

ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CUPERTINO MUNICIPAL CODE SECTION 2.04.010 (CONCERNING REGULAR MEETINGS OF THE CITY COUNCIL); SECTION 2.28.040 (CONCERNING POWERS AND DUTIES OF THE CITY MANAGER); SECTION 8.01.090 (CONCERNING ANIMALS IN CITY BUILDINGS); CHAPTER 11.08 (CONCERNING BICYCLE LICENSING AND REGISTRATION); AND SECTION 13.04.190 (CONCERNING ACTIVITIES PROHIBITED IN CITY PARKS).

The City Council of the City of Cupertino finds that:

1. The City Code of the City of Cupertino requires periodic updates in order to improve City operations and bring the Code up to date with current law and policy.
2. The City Council of the City of Cupertino held a duly noticed public hearing on October 20, 2020, and after considering all testimony and written materials provided in connection with that hearing introduced this ordinance and waived the reading thereof.
3. This ordinance makes minor revisions to the Cupertino Municipal Code to reflect changes in law, provide clarification to the community, and provide for improved customer service and administration of City business.

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

SECTION 1. Adoption.

The Cupertino Municipal Code is hereby amended as set forth in Exhibit A.

SECTION 2. Severance Clause.

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

SECTION 3. California Environmental Quality Act.

This Ordinance is not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, “CEQA”) because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment. CEQA applies only to activities which have the potential of causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the amendments to the City Code would have no or only a de minimis impact on the environment. The foregoing determination is made by the City Council in its independent judgment.

SECTION 4. Effective Date.

This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

SECTION 5. Publication.

The City Clerk shall give notice of adoption of this Ordinance as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be prepared by the City Clerk and published in lieu of publication of the entire text. The City Clerk shall post in the office of the City Clerk a certified copy of the full text of the Ordinance listing the names of the City Council members voting for and against the ordinance.

INTRODUCED at a regular meeting of the Cupertino City Council on October 20, 2020 and ENACTED at a regular meeting of the Cupertino City Council on _____, 2020 by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p> <p>_____</p> <p>_____</p> <p>Steven Scharf, Mayor City of Cupertino</p>	<p>_____</p> <p>Date</p>
<p>ATTEST:</p> <p>_____</p> <p>Kirsten Squarcia, City Clerk</p>	<p>_____</p> <p>Date</p>

APPROVED AS TO FORM:	
<hr/> Heather Minner, City Attorney	<hr/> Date

Exhibit A – 2020 Cupertino Municipal Code Update

The provisions of the Cupertino Municipal Code set forth below are amended or adopted as follows:

*Text added to existing provisions is shown in bold double-underlined text (**example**) and text to be deleted is shown in strikethrough (~~example~~). Text in existing provisions is not amended or readopted by this Ordinance. Text in italics is explanatory and is not an amendment to the code.*

1. Cancellation of Regular Meeting of the City Council by Majority Vote of the Council

Chapter 2.04 – CITY COUNCIL – ELECTION AND MEETINGS

2.04.010 – Regular Meetings

The City Council shall hold regular meetings on the first and third Tuesdays of each month at six forty-five p.m. and may adjourn any regular meeting to a date certain, which shall be specified in the order of adjournment and when so adjourned, such adjourned meeting shall be a regular meeting for all purposes. Such adjourned meetings may likewise be adjourned and any so adjourned meeting shall be a regular meeting for all purposes. **The City Council may cancel a regular meeting by a vote of a majority of the Council.**

On regular meeting days, the City Council shall begin any closed session items at six o'clock p.m.

City Council meetings that fall on legal holidays shall automatically be moved to the following day.

City Council meetings that fall on any Election Tuesday in a regular Cupertino election year shall automatically be moved to the first Monday of the month.

2. City Manager's Power to Sign Purchase Orders, Contracts, Conveyances, and Other Instruments

Chapter 2.28 – CITY MANAGER

2.28.040 – Powers and Duties

The City Manager shall be the administrative head of the City government acting under the direction and control of the City Council except as otherwise provided in this chapter. In addition to his or her general powers as Chief Administrator, and not as a limitation thereon, he or she shall have the powers and duties set forth in the following subsections:

P. To sign documents specified in Section 40602 of the Government Code, or to delegate to another officer such authority to sign, whenever such documents have been approved by the Council for execution by the City Manager or their delegate by ordinance, resolution, motion,

minute order or other appropriate action. The Purchasing Officer given approval or award authority for the documents specified in Section 40602 of the Government Code in or pursuant to Chapter 3.22 may sign those documents.

PQ. To perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance, resolution or other action of the City Council.

[No changes in subsections (A) through (O)]

3. Service Animals in City Buildings

Chapter 8.01 – GENERAL PROVISIONS

8.01.090 – Animals in City Buildings

No person having the control or care of any animal or animals shall suffer or permit any such animal to enter or remain in City-owned or managed buildings other than a building used for the purpose of care, detention, space control or treatment of animals, or a building used for training classes, shows or exhibitions, except persons who ~~are blind or deaf and who use~~ **a service animal as defined in the Americans with Disabilities Act** dogs for guidance, or persons expressly authorized by the City Manager.

