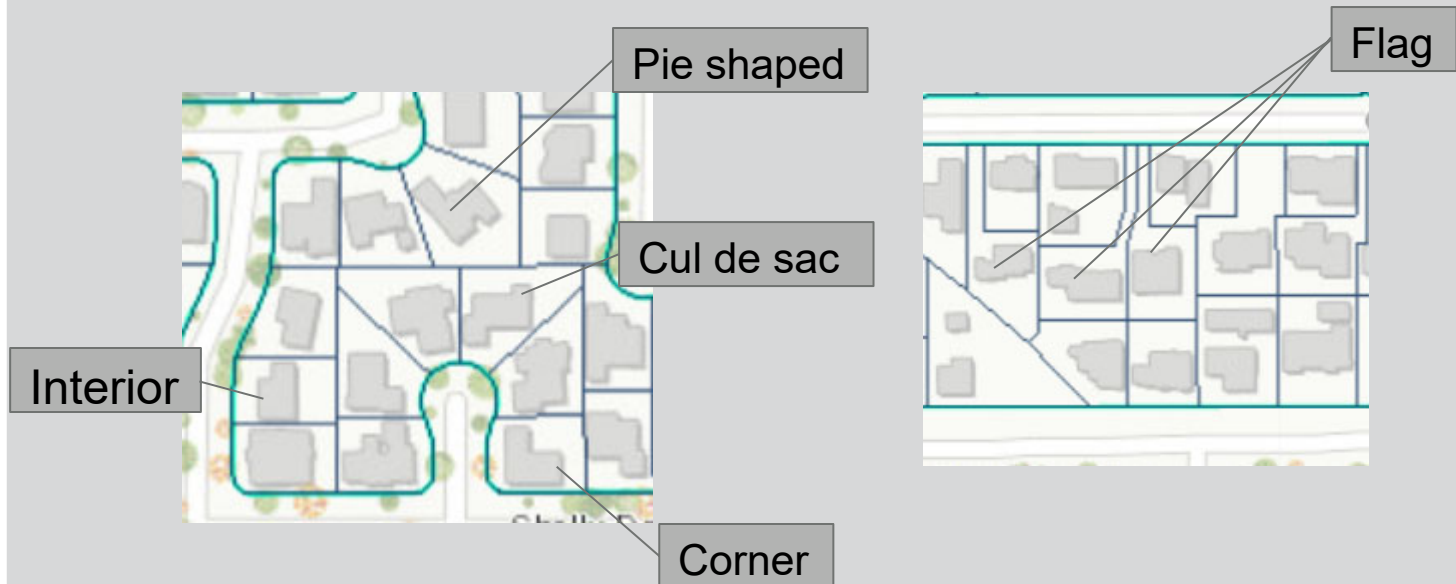
### RHS Zoning District

- Several large lots on steep slopes
- Suggest grading and size of units be limited
- Ideas:
  - Limit development close to existing driveways
  - Require driveways to be shared
  - Limit size of units by prorating to size of new lots
  - Follow existing objective standards related to grading, massing, following contours, disallowing development on ridgeline

## Local Regulation Possibilities

### Subdivision

- Should consider different lot shapes:

