

## **Ordinance No. 20-2200**

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING TITLE 3, REVENUE AND FINANCE: CHAPTER 3.12 (TRANSIENT OCCUPANCY TAX), REVENUE AND FINANCE, AMENDING TITLE 5, BUSINESS LICENSE AND REGULATIONS: CHAPTER 5.08 (SHORT-TERM RENTAL ACTIVITY), AMENDING SPECIFIED CHAPTERS OF TITLE 19, ZONING, OF THE CUPERTINO MUNICIPAL CODE CHAPTER 19.08 (DEFINITIONS), CHAPTER 19.12 (ADMINISTRATION), AND CHAPTER 19.120 (HOME OCCUPATIONS), TO REGULATE SHORT-TERM RENTAL USES IN RESIDENTIAL ZONING DISTRICTS

WHEREAS, on July 24, 2018, the Planning Commission provided staff guidance on potential short-term rental regulations;

WHEREAS, from August 8, 2018 through August 26, 2018, staff made an online survey regarding short-term rental regulations available to the public;

WHEREAS, a community meeting was held on October 4, 2018 to allow the public an opportunity to review and receive comments on the preliminary draft regulations;

WHEREAS, the Planning Commission held a duly noticed public hearing on January 14, 2020 to consider the Ordinance; and

WHEREAS, with Resolution No. 6896 the Planning Commission has recommended on a 4-0 vote (Chair Wang absent) that the City Council adopt the Ordinance amending the Municipal Code in substantially similar form as presented in Planning Commission Resolution No. 6896; and

WHEREAS, on August 18, 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, based on substantial evidence in the administrative record, the City Council finds that this Ordinance is determined to be not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because the Ordinance amending Title 3, Title 5, and Title 19 of the Municipal Code imposes administrative regulations related to short-term rentals that have no potential for resulting in physical change in the environment, either directly or indirectly, and therefore, pursuant to CEQA Guidelines section 15060(c)(3), no environmental review is required. Short-term rental activity is already occurring in Cupertino; the Ordinance is

not anticipated to result in significant changes to the number or scope of short-term rentals. In the event that this Ordinance is found to be a project under CEQA, the City Council further finds, based on substantial evidence in the record, that the Ordinance is exempt from environmental review under CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that the Ordinance's administrative regulation of short-term rentals will have no possibility of a significant effect on the environment, and under CEQA Guidelines section 15305, because the Ordinance involves minor alterations in land use limitations that do not alter permitted uses or density. No exceptions to these categorical exemptions apply.

WHEREAS, the City Council finds the following with regard to this application:

- 1) That the proposed zoning is in accord with Municipal Code Title 19 and the City's Comprehensive General Plan.

*The Ordinance does not change any zoning designations, but rather it modifies Title 3: Revenue and Finance, Title 5: Business Licenses and Regulations, and Title 19: Zoning to create standards for regulation of short-term rental activity as an expressly permitted use in residential zones. The proposed amendments do not render existing provisions of the Municipal Code inconsistent with those proposed.*

*The proposed regulations will further the City's General Plan Goal LU-8: "Maintain a fiscally sustainable city government that preserves and enhances the quality of life for its residents, workers and visitors." Short-term rentals that operate in the City will be required to obtain necessary permits and licensing, and will be required to collect Transient Occupancy Taxes for all short-term rental stays. Additionally, the proposed ordinance is consistent with General Plan Policy LU-8.2: Land Use – Encourage Land uses that generate City revenue. Again, by allowing for short-term rentals to operate within the City, the City will be able to generate revenue from Transient Occupancy Tax. Further, by providing regulations which would allow this use to occur while limiting adverse impacts, the ordinance is consistent with General Plan Strategies: LU-27.1.1: "Regulation. Maintain and update design regulation and guidelines for single-family development that address neighborhood compatibility and visual and privacy impacts."*

- 2) The proposed zoning is in compliance with the provisions of the California Environmental Quality Act (CEQA).

*As discussed in the findings, the proposed Ordinance is not a project within the meaning of section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, either directly or indirectly. In the event that this Ordinance is found to be a project under CEQA, it is exempt from CEQA review under CEQA Guidelines sections 15061(b)(3) and 15305.*

- 3) 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 changes does not propose any physical change in the environment or affect any development standards for physical development, and the uses it authorizes are consistent with existing residential activities in permitted zones.*

- 4) The proposed zoning will promote orderly development of the City.

*By creating regulations for short-term rentals and limiting areas where such activity may occur, the ordinance will promote orderly development in the City.*

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

*The proposed ordinance provides regulation to maintain the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels by providing regulations that limit adverse impacts of short-term rental activity. The proposed ordinance incorporates regulations and enforcement options pertaining to occupancy, parking, and noise, and allows for the possibility of revocation of permits if the activity is determined to be conducted inconsistent with the City's Municipal Code. The proposed ordinance regulates hosting platforms to ensure that hosts cannot easily conduct short-term rental activity in violation of the City's Municipal Code, to ensure collection and remittance of transient occupancy tax, and to address the increased compliance burden on the City created by the popularity of hosting platforms.*

- 6) The proposed amendments are internally consistent with this title.

*All the necessary chapters and sections of Title 3: Revenue and Finance, Title 5: Business Licenses and Regulations, and Title 19: Zoning have been amended to ensure internally consistency with the proposed regulations.*

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

**SECTION 1.** Section 3.12.020 "Definitions", of Chapter 3.12 of Title 3 of the Cupertino Municipal Code is hereby amended to read as follows:

**3.12.020 Definitions.**

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

- A. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business

- trust, receiver, trustee, syndicate, or any other group or combination acting as a unit;
- B. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for short-term occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof;
  - C. "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes;
  - D. "Transient" means any person 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. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified herein may be considered. "Transient" includes persons who book accommodations through hosting platforms;
  - E. "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever;
  - F. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both;
  - G. "Tax Administrator" means the City's Director of Administrative Services or designee.
  - H. "Hosting Platform" means a person, legal entity or an association of individuals that provide a means, which may or may not be internet-based, through which a short-term rental is offered to the public, in exchange for a fee or other compensation. A hosting platform generally has the following attributes: allows a host to advertise a short-term rental, and provides a means to arrange and enter into agreements to occupy short-term rentals, whether payment of rent is made directly

to the host or through the hosting platform.

**SECTION 2.** Section 3.12.050 “Operator’s Duties”, of Chapter 3.12 of Title 3 of the Cupertino Municipal Code is hereby amended to read as follows:

**3.12.050 Operator’s Duties.**

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided. For short-term rentals conducted through hosting platforms, the hosting platforms shall collect and remit taxes in compliance with Section 5.08.060(a).

**SECTION 3.** Section 3.12.070 “Reporting and Remitting”, of Chapter 3.12 of Title 3 of the Cupertino Municipal Code is hereby amended to read as follows:

**3.12.070 Reporting and Remitting.**

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Administrator, make a return to the Tax Administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any certificate holder if he deems it necessary in order to insure collection of the tax and he may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the City until payment thereof is made to the Tax Administrator. Where a transient pays rent in connection with lodging booked via an hosting platform, the operator of the property may be relieved of the duty to collect taxes only if the hosting platform is in compliance with Section 5.08.060(A).

