

Draft Ordinance No. 20-XXXX

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO TEMPORARILY WAIVING PERMIT FEES FOR CERTAIN TEMPORARY COMMERCIAL SIGNS AND BANNERS

WHEREAS, on February 3, 2020, and pursuant to Section 101080 of the California Health and Safety Code, the Santa Clara County Health Officer (the “Health Officer”) declared a local health emergency throughout Santa Clara County (the “County”) related to the novel coronavirus (“COVID-19”); and

WHEREAS, on February 3, 2020, and pursuant to Section 8630 of the California Government Code, the Santa Clara County Director of Emergency Services proclaimed a local emergency throughout the County related to COVID-19; and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare for a broader spread of COVID-19; and

WHEREAS, on March 11, 2020, the City Manager for the City of Cupertino (“City”) declared a local emergency throughout the City related to COVID-19; and

WHEREAS, on March 17, 2020, the Council ratified and continued the City Manager’s declaration of a local emergency; and

WHEREAS, on March 16, 2020, the County, along with five other Bay Area counties, issued a sweeping “Shelter-in-Place” Order that included limitations on non-essential work and operations; and

WHEREAS, there have since been numerous shelter-in-place orders; and

WHEREAS, the latest Shelter-in-Place order was issued on May 18, 2020 and continued restrictions on indoor dining, retail, and personal care services operations until further notice; and although the County’s June 5 and July 2, 2020 updates to the Shelter-in-Place Order allowed several new categories of businesses and activities to reopen, subject to specific conditions and limitations, key restrictions remain in place under these updates, requiring people to stay in their homes except when engaging in certain essential or allowed activities; and

WHEREAS, the new activities and businesses allowed to reopen under the updated Order included retail and shopping centers for in-store shopping, subject to limitations/social distancing; however, indoor dining and personal care services were not allowed to reopen; and

WHEREAS, on July 15, 2020, the Governor ordered, for counties on the State Monitoring List, including Santa Clara County, the closure of indoor operations for additional sectors that include personal care services like barbershops, hair salons, nail salons, and similar business, as well as gyms and fitness facilities; and specified that certain operations may continue outdoors, where risk of transmission of COVID-19 is lower, under specified circumstances; and

WHEREAS, on August 28, 2020, the State released its Blueprint for a Safer Economy (“Blueprint”), which outlines an updated framework for a safe progression of opening more businesses and activities in light of the pandemic in phases; and

WHEREAS, local businesses are essential to the Cupertino economy and sales tax base for the City, and provide essential goods and services to residents, and local businesses must be able to operate during the COVID-19 pandemic in order to ensure public health, safety, and welfare; and

WHEREAS, the COVID-19 pandemic, Shelter-in-Place orders, associated restrictions on business operations, and reduced customer traffic have imposed severe hardships on local businesses; and

WHEREAS, local businesses must be able to attract customers in order to viably maintain operations during the COVID-19 pandemic, and the extended use of temporary signs can be an effective tool to advertise business operations and communicate with customers; and

WHEREAS, if businesses are not allowed to effectively advertise key information to inform customers of modified hours or operational changes, they will be forced to permanently close, which will lead to the loss of local jobs vital to the Cupertino community; and

WHEREAS, Cupertino businesses employ Cupertino residents, and if businesses close during the pandemic, it has a direct impact on those who relied on local businesses for employment; and

WHEREAS, the well-being of Cupertino’s businesses is thus essential to the welfare of Cupertino residents and business-owners; and

WHEREAS, many businesses provide essential goods and services (e.g., groceries, pharmacies, restaurants, etc.) that are necessary to public health, safety, and welfare; and

WHEREAS, temporarily waiving the permit requirement fees for such signs will support local businesses and their ability to operate during the COVID-19 pandemic, and these measures will help protect public health, safety, and welfare; and

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

SECTION 1. For purposes of this ordinance, a qualifying temporary sign means any special event banner, promotional device, or portable sign and display erected pursuant to Cupertino Municipal Code (" C M C ") section 19.104.270.

SECTION 2. Cupertino Municipal Code Section 19.104.270 provides for the temporary erection of these qualifying temporary signs subject to the issuance of a permit, and the City charges a fee to apply for such a permit. However, in order to allow Cupertino businesses to attract business during the COVID-19 pandemic, no fee shall be charged to apply for a Temporary Sign Permit until the expiration of the Shelter in Place orders or until further notice from the City Council, whichever is sooner.

SECTION 3. Any permit issued under this Urgency Ordinance is non-transferable, and only the business for which the temporary sign permit was issued may erect a sign pursuant to the permit. Except for the temporary waiver of the permit application fee noted above, the standards pertaining to banners, promotional devices, and portable signs and displays shall remain consistent with the existing standards in Section 19.104.270.

A Temporary Sign Permit does not create any property interest, and the Director of Community Development may revoke a Temporary Sign Permit issued pursuant to this ordinance at any time and for any reason. The temporarily waiving of the permit requirement fees shall terminate upon the expiration of the Shelter in Place orders or upon further notice from the City Council, whichever is sooner.

SECTION 4. The City Council hereby finds, determines, and declares that this urgency ordinance is adopted by at least four-fifths of the City Council pursuant to California Government Code Section 36937 and CMC Section 2.12.050 and is necessary because there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency measure, which finding is based upon the facts stated in the recitals above, all of which are deemed true and correct, as well any oral and written testimony at the September 15, 2020 City Council meeting.

SECTION 5. The City Council of the City of Cupertino held a duly noticed public meeting on September 15, 2020, and after considering all testimony and written materials provided in connection with that meeting introduced this ordinance and

waived the reading thereof.

SECTION 6. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 7. The City Council finds that adoption of this Ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that temporarily extending certain permit approvals and application processing timelines for a limited period of time will not have a significant effect on the environment.

SECTION 8: *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 9: *Effective Date.*

This urgency Ordinance shall take effect immediately upon adoption as provided by Government Code Section 36937 and CMC Section 2.12.050 and shall remain in effect until the County's Shelter-in-Place Order is lifted and the State has entered Stage 4 of reopening, unless the Ordinance is otherwise terminated or extended by the City Council.

SECTION 10: *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 11: *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.

INTRODUCED and **ADOPTED** as an urgency ordinance of the City of Cupertino at a regular meeting of the City Council held on September 15, 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