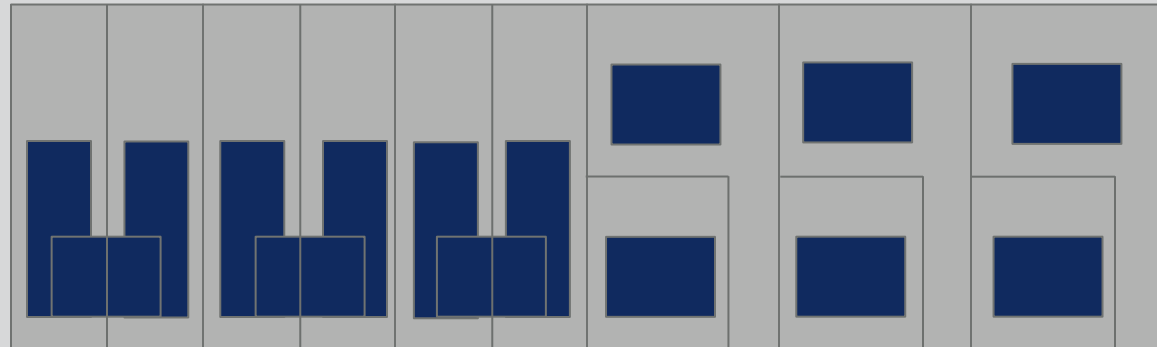




## Local Regulation Possibilities

### Subdivision

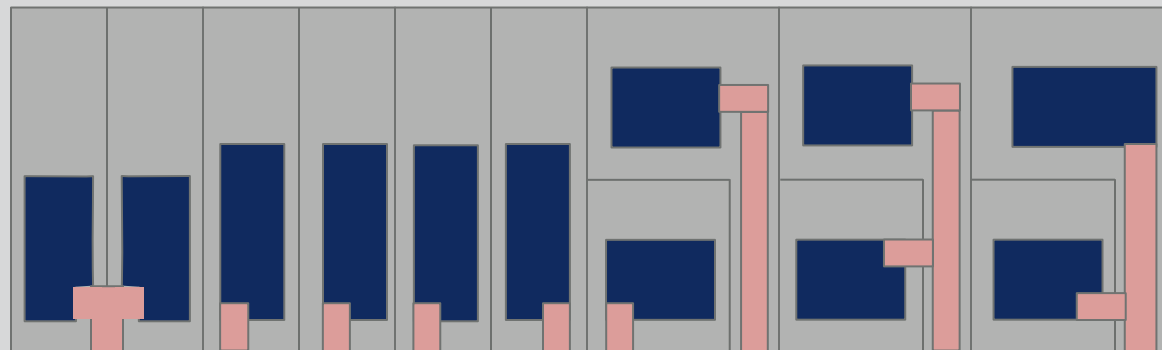
- Strategy LU-27.7.2: “flag lots in cases where they are the sole alternative to integrate subdivisions with the surrounding neighborhood”
- Some neighborhoods have no flag lots
- **Allow flag lots or narrow lots with street frontage?**



## Local Regulation Possibilities

### Subdivision – Interior lots

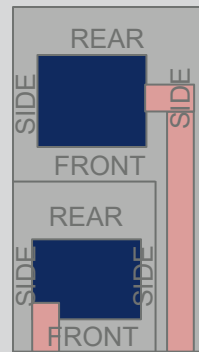
- Policy M-3.5: “[m]inimize the number and width of driveway openings”
- **Require shared driveways?**



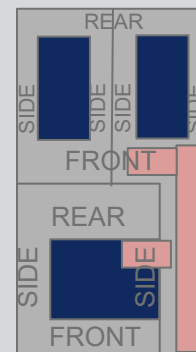
# Local Regulation Possibilities

## Subdivision – Flag Lots

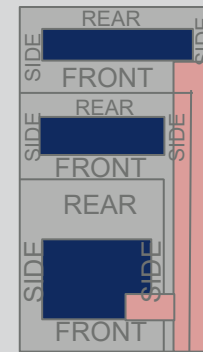
- Keep orientation same?



Existing



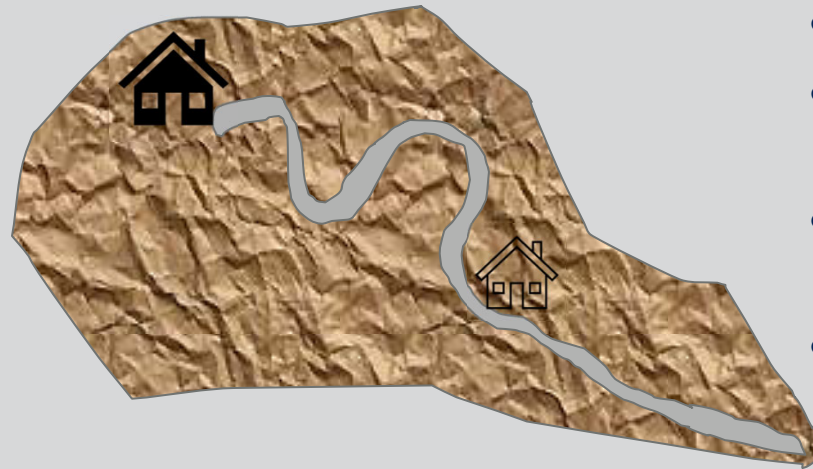
More buildable



Less buildable:  
two front yards = less  
viable building pad

## Local Regulation Possibilities Subdivision

- Preservation of the natural environment and hillsides (Page LU-4, LU-9, and Goal LU-12, Policies LU-12.1, Strategy LU-12.3.1, Policy LU-12.2, Policy LU-12.4)



- Steep slopes
- Long driveways
- **Require common driveway?**
- **Prorate grading quantities?**
- **Require development on flattest part of site close to driveway?**