**SECTION 4.** Title 5 of the Cupertino Municipal Code is hereby amended to include “Chapter 5.08: Short-Term Rental Activity” to read as follows:

**CHAPTER 5.08 SHORT-TERM RENTAL ACTIVITY**

- 5.08.010 Purpose.**
- 5.08.020 Definitions.**
- 5.08.030 Short-term Rental Activity.**
- 5.08.040 Short-term Rental Registration – Process and Term.**
- 5.08.050 Revocation.**
- 5.08.060 Regulations for Hosting Platforms.**
- 5.08.070 Enforcement.**
- 5.08.080 Administrative Regulations and Standards.**

**5.08.010 Purpose.**

The purpose of this Chapter is to regulate Short-term Rental activity, which the City Council finds could have the potential of creating negative impacts to residents and impacting the availability of long term housing units due to the lucrative nature of the business. This chapter provides a process by which a residential unit may be registered with the City of Cupertino for use as a Short-term Rental unit, as an incidental Home Occupation.

**5.08.020 Definitions.**

Throughout this chapter the following words and phrases shall have the meanings ascribed in this section. All other definitions are as defined in Section 19.08.030.

“Host” means a natural person or people who offer(s) short-term rentals in their primary residence.

“Hosting platform” means a person, legal entity or an association of individuals that provide a means, which may or may not be internet-based, through which a short-term rental is offered to the public, in exchange for a fee or other compensation. A hosting platform generally has the following attributes: allows a host to advertise a short-term rental, and provides a means to arrange and enter into agreements to occupy short-term rentals, whether payment of rent is made directly to the host or through the hosting platform.

“Hosted stay” means that the host is occupying the primary residence during the entire term of a short-term rental.

“Local Contact” means the host or a person designated by a host who shall be available during the term of any short-term rental for the purposes of:

- a. Responding within sixty (60) minutes to complaints regarding the condition or operation of the short-term rental, or the conduct of guests, and
- b. Taking appropriate remedial action to resolve such complaints.

“Short-term Rental” means any legally permitted dwelling unit, or portion thereof, made available for rent on a transient occupancy basis.

“Transient” is defined in Section 3.12.020.

“Un-hosted stay” means that the host is not occupying the primary residence when the primary residence is being used as a short-term rental.

#### **5.08.030 Short-term Rental Activity.**

- A. Short-term rental activity is allowed to be conducted as a home occupation within a primary residence subject to further restrictions in this Chapter. Short-term rental activity is not permitted if the dwelling unit is not used as a primary residence.
- B. No dwelling unit or portion thereof shall be advertised or used as a short-term rental unless the host has registered the Short-term Rental in the registry created by the City as provided in this Chapter and obtained a City business license.
- C. In addition to the applicable standards in Section 19.120.030, all short-term rentals shall conform to the following minimum standards:

1. Type of Unit	Short-term rentals are allowed within any legally permitted dwelling unit or portion thereof, except for any Accessory Dwelling Unit.
2. Location	Short-term rental activity must occur in legally-permitted habitable spaces.
3. Number of Short-term Rentals	<ul style="list-style-type: none"><li>a. A parcel shall have no more than one (1) short-term rental registration.</li><li>b. A parcel shall have no more than one (1) short-term rental agreement or hosting platform booking per night.</li></ul>
4. Duration	<ul style="list-style-type: none"><li>a. Hosted stays may occur throughout the calendar year without a limitation on the cumulative number of short-term rentals.</li><li>b. Un-hosted stays shall be limited to 60 nights per calendar year.</li></ul>
5. Maximum number of overnight guests	<ul style="list-style-type: none"><li>a. Studio unit / or single room rental – Maximum of two (2) guests</li><li>b. One-bedroom or more – Total of two (2) times the number of bedrooms in the dwelling unit or portion thereof rented per the rental agreement.</li></ul>
6. Guest Manual	<ul style="list-style-type: none"><li>a. The host shall prepare a manual of City rules on topics such as noise, quiet hours, trash collection, and vehicle parking.</li><li>b. The manual shall also include all short-term rental activity regulations, including maximum occupancy of the short-term rental and local contact information.</li><li>c. The host shall provide the manual to all guests in conjunction with their booking confirmation</li><li>d. The guest manual must be prominently located within the short-</li></ul>

	term rental.
7. Parking	<p>a. The primary residence must have the minimum parking spaces required for the zoning district in which it is located pursuant to Chapter 19.124.</p> <p>b. The host shall designate an on-site parking space for short-term rental occupants and shall make the space available during the term of the short-term rental.</p> <p>c. The host shall maintain a record of the vehicle license plate information for vehicles associated with all transient guests.</p>
8. Advertising	Any advertisement for a short-term rental, including on a hosting platform, shall include the City short-term rental registration number. No advertisement shall offer short-term rental activity that is not in compliance with this Chapter.
9. Signage	Signage shall comply with Chapter 19.120.
10. Activities Prohibited	Short-term rentals shall not be used for commercial purposes and/or events that are likely to result in violations of traffic, parking, noise, or other standards regulating the residential use and character of the neighborhood. Such events include most weddings, corporate events, and parties.
11. Quiet Hours	All short-term rental activity must comply with quiet hours between 9 p.m. and 7 a.m.
12. Records of compliance	<p>a. The host shall retain records documenting the compliance with this section for a period of three (3) years after any short-term rental, including, but not limited to, records indicating the history of all short-term rental reservations on the subject property from the hosting platform or otherwise, records indicating the payment of any and all transient occupancy taxes (including via a hosting platform on behalf of a host), type of stay per reservation (hosted or unhosted), length of stay per reservation, and number of persons per reservation.</p> <p>b. Upon reasonable notice, the host shall provide any such documentation to the City.</p>

#### **5.08.040 Short-term Rental Registration – Process and Term.**

A. The short-term rental registration shall be submitted on a form provided by the City, accompanied by all information requested, including the following (as applicable), and the registration fee:

1. Name, contact information, and identification of host. All adults for whom the property is a permanent residence shall be listed as host. All hosts must provide



- official government identification that confirms their full legal name as it appears on the application.
2. Property location.
  3. Site plan and/or floor plan indicating the location of proposed Short-term Rental. Host may designate more than one Short-term Rental within a primary residence, but may enter into only one rental agreement per night.
  4. Proof of Primary Residence: Registrant shall provide documentation that the property where the short-term rental activity is to be conducted is the host's primary residence.
  5. Owner Approval: If the property is to be rented by a long-term renter or someone other than the owner, Registrant shall provide a letter of approval from the owner.
  6. HOA Approval: Any property with a Homeowner's Association (HOA) shall provide a letter of approval from said HOA Board.
  7. Local Contact: Registrant shall provide the contact information for the designated local contact.
  8. Consent to Inspections: Consent to inspection(s) by City staff for the purpose of verifying compliance with this Chapter during regular business hours (7:30 a.m. to 5:30 p.m.) or if in response to a complaint, regardless of the time.
  9. Identify the guest parking space(s) on a site plan.
  10. Acknowledgment of compliance with City requirements.
  11. An agreement to hold harmless, indemnify and defend the City against claims and litigations arising from or related to the issuance of the short-term rental registration. Such claims expressly include those arising from any damage, loss, injury or death that may occur during any short-term rental activity.
  12. An agreement to provide records of compliance to the City upon request.
  13. For renewals or continuation of existing short-term rental activities, in addition to the above: Proof of remittance of Transient Occupancy Tax and any such information requested to allow verification of the amount of tax paid.
  14. If the host has engaged in short-term rental activities at other properties within the City, a list of property locations and proof of compliance with City requirements, including payment of Transient Occupancy Tax, at those properties.
- B. Fee: The host shall pay a registration fee prescribed by City Council resolution, no part of which shall be returnable to the registrant.
- C. Registration Number. Upon submission of the registration application and fee, the City shall provide the applicant with a unique City short-term rental registration number. The registration number shall be designated as "pending" until the registration is complete.

