

ORDINANCE NO. 20-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING CITY CODE SECTION 2.20.010 (RECORDKEEPING DUTIES-
CLOSED SESSIONS) OF CHAPTER 2.20 (CITY CLERK) TO TITLE 2
(ADMINISTRATION AND PERSONNEL) TO CLARIFY LIMITED ACCESS TO
CLOSED SESSION MINUTES

The City Council of the City of Cupertino finds that:

1. The Brown Act, contained in California Government Code Section 54950 et seq., authorizes a City Council to go into closed session to discuss certain sensitive matters, including personnel, salary negotiations, real property transactions, and litigation; and
2. Government Code Section 54957.2 authorizes a City Council by resolution or ordinance to designate an employee or official to attend closed sessions and keep a record of the topics discussed and decisions made in closed session; and
3. Cupertino Municipal Code Section 2.20.010 states that unless otherwise ordered by the Council, the City Clerk shall attend all closed sessions and keep a record of the topics discussed and decisions made in the closed session; and
4. The City Council wishes to clarify who has access to the closed session minute book.

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

SECTION 1. Adoption.

The Cupertino Municipal Code, Section 2.20.010, is hereby amended to delete language shown in ~~strike through~~ and insert language show in in *italics* as shown below.

2.20.010 Recordkeeping Duties–Closed Sessions.

A. It shall be the duty of the City Clerk to keep an accurate record of the proceedings of the City Council as provided in Government Code Section 40801.

B. With respect to closed sessions of the City Council held pursuant to California Government Code Section 54950 et seq., unless otherwise ordered by the Council, the Clerk shall attend each closed session and keep and enter in a minute book a record of topics discussed and decisions made at all closed sessions. With respect to any particular closed session of the City Council, the Council may, in lieu of the City Clerk, order that minutes of any closed session be kept by another officer or employee of the City. Any minutes of a closed session taken by any person Other than the City Clerk shall be retained in a separate minute book by the City Attorney.

C. Any minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act and shall be kept confidential. Subject to the requirements of California Government Code Section 54957.2 and 2 California Code of Regulations Section 18707 (*recused members*), any minute book described in this section shall be available only to members of the City Council. ~~body which held the closed session.~~ *In addition, the City Council may authorize the City Manager and/or the City Attorney to view the minute book for specific entries related to the City Manager's and City Attorney's respective duties.*

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 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 June 2, 2020 and **ENACTED** at a regular meeting of the Cupertino City Council on _____, 2020 the following vote:

<u>Vote</u>	<u>Members of the City Council</u>
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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