## **ADUs/JADUs**

- SB 9 authorizes City to prohibit ADUs/JADUs on parcel with SB 9 duplex created by SB 9 lot split
- Consider including prohibition in interim ordinance



## Approval Process

- Ministerial
- No Public hearings
- **Notification before or after approval?**

# Approval Process

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



## Next Steps

- Receive comments from City Council
- Introduce an urgency ordinance for Council on December 7, 2021





## Council Questions

- Limitations on construction of ADUs: Can it be limited to no or one ADU per duplex after a lot is split into two parcels? Can the type of ADU be specifically limited, such as a detached, attached ADU, or JADU?
  - Cities can have outright prohibition on ADUs or
  - Choose to allow only certain types/sizes of ADUs



## Council Questions

- What does Public Notification do if no Public Hearings are allowed under SB9?
  - Notification not required under SB 9 and is uncommon for ministerial approvals because there is no public process
  - However, could allow neighbors to be aware that application has been received (if before decision made) or project has been approved (if after decision made)

- 
- Questions/Comments/Suggestions?

CC 11-2-2021

#12

Cupertino Municipal  
Water System

Presentation

# Cupertino Municipal Water System

*Key Terms for New Long-Term Lease & First  
Amendment of Current Lease*

November 2, 2021

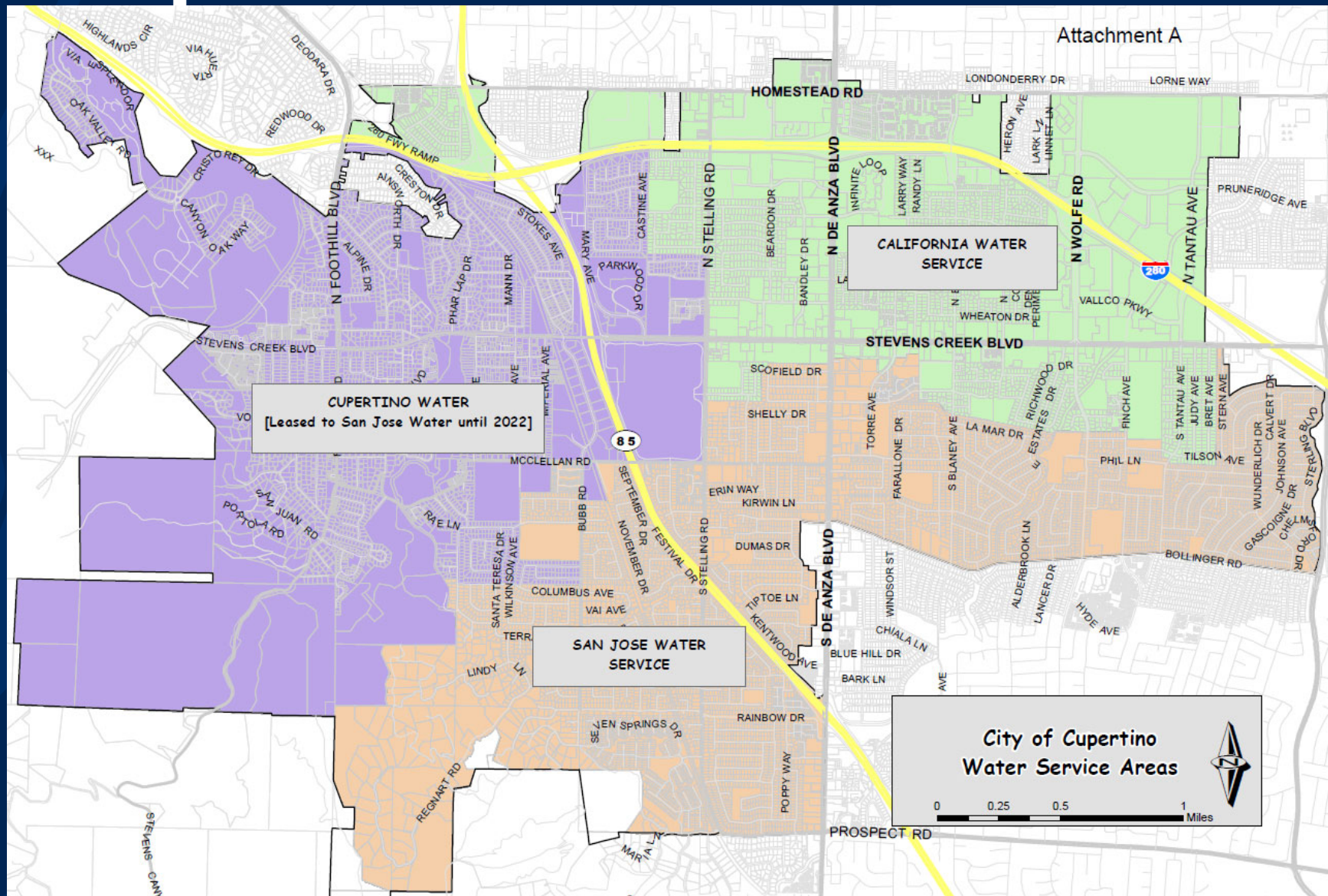


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## Recommended Actions:

1. Provide input on Key Lease Terms for a new Long-Term Lease;
2. Conduct a Public Hearing to consider a First Amendment to extend the term of the current lease agreement with San Jose Water Company for lease of the Cupertino Municipal Water System by up to three years; and
3. Adopt Resolution 21-XXX (Attachment A), approving a First Amendment to the current lease Agreement for lease of real property (water system) with San Jose Water Company.

Attachment A





## Council Direction from July 2021

1. Limit the initial term to 12 years with an option for a renewal term that could extend the total lease period to 20 years
2. Analyze the feasibility of in-house operation, including potential impact to water rates



# Existing Lease and Request For Proposal (RFP) Timeline

<b>October 1997</b>	<b>Lease to San Jose Water Company (SJWC)</b>
<b>December 2019</b>	<b>Amended &amp; Restated Lease</b>
<b>July 2021</b>	<b>Consideration of Future Water System Operations</b>
<b>November 2021</b>	<b>Key Terms &amp; First Amendment</b>
<b>November 2021</b>	<b>RFP Issued with New Long-Term Lease Agreement</b>
<b>January 2022</b>	<b>RFP Due</b>