D. Term of Registration: Registration of a short-term rental shall be on a calendar-year basis and must be renewed annually. Registration of a short-term rental is non-transferable and expires automatically upon sale, re-lease or transfer of property on which the short-term rental is located.

E. Registration: The short-term rental shall be registered only if:

1. The short-term rental registration is complete with all required information and the proposed short-term rental complies with all requirements;
2. The short-term rental and the property on which it is located currently comply with all provisions of the Cupertino Municipal Code;
3. The short-term rental and the property on which it is located have not had two (2) or more violations of the Cupertino Municipal Code within the last twelve (12) months from registration submittal and have not been denied registration or had registration revoked within the preceding twelve (12) months;
4. The host has not had two (2) or more violations of the Cupertino Municipal Code within the last twelve (12) months from registration submittal related to any short-term rental, has not been denied registration for any other short-term rental within the preceding twelve (12) months, and has not had a short-term rental registration revoked at any time; and
5. Operation of the short-term rental is not a public nuisance or threat to the public health, safety, or welfare.
6. As used in this subsection (E), the term “violation” shall mean any violation of the Cupertino Municipal Code, as evidenced by a City-issued citation, unresolved notice of violation, unresolved cease-and-desist order, or other appropriate documentation. Each unique violation of the Cupertino Municipal Code shall constitute one (1) violation.”

F. Registration Number Confirmation. Upon registration, the City shall confirm the short-term rental registration number and remove the “pending” designation.

#### **5.08.050 Revocation.**

A. Revocation of registration. A short-term rental registration may be revoked for the following reasons:

1. That the registration was obtained by misrepresentation, false statement or fraud;
2. That the short-term rental activity is being conducted in violation of local or state law;
3. That two (2) violations of the Cupertino Municipal Code have occurred on the property on which the short-term rental is located within the preceding twelve (12) months;

4. That the short-term rental activity has caused or is causing a serious threat to human health or public safety; or
  5. That consent to an inspection is not provided.
  6. As used in this subsection (A), the term “violation” shall mean any violation of the Cupertino Municipal Code, as evidenced by a City-issued citation, unresolved notice of violation, unresolved cease-and-desist order, or other appropriate documentation. Each unique violation of the Cupertino Municipal Code shall constitute one (1) violation.
- B. Process: In any case where substantial evidence indicates that the conditions in Section 5.08.050 (A) exist, revocation proceedings shall occur as follows:
1. The City Manager or his or her designee may issue either a notice of pending revocation or a notice of suspension pending revocation, the latter of which shall require immediate suspension of all short-term rental activity pending a final determination regarding revocation. Any notice of suspension shall explain why the short-term rental activity presents an immediate, serious threat to human health or public safety. The notice shall detail the grounds for potential revocation of the permit and allow thirty calendar (30) days for submission of a written statement and/or supporting documentation disputing such grounds.
  2. The City Manager’s or his or her designee’s determination shall be made not more than thirty calendar (30) days after the deadline for submittal of documentation provided on the Notice. The determination shall be mailed to the host, the property owner (if applicable) and the local contact.
  3. All notices and determinations shall be mailed to the host, the property owner (if applicable), and the local contact.
  4. The Director of Community Development is authorized to issue administrative guidelines to further define procedures for making revocation determinations.
- C. Appeals: If the registration is revoked, the holder shall have the right to appeal the decision as follows:
1. The appellant must file a notice of appeal with the City Clerk within fourteen (14) calendar days of the date of the revocation decision.
  2. The matter shall be scheduled for hearing before an independent hearing officer selected by the City Manager or his or her designee no more than thirty (30) calendar days from the receipt of the appeal.
  3. The appellant shall be served with notice of the time and place of hearing, as well as any relevant materials, at least seven calendar days prior to the hearing.
  4. The hearing may be continued from time to time upon mutual consent. At the time of the hearing, the appealing party and the City Manager or his or her designee may present such relevant evidence as he or she may have relating to

the determination from which the appeal is taken.

5. Based upon the submission of such evidence and the review of the city's files, the hearing officer shall issue a written notice and order upholding, modifying or reversing the determination from which the appeal is taken. The notice shall be given within a reasonable time after the conclusion of the hearing and shall state the reasons for the decision. The notice shall be mailed to appellant, and if different from the appellant, the host, the property owner, and the local contact. The notice shall specify that the decision is final and subject only to judicial review in accordance with law.

#### **5.08.060 Regulations for Hosting Platforms.**

- A. Hosting platforms shall be responsible for collecting all applicable transient occupancy taxes and remitting the same to the City, unless the City and hosting platform have entered a valid voluntary collection agreement or other agreement for the collection and remittance of transient occupancy taxes for short-term rentals. The hosting platform shall be considered an agent of the host for purposes of transient occupancy tax collections and remittance responsibilities pursuant to Chapter 3.12 of the Municipal Code.
- B. Hosting platforms shall retain records documenting the compliance with this section for a period of three (3) years after any short-term rental, including, but not limited to, records indicating the history of all short-term rental reservations on the subject property from the hosting platform, records indicating the payment of any and all transient occupancy taxes (including via a hosting platform on behalf of a host), type of stay per reservation (hosted or unhosted), length of stay per reservation, and number of persons per reservation. A hosting platform that does not categorize their listings as hosted or unhosted stays, must retain records that provide good faith approximation of hosted or unhosted stays
- C. Hosting platforms shall be required to prompt hosts to include the City-issued registration number in their listing(s), in a format designated by the City. Upon notice from the City that a listing is non-compliant, hosting platforms shall cease any short-term rental booking transactions for said listing(s) within five business days. A hosting platform shall not complete any booking transaction for any residential property or unit subject to a City notice, until notified by the City that the residential property or unit is in compliance with the local registration requirement.
- D. Safe Harbor. A hosting platform operating exclusively on the Internet, which operates in compliance with subsections (A), (B), and (C), shall be presumed to be in compliance with this Chapter, except that the hosting platform remains responsible for compliance with Section 5.08.070 (D).

