



REGULAR MEETING OF THE MILPITAS CITY COUNCIL



AGENDA

TUESDAY, MARCH 4, 2025

CITY COUNCIL CHAMBER, 455 E. CALAVERAS BLVD, MILPITAS, CA

6:00 PM (CLOSED SESSION)

7:00 PM (PUBLIC BUSINESS)

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-2400

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3072

** To access written translation during the meeting, scan the QR Code.*

The City Council meeting is held in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas and via teleconference/Zoom webinar.

You may watch the Council meeting without providing public comment by accessing it via links here.

Meeting shall be livestreamed - Go to:

Facebook: <https://www.facebook.com/CityofMilpitas/>

YouTube: <https://www.milpitas.gov/youtube>

Web Streaming: <https://www.milpitas.gov/webstreaming>

PUBLIC COMMENT INSTRUCTIONS

Oral public comments may only be provided live during the City Council meeting in person, unless the City Council approves remote public comment. All comments provided shall be limited to three minutes or less as determined by the Mayor. All members of the public will be limited to one comment per agenda item, and one comment for non-agenda items. Members of the public may submit written comments by email to CityClerk@milpitas.gov

The meeting will be streamed via Zoom for viewing purposes only unless the City Council approves remote public comment. To watch via Zoom, please register at:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_D431XVcxQa-k89BliEtU5g

NOTE: If a member of the public wishes to share any presentation materials for Council consideration, they must be submitted to the Clerk's Office by email to CityClerk@milpitas.gov by 12:00 p.m. on the day of the meeting. No presentations will be accepted in person in the Council Chambers.

MILPITAS CITY COUNCIL CODE OF CONDUCT

- Be respectful and courteous (words, tone, and body language).
- Model civility.
- Avoid surprises.
- Praise publicly and criticize privately.
- Focus on the issue, not the person.
- Refrain from using electronic devices while on the Council dais.
- Disclose conflicts of interest and affiliations related to agenda items.
- Separate governing from campaigning.
- The Council speaks with one voice after making policy on issues.
- Respect the line between policy and administration.
- Council will hold one another accountable to comply with this Code of Conduct.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk (6:00 PM)

ADJOURN TO CLOSED SESSION

(a) PUBLIC EMPLOYEE APPOINTMENT AND HIRING

Pursuant to Government Code Section 54957(b)(1):
Employee Position: Interim City Manager.

CLOSED SESSION ANNOUNCEMENT:

Report on action taken in Closed Session, if required per Government Code Section 54957.1, including the vote or abstention of each member present.

PLEDGE OF ALLEGIANCE

INVOCATION (Mayor Montano)

PRESENTATIONS (7:05 PM)

- Bill Hare (Certificate)
- National Women's History Month (Proclamation)
- Youth Art Month (Proclamation)

PUBLIC FORUM (7:15 PM)

Members of the public are invited to speak on any item that does not appear on today's agenda. Comments will be limited to three minutes or less at the Mayor's discretion. When called to speak, you are encouraged to state your name for the record. As an item not listed on the agenda, no action can be taken, however the City Council may instruct the City Manager to place the item on a future meeting agenda.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR (7:20 PM)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a City Councilmember, member of the audience or staff requests the Council to remove an item from (or be added to) the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar.

C1. Receive City Council Calendar of Meetings for March 2025 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive City Council Calendar of Meetings for March 2025.

C2. Approve City Council Meeting Minutes of February 11 and 18, 2025 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Approve City Council Special Meeting minutes of February 11 and 18, 2025 and Regular Meeting minutes of February 18, 2025.

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive the list of anticipated agenda items for the next regular City Council meeting.

C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive the list of items that have been requested by City Councilmembers and received consensus in previous meetings to date.

C5. Authorize and Approve Travel Requests to Sacramento, California, by Mayor Montano, Councilmember Chua, Councilmember Lien, and Councilmember Lam to Attend the League of California Cities 2025 City Leaders Summit from April 23 to 25, 2025 (Staff Contact: Matt Cano, Assistant City Manager, 408-586-3012)

Recommendation: Authorize and approve travel to Sacramento, California, by Mayor Carmen Montano, Councilmember Evelyn Chua, Councilmember Hon Lien, and Councilmember William Lam to attend the League of California Cities 2025 City Leaders Summit from April 23 to 25, 2025, for a total estimated amount of \$6,621, budgeted under the Individual Elected Official Allocation for Conferences/Meetings/Trainings.