<b>February 2022</b>	<b>Public Hearing to Consider Options</b>
<b>September 2022</b>	<b>End of Current Lease</b>



# Key Request For Proposal Terms to Consider

1. Length of Agreement
2. Capital Improvements / Payment
3. Operations
4. Rates
5. Franchise Fee

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# Length of Agreement

12-year term, with renewal option not to exceed 20-year total.

(Option: Invite alternative pricing for 20-year term without option to renew)



# Capital Improvements / Payment

Capital funding to be received by City two ways:

1. One-time concession fee from the successful system operator be used only for capital improvements to the System; and



## Capital Improvements / Payment

2. Annual investment rent
  - a. Amount received less than what is recommended by the asset management plan (currently \$1.5M annually) would be solely used for capital investment into the System
  - b. Any amount received greater than the recommendation of the asset management plan could be used outside the System, at the discretion of City Council.



# Operations

1. Lessee responsible for all maintenance, operation, customer service (including billing), water quality and reporting at their cost.
2. Lessee responsible for repair work - including emergency repairs.
3. Individual items of maintenance, repair, emergency repair and capital improvements will be defined in the agreement.
4. Specific maintenance requirements



## Rates

1. Setting of water rates and charges to be capped at the lowest CPUC-approved rates for other water customers within Cupertino
2. In practice, customers would pay slightly less due to the CPUC regulation fee not being applicable (currently 1.43%)

# Franchise Fee

1. System operator required to remit franchise fee in the amount of 2% of gross revenue





## First Amendment of Lease

1. Provides flexibility at the discretion of the City
  - a. 6-month, 2-year or 3-year term extension options
  - b. If extended, specific capital investment required

# Outreach

1. Public notice of the public hearing on the First Amendment was published in the Cupertino Courier on October 22, 2021.
2. A webpage for this item was created and can be viewed [HERE](#).
  - a. A Frequently Asked Questions page can be found on the webpage.
3. A “News” article was published on the City’s main webpage to provide information and inform the community of tonight’s Public Hearing.



## Recommended Action

1. Conduct a Public Hearing to consider a First Amendment to extend the term of the current lease agreement by up to three years; and
2. Adopt Resolution 21-XXX approving a First Amendment to the current lease Agreement for lease of real property (water system) with San Jose Water Company.