- E. The provisions of this Section shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

**5.08.070 Enforcement.**

- A. Any host violating any provision of this Chapter, or hosting platform that violates its obligations under Section 5.08.060, shall be guilty of a misdemeanor.
- B. Any person convicted of violating any provision of this Chapter in a criminal case or found to be in violation of this Chapter in a civil or administrative case brought by the City, shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs and pay all back transient occupancy taxes.
- C. Any host who violates any provision of this Chapter, or hosting platform that violates its obligations under Section 5.08.060, shall be subject to administrative fines, citations and administrative penalties pursuant to Title 1.
- D. In accordance with Government Code sections 37104 to 37109, as may be amended, the City Council may issue and serve administrative subpoenas as necessary to obtain specific information regarding short-term rental listings located in the City, including, but not limited to, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay, to determine whether listings comply with this Chapter. Any subpoena issued pursuant to this section shall not require the production of information sooner than thirty (30) days from the date of service.
- E. The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties or procedures established by law.

**5.08.080 Administrative Regulations and Standards.**

- A. The city manager or designee is hereby authorized to promulgate administrative rules, regulations and interpretations to implement this chapter. Said rules and regulations may include, but are not limited to, revisions to the registration process, requirements of operations, etc.
- B. Record of local contact information: The City shall maintain a list of registered short-term rentals with "Local Contact" contact information.

**SECTION 5.** Section 19.08.030 "Definitions", of Chapter 19.08 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

### **19.08.030 Definitions.**

Throughout this chapter 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 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.

"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 child care provider's primary residence, 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.

"Dwelling unit, accessory" means an attached or a detached residential dwelling unit, which provides complete independent living facilities for one or more persons, on the same parcel as a principal dwelling unit. It must include permanent provisions for living, sleeping, eating, cooking and sanitation. 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.

"Dwelling unit, principal" means the principal facility on a parcel zoned or used for detached single family residential use.

#### **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 19.100.

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.

"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.

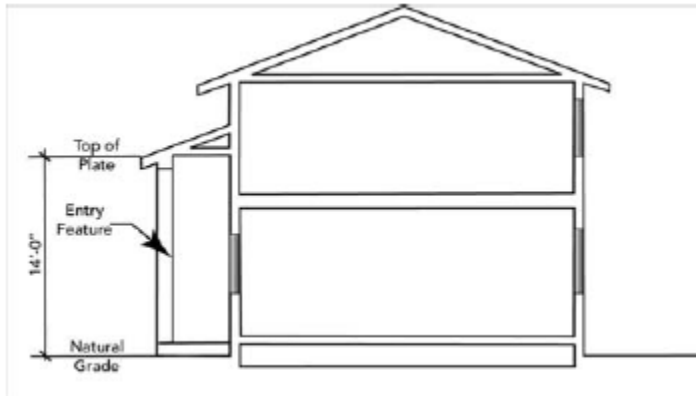
"Heavy equipment" means any mechanical or motorized device that is not a vehicle or a commercial vehicle as defined in Section 19.08.030(V), including, but not limited to, a backhoe, cement mixer, crane, ditch witch, dozer, earth mover, generator, grader, tractor or any similar device.

"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 that is their primary residence within that dwelling unit, or a yard area, accessory structure or garage associated with that dwelling unit, , for purposes of generating income, by means of the manufacture, and/or sale of goods and/or services and/or by short-term rental activity in compliance with Chapter 5.08, but which activity is clearly incidental to the principal use of the dwelling for non-transient 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 suites, solely occupied, intended or designed for use by guests on a transient occupancy basis, including any guest amenities such as swimming pools, gyms, restaurants, bars, meetings rooms, etc. A short-term rental is not a hotel. "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.

"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, accessory dwelling units in R-1, RHS, A and A-1 Zones, the same as that set forth in California Government Code Section 65852.2(i).

"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.

"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.

**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.

"Primary residence" means residential real property at which a person resides a majority of the time, carries on basic living activities, and the place he or she usually returns to, in the event of travel. Evidence, such as motor vehicle registration, voter registration, a homeowner's exemption on the property tax bill or other similar documentation, may be required by the City to determine whether the property is the primary residence.

"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.

"Property Owner" means any person, legal entity, or association of individuals, that is the owner(s) of record of real property, as documented by a deed or other such evidence of ownership. "Provider" means a person who operates a family day care home or a residential care facility 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.

"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.

"Short-term Rental" means any legally permitted dwelling unit, or portion thereof, made available for rent on a transient occupancy basis. Short-term rental use shall not be considered a hotel. "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 only detached single family dwelling units that are not detached row- houses, duplexes, townhouses, or condominiums or properties that have a shared ownership interest in common open space or recreational areas.

"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).

"Tenant" means any person, legal entity, or association of individuals that is a lessee of real property, as documented by a rental agreement, whether in writing or otherwise.

"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.

"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.

**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.

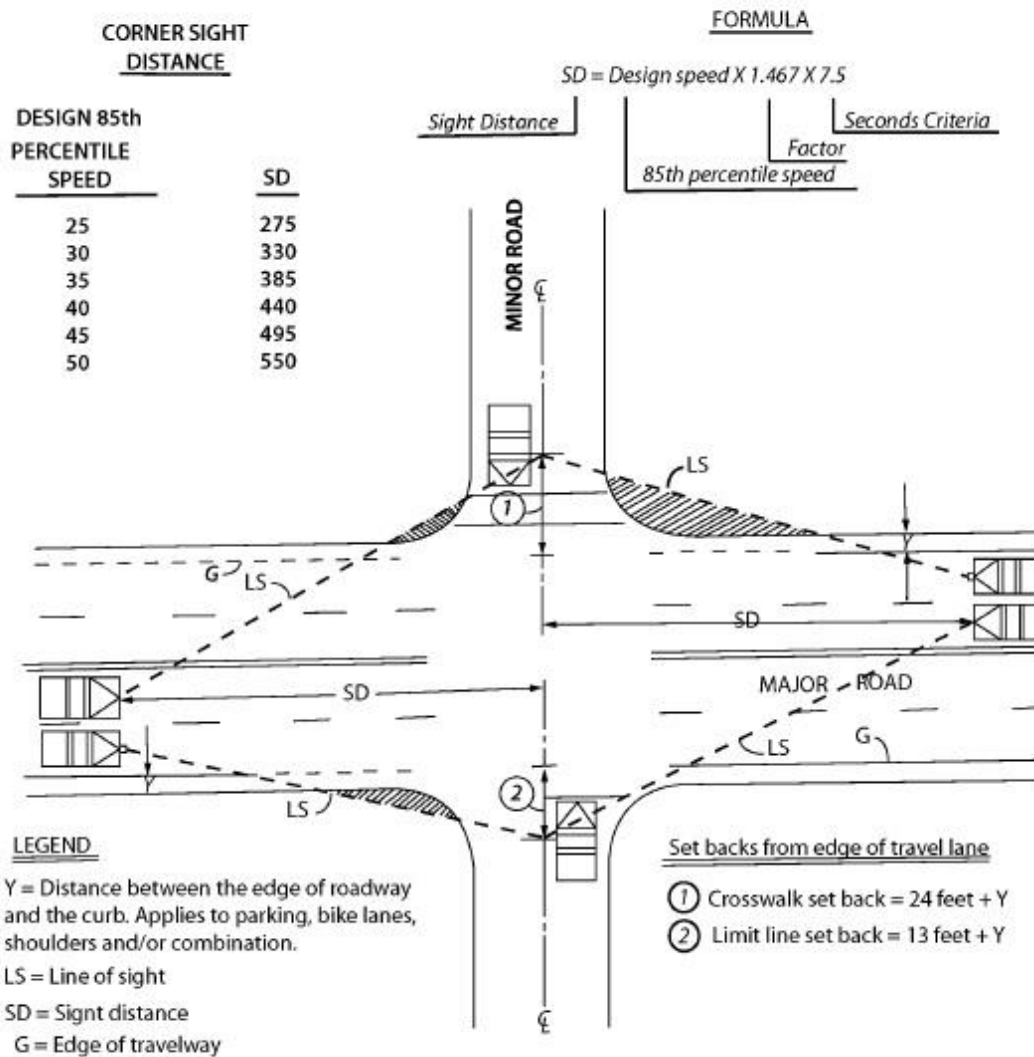
3. "Side yard" means a yard measured into a lot from a side lot line, extending between the front yard and rear lot line.