4. Bicycle Licensing and Registration

Chapter 11.08 – BICYCLES

11.08.040 — License Issuance

~~The City Manager is authorized to issue bicycle licenses upon written application, which license, when issued, shall entitle the licensee to operate and use the bicycle.~~

11.08.050 — License Indicia

~~Bicycle license indicia and registration forms, as distributed by the State Department of Motor Vehicles, shall be obtained and issued by the City Manager. Each license indicia shall bear a unique license number and shall be permanently assigned to a bicycle. Bicycle licenses shall be affixed to the front of the seat tube of the bicycle frame. Bicycle licenses shall be renewed on January 1st of the third year following the year of registration. Renewal of a bicycle license shall be indicated by a supplementary adhesive device affixed parallel to and above or below the license indicia, with expiration date shown.~~

11.08.060 — Registration

~~In addition, there shall be issued with the bicycle indicia a registration certificate showing the license number, the serial number of the bicycle, the make and type of the bicycle, and the name and address of the licensee. Records of the foregoing shall be maintained during the period of validity of the license, or until notification that the bicycle no longer is to be operated.~~

11.08.061 ~~License Indicia and Registration Forms~~ **Bicycle Serial Numbers and Identifying**

Marks –Prohibited Acts.

It is unlawful for any person to tamper with, destroy, mutilate or alter any ~~license indicia or registration certificate, or to remove, alter or mutilate the serial number or the~~ manufacturer's identifying marks ~~of the City's identifying symbol, on any bicycle frame licensed under the provisions of this chapter.~~

11.08.070 Existing Licenses and Registration.

~~Bicycle licenses which have been issued pursuant to ordinances of the City in effect prior to January 1, 1976, shall remain valid until their assigned expiration dates, but in no case for a period beyond July 1, 1979. Upon such expiration, such bicycles shall be licensed and registered as provided in this chapter.~~

11.08.080 Sale or Disposition.

A.—~~Whenever any person sells or otherwise disposes of a bicycle, he shall endorse upon the registration certificate previously issued for such bicycle a written transfer of the same, setting forth the name, address and telephone number of the transferee, the date of transfer and the signature of the transferor, and shall deliver the registration certificate, so endorsed, to the City Manager within ten days.~~

B.—~~Any person who purchases or otherwise acquires possession of a bicycle shall, within ten days of acquiring possession, apply for the transfer of the license to his own name.~~

C.—~~In the event that any license indicia or registration certificate issued pursuant to the provisions of this chapter is lost, stolen or mutilated, the licensee of such bicycle shall immediately notify the City for a duplicate license indicia or registration certificate. Thereupon, the City shall issue to such licensee a replacement license indicia or registration certificate, upon payment to the City of the appropriate fee.~~

D.—~~Every license holder shall return his license indicia and registration certificate to the City when the bicycle for which they were issued is destroyed beyond repair.~~

11.08.090 Change of Address.

~~Whenever the owner of a bicycle licensed pursuant to this chapter changes his address, he shall, within ten days, notify the City Manager of the old and new address.~~

11.08.100 Dealers Verification of Registration.

~~Persons engaged in the business of buying secondhand bicycles are required to verify the registration at time of acquisition.~~

11.08.110 Dealers Notification of Registration Requirements.

~~All persons engaged in the business of selling new or secondhand bicycles are required to advise purchaser of registration requirements.~~

~~11.08.120 License and Registration Fees.~~

~~A. The fees required to be paid pursuant to the provisions of this chapter are to be set by the office of the City Manager:~~

- ~~1. For each new bicycle license and registration certificate;~~
- ~~2. For each transfer of registration certificate;~~
- ~~3. For each replacement of a bicycle license or registration certificate;~~
- ~~4. For each bicycle license renewal.~~

~~B. Revenues from license fees shall be retained by the City and shall be used for the support of this chapter.~~

~~In addition, fees collected shall be used to improve bicycle safety programs and establish facilities, including bicycle paths and lanes, within the jurisdiction of the City. The City Council shall, from time to time, by resolution or motion, establish the allocation of fees collected.~~

5. Parks and Recreation Director's Discretion to Allow City-Sponsored Programs During Park Curfew Hours

Chapter 13.04 – PARKS

13.04.190 – Closing Hours – Prohibitions

No person in a park shall do any of the following, **except as authorized by the Director for the purpose of official City programming:**

- A. Remain, stay or loiter in any public park, between the hours of ten p.m. and six a.m. of the following day, or as may otherwise be designated by minute order or resolution of the City Council. The opening and closing hours for each individual park shall be posted therein by the department of parks and recreation for public information;
- B. Set up tents or other temporary shelter for the purpose of overnight camping, nor shall any person park or leave in a park, after closing hours, any vehicle or movable structure to be used, or that could be used, for such purposes, such as a horse trailer, camp trailer, pickup camper, or the like;
- C. Park or leave in a park, after closing hours, any vehicle. Signs shall be posted at all park entrances to notify park visitors of the effects of paragraph C of this section.

End of Amendments