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# Questions

CC 11-02-2021

#13

Work Program Update

Presentation

# City Work Program Q1 Update

November 2, 2021



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## Presentation Outline

1. **Background Information**
2. **FY 20-21 Outstanding Items**

*Attachment B: FY 20-21 Detailed Update*

3. **FY 21-22: Q1 Update and Q2 Preview**

*Attachment A: FY 21-22 Detailed Update*

A. Q1 Update

B. Q2 Preview

4. **Outstanding Challenges**



## 1. Background

- Most City resources devoted to day-to-day services
- Council Priorities for new City initiatives, projects and changes encompassed in City Work Program
- FY 21-22 City Work Program adopted **May 2021**  
*34 items adopted by Council (30 in priority order)*
- Quarterly Updates Provided
  - Dashboard [cupertino.org/cityworkprogram](https://cupertino.org/cityworkprogram)
  - City Council meeting



## 2. FY 20-21 Update – Outstanding Items

- **Establish Preapproved ADU Plans**
  - *Item is now complete*
  - Process posted on [www.cupertino.org/aduplans](http://www.cupertino.org/aduplans)
  - City currently accepting applications from vendors.
- **Housing Survey**
  - *Item is now complete*
  - Housing Survey Results and Housing Element Update presented to Council October 5, 2021
- **General Plan Authorization Process**
  - Follow-up directed at August 17, 2021 Council Meeting
  - Back to Council: December 2021 or January 2022

## 3A. FY 21-22: Q1 Update

### **City Manager's Office**

9. Consider New Commissions and Committees
  - Econ Dev Committee Charter
  - Review ERC
14. Revamping Block Leader and Neighborhood Watch Program
18. **Climate Action Plan**
21. Study Session on Regulating Diversified Retail Use

22. Personal Preparedness Campaign
  - Cupertino Store at Chamber of Commerce

### **Innovation Technology**

5. Lehigh and Stevens Creek – Noise and Pollution Monitoring
27. **Pilot – Adaptive Traffic Signaling**
28. Pilot – Multimodal Traffic Count
30. Roadmap Project

## **3A. FY 21-22: Q1 Update (cont.)**

### **Community Development**

- **RHNA related GP updates and rezoning (Housing Element)**
- **SB 9 Urgency Ordinance**
- 2. Consider Options to Develop ELI and BMR Housing...
- 6. **Homeless Jobs Program**
- 7. **City Plan to End Homelessness**
- 12. Development Accountability
- 13. Review and Update General Plan and Municipal Code

- 15. Encouraging Dark Sky Compliance
- 20. Residential and Mixed-Use Residential Design Standards
  - Sign Ordinance Update

### **Administrative Services**

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

## 3A. FY 21-22: Q1 Update (cont.)

### Parks and Recreation

- 4. **Senior Strategy**
- 9. Consider New Commissions and Committees – Fine Arts Commission Name Change
- 17. **Mental Health Support**
- 26. Blackberry Farm Golf Course Needs Assessment
- 29. **Dogs Off Leash Area (DOLA)**

### Public Works/ Parks and Recreation

- 8. Memorial Park Improvements
  - **Pond Repurposing**
  - Amphitheatre
  - Specific Plan Design
- 11. Lawrence Mitty
  - Acquisition
  - Master Plan

## 3A. FY 21-22: Q1 Update (cont.)

### Public Works

1. **Single- Use Plastics... and Mayor's Cup Challenge Event**
3. **Revisit 5G...**
5. Lehigh and Stevens Creek Quarry
10. **Shuttle Bus Pilot Program Implementation**
16. City Light Transition Assessment
19. Regional Transformative Transit Projects Initiative
23. Seismic Retrofits and Upgrades to Existing City Hall (formerly "Investigate Alternatives to City Hall")
24. Vision Zero
25. **Municipal Water System**
  - 10455 Torre Avenue Improvements Programming & Feasibility

## **3A. FY 21-22: Q2 Preview** – Top 10 & Items of Interest

### **Top 10 Priorities**


1. Single-Use Plastics Ordinance and Mayor's Cup Challenge Event
2. Consider Options to Develop ELI and BMR Housing
3. Revisit 5G...
4. Senior Strategy
5. Lehigh and Stevens Creek Quarry
6. Homeless Jobs Program
7. City Plan to End Homelessness
8. Memorial Park Improvements