**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

#### FLAT GRADE:

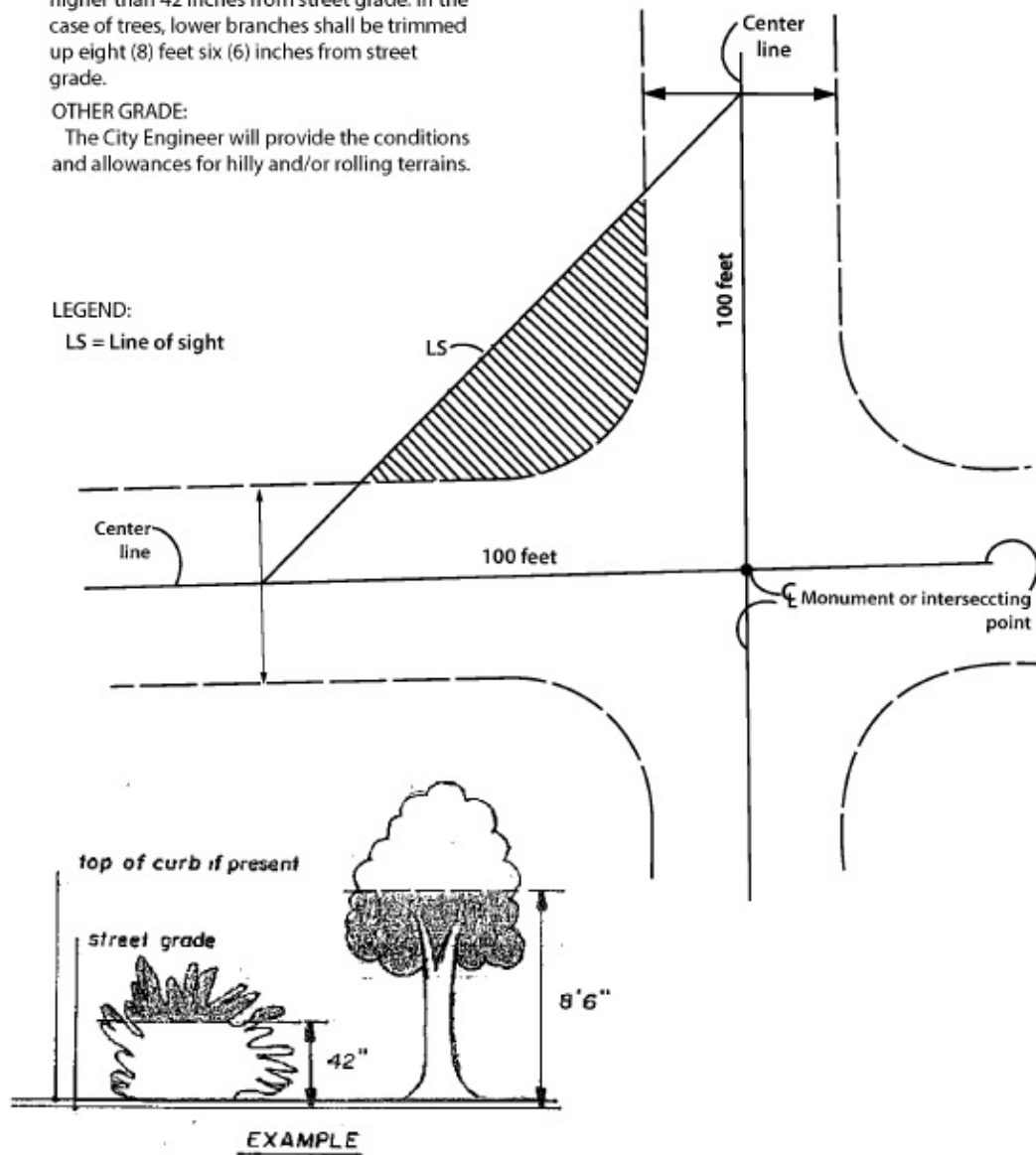
Within the area of the triangle, there shall be no sight obscuring wall, fence, sign or foliage higher than 42 inches from street grade. In the case of trees, lower branches shall be trimmed up eight (8) feet six (6) inches from street grade.

#### OTHER GRADE:

The City Engineer will provide the conditions and allowances for hilly and/or rolling terrains.

#### LEGEND:

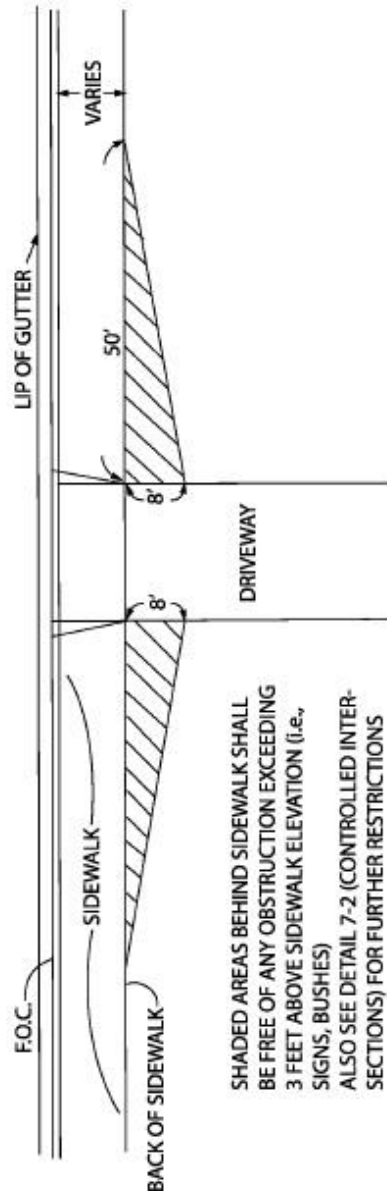
LS = Line of sight



*Note: To view this Appendix in PDF, click [HERE](#)*

**Appendix 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.

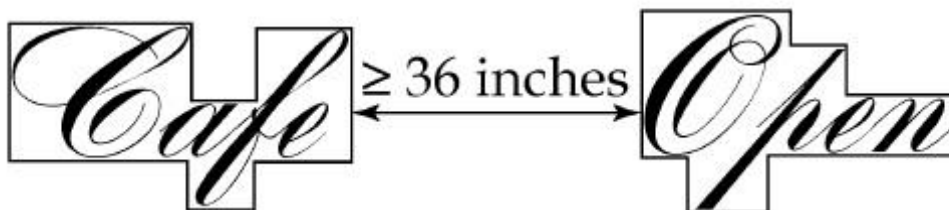
APPENDIX D:  
EXAMPLES OF HOW TO MEASURE SIGN AREA