C6. Adopt a Resolution Expressing Support for the City of Milpitas to Fully Fund Metro Tango Subdistrict Park from TASP Impact Fees per the Outdoor Recreation Legacy Partnership Grant Application Requirement (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)

Recommendation: Adopt a resolution expressing support by the City of Milpitas to fully fund Metro Tango Subdistrict Park, Project No. 2023, in the amount of \$10 million from TASP Impact Fees per the Outdoor Recreation Legacy Partnership Grant Application requirement.

C7. Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, for Fiscal Year 2025-26 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)

Recommendation: Adopt a resolution initiating proceedings for the annual levy and collection of assessments and ordering the preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, for Fiscal Year 2025-26.

C8. Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, for Fiscal Year 2025-26 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)

Recommendation: Adopt a resolution initiating proceedings for the annual levy and collection of assessments and ordering the preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, for Fiscal Year 2025-26.

C9. Receive an Update on the Security Improvements at the McCarthy Ranch Sewer Lift Station (Main Lift) and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)

Recommendation: (1) Receive an update on the security improvements at the McCarthy Ranch Sewer Lift Station; and (2) Determine by a four-fifths vote that the condition continues to constitute an emergency.

PUBLIC HEARINGS (7:30 PM)

Members of the public may be allotted up to three (3) minutes or less at the Mayor's discretion, to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of ten (10) minutes for opening statements and up to a total of five (5) minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.

10. **Adopt a Resolution Approving an Economic Development Incentive Agreement with Rivian, LLC for the Operation of an Industrial Facility Located at 755 Yosemite Drive (Staff Contact: Alex Andrade, Economic Development & Strategic Initiatives Director, 408-586-3046; and Luz Cofresí-Howe, Finance Director, 408-585-3111)**

Recommendation: (1) Conduct a public hearing as required by Government Code Section 53083 for the proposed Economic Development Subsidy Report; and (2) Adopt a resolution approving an Economic Development Incentive Agreement by and between the City of Milpitas and Rivian, LLC for the operation of an industrial facility located at 755 Yosemite Drive and authorize the City Manager to execute the agreement.

11. **2025 Weed Abatement Public Hearing and Resolution Adoption to Abate the Weeds (Staff Contact: Arthur Belton, Deputy Fire Chief/Fire Marshal, 408-586-3384)**

Recommendation: (1) Conduct a public hearing; and (2) Adopt a resolution directing the County of Santa Clara Consumer and Environmental Protection Agency Weed Abatement Program to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.

COMMUNITY DEVELOPMENT (8:30 PM)

12. **Receive an Overview of the Public Review Draft of the Full Updated Zoning Ordinance (Phase 2 of the Comprehensive Zoning Ordinance Update) and Provide Comments to Staff (Staff Contact: Jay Lee, Planning Director, 408-586-3077; and Holly Pearson, Senior Special Projects Associate, 408-609-0072)**

Recommendation: Receive an overview of the Public Review Draft of the full updated Zoning Ordinance (Phase 2 of the Comprehensive Zoning Ordinance Update) and provide comments.

LEADERSHIP AND SUPPORT SERVICES (9:30 PM)

13. **FY 2024-25 2nd Quarter Financial Status Report for the Quarter Ended December 31, 2024 (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)**

Recommendation: Review the FY 2024-25 Quarterly Financial Status Report for the quarter ended December 31, 2024.

14. **Review Fiscal Year 2024-25 Mid-Year Report, Adopt a Resolution Approving FY2024-25 Mid-Year Budget Amendments, and Adopt a Resolution Amending Resolution No. 1626, the Classification Plan, to Approve and Adopt the Pay Schedule titled "New Job Classifications/Salary Table" (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)**

Recommendation: (1) Review Fiscal Year 2024-25 Mid-Year Report; (2) Adopt a resolution approving FY2024-25 Mid-Year Budget Amendments; and (3) Adopt a resolution amending Resolution

No. 1626, the Classification Plan to approve and adopt the pay schedule titled “New Job Classifications/Salary Table,” and amend budgeted allocated positions.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (10:30 PM)

Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items. For future agenda items, the City Council shall not debate the topic or engage in discussion but shall simply state a “yes” or “no” as whether to move the item forward. If a majority of the City Council agrees to move the item forward, the City Manager shall place the item on a future agenda.