9. Consider New Commissions and Committees
10. Shuttlebus Pilot Program Implementation

### **Other Items of Interest**

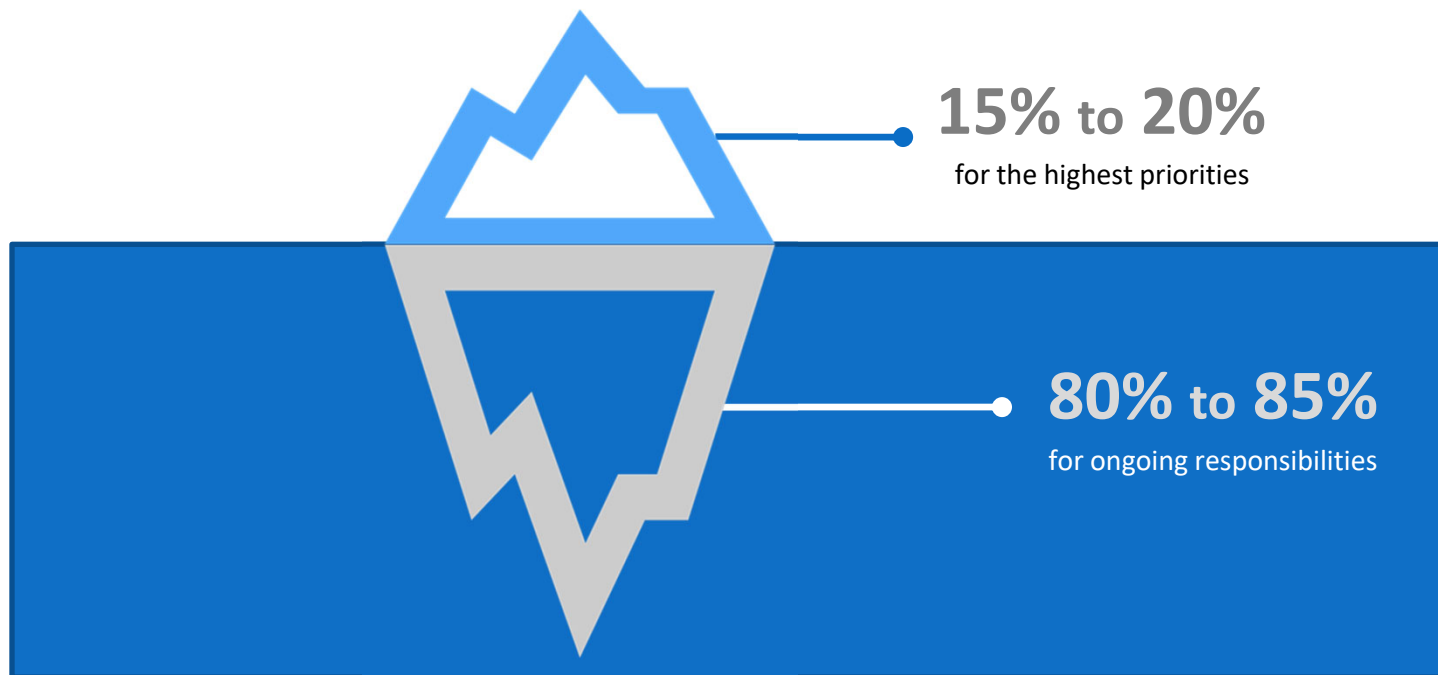
- RHNA Related General Plan Updates & Rezoning (Housing Element)
11. Lawrence Mitty
  25. Municipal Water System

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# Capacity Constraints

# The Iceberg Model of Organizational Constraints





# Elements of Organizational Capacity

## *Council*

- Develop Council consensus
- Adopt and adhere to a few priorities
- Manage new priorities
- Address our ability to deal with conflict
- Decide how to make quick and clear decisions
- Develop Council Code of Conduct and decorum
- Understand role of City Manager
- Understand limited staff capacity beyond day-to-day operations

## *Staff*

- Minimize staff feeling overwhelmed
- Fill critically needed positions
- Retain and recruit the strongest talent
- Ensure effective project management and tracking

## *Financial*

- Be fiscally vigilant
- Use limited funds in tangible and visible ways
- If funding is needed for a priority, provide it
- If more funding is needed, acquire it before spending it

## *Community*

- Discuss divisive issues, particularly on growth and funding
- Recognize there are some ongoing divisions
- Involve community more in policy making and service delivery
- Provide easier access to information for the public
- Manage public input

## *External*

- Encourage other agencies to perform their roles for City benefit (County, SamTrans, Caltrans)
- Work with other agencies too resolve competing priorities and delays
- Prepare for natural events (disaster, weather)
- Work with regional and educational partners



## 4. Next Steps

- Quarterly updates at [cupertino.org/cityworkprogram](https://cupertino.org/cityworkprogram)
- Single item updates at each Council meeting
- Quarter 2 updates
  - Dashboard update in January
  - Presentation to Council February
- Reaching out now for input on next year's Program

**Questions?**