Individually lettered sign



Sign with background or borders



Sign separated by 36 inches or more

*Note: To view this Appendix in PDF, click [HERE](#)*



**SECTION 6.** Section 19.12.090, “Action by Director”, of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

**19.12.090 Action by Director.**

Upon receipt of an application for a permit, the Director of Community Development shall:

- A. Within thirty days determine whether the application is complete or needs additional information and shall inform the applicant.
- B. For permit applications not requiring any comment period, public hearing or public meeting, proceed to review the application.
- C. Mail ballots to the property owners of record of the properties affected by a Single-Story Overlay District Application. The ballot shall, in addition to information related to the proposal, include the following information:
  - 1. Proposed Single-Story Overlay District Map pursuant to Section 19.28.050(B)(1);
  - 2. Statement indicating that each developable lot of record shall have one (1) vote;and
  - 3. A date, forty-five (45) calendar days from the date of mailing of the ballot, on which a completed ballot must be postmarked or received by the City in order to be accepted.
- D. Not later than a period stipulated in Section 19.12.100, Decision, below:
  - 1. Set a date for a public hearing or public meeting upon the matter at a regular or special meeting of the approval authority for the project for applications that require a public hearing or public meeting, except that Single-Story Overlay District Applications shall be scheduled for a public hearing, only if the result of the mailed ballot, pursuant to 19.12.090(B) above, indicates support of a minimum sixty-six and two-thirds (66 2/3) percent by the property owners within the proposed or existing Single-Story Overlay District (each developable lot of record shall have one (1) vote); or
  - 2. Send notice in accord with the requirements of 19.12.110(D) for applications that do not need a public hearing or public meeting.

**SECTION 7.** Section 19.12.120, “Action by Director of Community Development - Administrative”, of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

**19.12.120 Action by Director of Community Development–Administrative.**

- A. For applications requiring Administrative review with no public meeting, public hearing or comment period, the Director of Community Development or his or her designee may, subject to the requirements of Section 19.12.100, issue his or her decision no later than thirty days from receipt of all information, unless referred to a different approval authority for a decision.

B. For applications requiring Administrative review with a public meeting, public hearing or comment period, the Director of Community Development or his or her designee may, subject to the requirements of Section 19.12.100:

1. Issue his or her decision at the conclusion of the public meeting, public hearing or comment period;
2. Continue the item for additional public hearings, public meetings or comment period; or
3. Defer action by taking the item under advisement and issuing the decision no later than thirty days following the public meeting, public hearing or comment period. No additional noticing is required if a project is continued.

C. For applications where a public meeting or public hearing is required to be held before the Director of Community Development, the meeting shall be held in the same manner as a Design Review Committee meeting.

**SECTION 8.** Section 19.12.150, “Notice of Decision and Reports”, of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

**19.12.150 Notice of Decision and Reports.**

A. Notice of decision:

1. The decision for applications approved with a public meeting or public hearing shall be mailed to the property owner and applicant at the address shown on the application.
2. The decision for applications approved with a comment period or upon revocation proceedings shall be mailed to the property owner and the applicant at the address shown on the application and any person who has commented on the proposed project within the comment period or during revocation proceedings.
3. The decision shall contain the following:
  - a. Applicable findings;
  - b. Any reasonable conditions or restrictions deemed necessary to secure the purpose of this title and to assure operation of the development and/or use in a manner compatible with existing and potential uses on adjoining properties and in the general vicinity; and
  - c. Reporting/monitoring requirements deemed necessary to mitigate any impacts and protect the health, safety and welfare of the City.
4. The decision of the Director of Community Development, Design Review Committee or Planning Commission shall be final unless appealed in accord with Section 19.12.170. A decision of the City Council shall be final.

B. Reports: The Director of Community Development shall endeavor to forward reports, within five calendar days from the date of the decision, to the:

1. Planning Commission and the City Council of a decision by the Director of Community Development.

2. Planning Commission and the City Council of a decision by the Design Review Committee.
3. City Council of a decision by the Planning Commission.

**SECTION 9.** Section 19.12.180, “Expiration, Extension, Violation and Revocation”, of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

**19.12.180 Expiration, Extension, Violation and Revocation.**

**A. Expiration.**

1. Approval on a permit or variance shall become null and void and of no effect, within the time frame specified in Section 19.12.030 following its issuance, unless a shorter or longer time period is specifically prescribed in the conditions of permit or variance or the Section of the Municipal Code pursuant to which the permit or variance is issued, unless:

a. A building permit is filed and accepted by the City (fees paid and control number issued.) In the event that a building permit expires for any reason, the permit shall become null and void.

b. A permit or variance shall be deemed “vested” when actual substantial and continuous activity has taken place upon the land subject to the permit or variance or, in the event of the erection or modification of a structure or structures, when sufficient building activity has occurred and continues to occur in a diligent manner.

2. Notwithstanding subsection 1 of this section, if the use for which a conditional use permit was granted and utilized has ceased or has been suspended for one year or more, the permit becomes null and void.

3. Unless a variance or exception has expired pursuant to subsection 1 of this section, it shall continue to exist for the life of the existing structure or such structure as may be constructed pursuant to the approval, unless a different time period is specified in its issuance. A variance or exception from the parking and loading regulations, and a sign exception shall be valid only during the period of continuous operations of the use and/or structure for which the variance or exception was issued.

**B. Extensions.** A permit or variance may, in accord with Section 19.12.030, Approval Authority, be extended for the time frame specified in Section 19.12.030, upon timely submittal of an application with the Director of Community Development prior to expiration.

**C. Violation.** Once a permit or variance is effective, any and all conditions of approval imposed shall become operative, and the violation of any of them constitute a violation of this Code.

**D. Revocation.**

1. Process: In any case where, in the judgment of the Director, substantial evidence

indicates that the conditions of a permit or variance have not been implemented, or where the permit or variance is being conducted in a manner in violation of state and/or local law or detrimental to the public health, safety, and welfare, the Director shall set a date for a public hearing before the decision maker granting the original permit or variance, and notice a public hearing in accordance with Section 19.12.110, Noticing, of this code.

2. Findings: A permit may be revoked or modified if any one of the following findings can be made by the approval authority reviewing the revocation or modification proceedings:

- i. That the permit was obtained by misrepresentation or fraud;
- ii. That the improvement, use or activity authorized in compliance with the permit had ceased or was suspended for one year or more;
- iii. That one or more of the conditions of the permit have not been met and/or have been violated; or
- iv. That the owner or occupant of the property is conducting the use or any associated or other use of the property in violation of the local/or state law.

In the case of revocation of a sign permit, the sign was abandoned for a period of thirty days.

**SECTION 10.** Section 19.20.020, “Permitted, Condition and Excluded Uses in Agricultural and Residential Zones.” of Chapter 19.20 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

**19.20.020 Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones.**

Table 19.20.020 sets forth the Permitted, Conditional and Excluded Uses in Agricultural and Residential zones.

<b>Table 19.20.020 – Permitted, Condition and Excluded Uses in Agricultural and Residential Zones</b>								
<b>Uses</b>		<b>Zoning Districts</b>						
		<b>A</b>	<b>A-1</b>	<b>R-1</b>	<b>RHS</b>	<b>R1C</b>	<b>R-2</b>	<b>R-3</b>
1.	Agriculture, horticulture, viticulture and forestry, including the following and similar uses:	P	P	-	-	-	-	-
a.	Field and truck crops, including drying and storage,	P	P	-	-	-	-	-
b.	Orchards and vineyards, including bottling and	P	P	-	-	-	-	-

Table 19.20.020 – Permitted, Condition and Excluded Uses in Agricultural and Residential Zones								
Uses		Zoning Districts						
		A	A-1	R-1	RHS	R1C	R-2	R-3
	storage,							
c.	Tree farms, botanical conservatories and arboreta,	P	P	-	-	-	-	-
d.	Barns and sheds,	P	P	-	-	-	-	-
e.	Keeping of draft animals, animals providing products used on the property,	P	P	-	-	-	-	-
f.	Livestock ranches and dairy farms depending mainly on grazing on the property,	P	CUP - PC	-	-	-	-	-
g.	Processing of dairy products produced on the property,	P	CUP - PC	-	-	-	-	-
h.	Poultry raising and hatcheries,	P	CUP - PC	See #27				
i.	Apiaries, pursuant to Chapter 8.07,	P	CUP - PC	See #9				
j.	Nurseries, greenhouses and landscaping gardens,	P	CUP - PC	See #20				
k.	Boarding kennels,	CUP - PC	CUP - PC	-	-	-	-	-
l.	Animal breeding;	P	CUP - Admin.	-	-	-	-	-
2. Fur farms		-	CUP - PC	-	-	-	-	-
3. Retail sale of wine, fruit or berries produced on the property;		CUP - CC	CUP - CC	-	-	-	-	-
4. Single-family dwelling unit with not more than one dwelling unit per lot/defined air space for condominiums;		P	P	P	P	P	-	-

**Table 19.20.020 – Permitted, Condition and Excluded Uses in Agricultural and Residential Zones**

Uses		Zoning Districts						
		A	A-1	R-1	RHS	R1C	R-2	R-3
5. Two-story structures in an area designated for a one-story limitation pursuant to Section 19.28.040(I) of this chapter, provided that the Planning Commission determines that the structure will not result in privacy impacts, shadowing, or intrusive noise, odor, or other adverse impacts to the surrounding area;		-	-	CUP - PC	-	-	-	-
6. Employee housing:								
a.	For six or fewer employees in each dwelling unit on each lot	P	P	P	P	P	P	P
b.	With no more than 36 beds in group quarters or 12 units/spaces designed for use by a single family or household on each lot	P	P	-	CUP-Admin.	-	-	-
7. An accessory dwelling unit which conforms to the requirements of Chapter 19.112;		P	P	P	P	-	-	-
8. Multiple-family residential dwellings		-	-	-	-	-	-	P
9. Accessory facilities and uses customarily incidental to permitted uses and otherwise conforming with the provisions of Chapter 19.100 of this title;		P	P	P	P	P	P	P
10. Utility facilities essential to provision of utility services to the neighborhood but		-	-	P	-	-	P	CUP - CC

Table 19.20.020 – Permitted, Condition and Excluded Uses in Agricultural and Residential Zones								
Uses		Zoning Districts						
		A	A-1	R-1	RHS	R1C	R-2	R-3
excluding business offices, construction or storage yards, maintenance facilities, or corporation yards;								
11. Temporary buildings for construction purposes (including trailers) for a period not to exceed the duration of such construction;		-	-	-	-	-	-	P
12. Home occupations;								
a.	When accessory to permitted use and otherwise conforming to the provisions of Chapter 19.120 of this title;	P	P	P	P	P	P	P
b.	Requiring a Conditional Use Permit pursuant to Chapter 19.120 of this title;	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.
c.	Short-Term Rentals pursuant to Chapter 5.08 of the Municipal Code	P	P	P	P	P	P	P
13. Small-family day care home per dwelling unit;		P	P	P	P	P	P	P
14. Large-family day care home per dwelling unit;								
a.	Which meets the parking criteria contained in Chapter 19.124, and which is at least three hundred feet from any other large-family day care home. The Director of	P	P	P	P	P	P	CUP - Admin.

Table 19.20.020 – Permitted, Condition and Excluded Uses in Agricultural and Residential Zones								
Uses		Zoning Districts						
		A	A-1	R-1	RHS	R1C	R-2	R-3
	Community Development or his or her designee shall administratively approve large day care homes to ensure compliance with the parking and proximity requirements;							
b.	Which otherwise does not meet the criteria for a permitted use. The conditional use permit shall be processed as provided by CA. Health and Safety Code Section 1597.46(3);	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.
	15. Residential care facility with six or fewer residents, not including the provider, provider family or staff, provided that the facility obtains any license, if required, issued by appropriate State and/or County agencies and/or department;	P	P	P	P	P	P	P
	16. Residential care facility, in each dwelling unit, with seven or greater residents, not including the provider, provider family or staff, is a minimum distance of five hundred feet from the property boundary of another residential care facility, provided that the	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC *	CUP - PC	CUP - PC



Table 19.20.020 – Permitted, Condition and Excluded Uses in Agricultural and Residential Zones								
Uses		Zoning Districts						
		A	A-1	R-1	RHS	R1C	R-2	R-3
facility obtains any license, if required, issued by appropriate State and/or County agencies and/or departments;								
17. Congregate residence, in each dwelling unit:								
a.	With six or fewer residents	P	P	P	P	P	P	P
b.	With seven or greater residents which is a minimum distance of one thousand feet from the boundary of another congregate residence and has a minimum of seventy-five square feet of usable rear yard area per occupant	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC *	CUP - PC	CUP - PC
18. Transitional housing located in housing of a type permitted on the zone;		P	P	P	P	P	P	P
19. Supportive housing located in housing of a type permitted in the zone;		P	P	P	P	P	P	P
20. Horticulture, gardening, and growing of food products;								
a.	Recreational for personal use;	P	P	P	P	P	P	-
b.	Limited to maximum of ten percent of the lot area and for consumption by occupants of the site;	-	-	-	-	-	-	P
c.	Produce grown on site	-	-	-	P	-	-	-

Table 19.20.020 – Permitted, Condition and Excluded Uses in Agricultural and Residential Zones								
Uses		Zoning Districts						
		A	A-1	R-1	RHS	R1C	R-2	R-3
	may be sold if the business activity is conducted in a manner consistent with Chapter 19.120, Home Occupations							
d.	Commercial purposes;	See #1	See #1	-	CUP - Admin.	-	-	-
	21. Limited commercial recreation uses, such as riding clubs and related stables and trails, golf courses, swimming and picnic grounds;	-	-	-	CUP - PC	-	-	-
	22. Golf courses and driving ranges;	CUP - CC	CUP - CC	-	-	-	-	-
	23. Commercial swimming pools and picnic areas;	CUP - CC	CUP - CC	-	-	-	-	-
	24. Temporary uses subject to regulations established by Chapter 19.156	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.	CUP - Admin.
	25. Buildings or structures which incorporate solar design features that require variation from setbacks upon a determination by the Director that the design feature, or features, will not result in privacy impacts, shadowing, or intrusive noise, odor, or other adverse impacts to the surrounding area.	CUP - Admin.	CUP - Admin.	-	CUP - Admin.	-	-	-
	26. Transmission lines, transformer stations, television and radio towers,	CUP - PC	CUP - PC	-	-	-	-	-

Table 19.20.020 – Permitted, Condition and Excluded Uses in Agricultural and Residential Zones								
Uses		Zoning Districts						
		A	A-1	R-1	RHS	R1C	R-2	R-3
and other public utility and communication structures;								
27. Adult (over 4 months of age) household pets per dwelling unit, limited as follows:								
a.	No specified number	P	P	-	-	-	-	-
b.	Maximum of four, provided no more than two adult dogs or cats may be kept on the site	-	-	P	-	P	P	P
c.	Limited to one per three thousand square feet of lot area, except:	-	-	-	P †	-	-	-
1.	Dogs are limited to a maximum of two on lots less than one acre and four for lots greater than one acre.							
2.	The number of geese, ducks, chickens, rabbits and other farm animals are not limited on a site greater than one acre.							
28. Litter of dogs or cats up to four months of age;								
a.	No specified number	P	P	-	P	-	-	-
b.	Maximum of one	-	-	P	-	P	P	P
29. Large animals, provided no animals are kept, maintained and raised for commercial purposes, limited as follows:								
a.	Two large animals for the first 40,000 square feet of land area, except mules and donkeys which require 80,000 square feet for the first animal,	See #1	See #1	-	P †	-	-	-

Table 19.20.020 – Permitted, Condition and Excluded Uses in Agricultural and Residential Zones								
Uses		Zoning Districts						
		A	A-1	R-1	RHS	R1C	R-2	R-3
b.	One additional large animal for each 20,000 square feet of land area,							
c.	One additional large animal if said animal is raised for a 4H project, a project sponsored by a recognized agricultural organization or a school project,							
30. The keeping of any animal not otherwise permitted above: #27, 28 and 29		-	-	-	CUP - Admin.	-	-	-
31. Riding academies, commercial stables, and the boarding of horses;		CUP - CC	CUP - CC	-	-	-	-	
32. Noncommercial stables, and the keeping of riding horses:								
a.	Limited to three horses on each lot at any time except that additional foals may be retained for a period of six months;	P	P	-	-	-	-	-
b.	In excess of the number permitted in 32(a)	CUP - CC	CUP - CC	-	-	-	-	-
33. Cemeteries, crematoriums, mausolea, and columbariums		CUP - CC	CUP - CC	-	-	-	-	
34. Mines, quarries and gravel pits;		CUP - CC	CUP - CC	-	-	-	-	
35. Guest ranches;		CUP - CC	CUP - CC	-	-	-	-	
36. Public and quasi-public		CUP -	CUP -	-	-	-	-	

**Table 19.20.020 – Permitted, Condition and Excluded Uses in Agricultural and Residential Zones**

Uses	Zoning Districts						
	A	A-1	R-1	RHS	R1C	R-2	R-3
buildings and uses.	CC	CC					
37. Hog farms;	Ex	Ex	-	-	-	-	-
38. Cattle farms mainly depending upon feed brought onto the property;	Ex	Ex	-	-	-	-	-
39. Slaughterhouses, fertilizer yards, feed yards, boneyards or plants for the reduction of animal matter;	Ex	Ex	-	-	-	-	-
40. Commercial feed sales;	Ex	Ex	-	-	-	-	-
41. Other semiagricultural uses mainly depending upon raw materials, semifinished products, or feed brought on to the property;	Ex	Ex	-	-	-	-	-
42. Other agricultural uses which, in the opinion of the Director of Community Development, create a private or public nuisance.	Ex	Ex	-	-	-	-	-

**Key:**

P –	Permitted Use
--	Not Allowed
CUP - Admin. –	Conditional Use Permit issued by the Director of Community Development
CUP - PC –	Conditional Use Permit issued by the Planning Commission
CUP - CC –	Conditional Use Permit issued by the City Council
* –	May be permitted in locations where the use is compatible with existing and planned uses within the development area in the opinion of the Director of Community Development,
† –	The required lot area for a large animal shall not be included in the required lot area for a household pet or vice versa, except that a maximum of two household pets may be kept with large animals,
Ex –	All animals must be kept and maintained in accordance with other Cupertino or Santa Clara County codes and ordinances,
	Excluded Uses

**SECTION 11.** Former Section 19.120.050, “Excluded Occupations”, of Chapter 19.120 of Title 19 of the Cupertino Municipal Code is hereby renumbered to Section 19.12.060 and amended to read as follows:

**19.120.050 Excluded Occupations.**

The occupations listed below, shall not be considered incidental and secondary to the use of a residence for dwelling purposes and are therefore prohibited in residential zones:

- A. Automobile repair shops, including paint and body work;
- B. Barbershops and beauty parlors;
- C. Until January 1, 2021, boarding and/or rooming homes for more than two guests;
- D. Clinics and hospitals, also veterinary (animal) clinics and hospitals;
- E. Kennels and other boarding for pets, in excess of the number of animals allowed in the base zoning district where specified;
- F. Medical offices for physicians, dentists, osteopaths, and other practitioners;
- G. Private schools with organized classes;
- H. Upholstery, small engine repair, welding shops;
- I. Other uses which are found by the Community Development Director to be of similar intensity and characteristics of use to those enumerated in this section, and are thus inconsistent with the stated purposes of this chapter.

**SECTION 12:** Severability.

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

**SECTION 13:** Effective Date.

This Ordinance shall take effect thirty days after adoption is provided by Government Code Section 36937. However, the amendments to Sections 3.12.050, 3.12.070, 19.20.020, and Chapter 5.08 shall not become operative until January 1, 2021. The City, or its designee, will not begin to enforce the amended provision and penalties of those Sections and Chapter until that date. All other amendments shall become operative on the Ordinance’s effective date.

**SECTION 14:** Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code Section

36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

**SECTION 15:** Continuity.

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 amendments of the earlier provisions.

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**INTRODUCED** at a regular meeting of the Cupertino City Council the 18th day of August, 2020 and **ENACTED** at a regular meeting of the Cupertino City Council on this 15th of September 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