ADJOURNMENT (10:35 PM)

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other City agencies exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mmutalipassi@milpitas.gov / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.milpitas.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on City website. City Council agendas and related materials can be viewed online: www.milpitas.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Commission application forms are available online at www.milpitas.gov or at Milpitas City Hall. Contact the City Clerk's Office at 408-586-3001 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, please call the City Clerk at 408-586-3001 or send an e-mail to CityClerk@milpitas.gov prior to the meeting. You may request a larger font agenda.

February 2025						
S	M	T	W	T	F	S
	2	3	4	5	6	7
	8	9	10	11	12	13
	14	15	16	17	18	19
	20	21	22	23	24	25
	26	27	28			

Milpitas City Council Calendar

March 2025

April 2025						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 7:00 PM -Parks, Recreation & Cultural Resources Commission (EC)	4 6:00 PM -Closed Session 7:00 PM -City Council	5 12:00 PM -Santa Clara Valley Water District - Water Commission (CM) 1:00 PM -Santa Clara VTA Monthly Briefing - Northeast Group (CM) (Santa Clara)	6 5:30 PM -Santa Clara VTA Board of Directors (CM) 5:30 PM -Milpitas Chamber of Commerce Board (GB)	7	8
9	10 4:30 PM -Economic Development and Trade Commission (WL)	11 4:00 PM -Milpitas HOPE	12 4:30 PM -City Council Finance Subcommittee (CM/EC) 7:00 PM -Silicon Valley Clean Energy Board of Directors (GB) (Cupertino)	13 4:00 PM -Santa Clara VTA Policy Advisory Committee (EC) 4:00 PM -Treatment Plant Advisory Committee (CM) (San Jose) 6:00 PM -Youth Advisory Commission (HL) 7:00 PM -Cities Assoc of SCC (CM)	14	15
16	17 7:00 PM -Science, Technology, and Innovation Commission (WL) 7:00 PM -Library and Education Commission (HL) (Milpitas Public Library)	18 5:00 PM -Closed Session 7:00 PM -City Council	19 6:00 PM -Energy and Environmental Sustainability Commission (EC)	20 6:30 PM -Bay Area Water Supply Conserv Agency (CM) (Oak Room - San Mateo Main Library) 7:00 PM -Public Safety and Emergency Preparedness Commission (WL)	21	22
23	24 7:00 PM -Arts Commission (CM)	25	26 7:00 PM -Planning Commission	27 4:00 PM -Silicon Valley Regional Interoperability Authority (SVRIA) (GB)	28	29
30	31  Cesar Chavez Day City Hall Closed					



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, FEBRUARY 11, 2025

The City Council of the City of Milpitas convened in a Special Meeting on February 11, 2025, in the Barbara Lee Senior Center, 40 N Milpitas Blvd, Room 140/141, Milpitas, CA and via teleconference/Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Montano called the Special City Council meeting to order at 5 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Barbadillo (5:12 PM), Councilmember Chua, Councilmember Lam, Councilmember Lien

ABSENT:

The City Council adjourned to Closed Session at 5:02 PM.

ADJOURN TO CLOSED SESSION

(a) PUBLIC EMPLOYEE RESIGNATION AND HIRING

Pursuant to Government Code Section 54957(b)(1):
Employee Position: City Manager.

CLOSED SESSION ANNOUNCEMENT:

The City Council reconvened at 5:54 PM

Acting City Attorney Creech reported that the City Council unanimously voted to accept the letter of resignation from City Manager Ned Thomas and convened a subcommittee to support a search for the next City Manager and identify an Interim City Manager.

PLEDGE OF ALLEGIANCE

Councilmember Chua led the pledge of allegiance.

PUBLIC FORUM

There were the following public speakers:

1. Sujee Maniyam
2. David Hohl
3. Prashanth Kumar
4. Van Leong
5. Stephen Balsbaugh

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

Acting City Attorney Creech asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest. Acting City Attorney Creech asked the Mayor and City

Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Vice Mayor Barbadillo read the City Council Code of Conduct.

APPROVAL OF AGENDA

After discussion, motion: to approve the agenda.

Motion/Second: Councilmember Chua / Vice Mayor Barbadillo

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Barbadillo, Councilmember Chua, Councilmember Lam,
Councilmember Lien

NOES: None

AGENDA ITEMS

1. Receive Presentation on Proposed Five-Year 2026-2030 Capital Improvement Program and Provide Feedback to Staff (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)

City Manager Thomas and Public Works Director Di Renzo introduced the Capital Improvement Program (CIP) study session, after which CIP Manager Eam and City Engineer Silveira presented the five-year CIP plan for FY 2026-2030. The presentation outlined major projects, funding sources, and anticipated challenges.

Regarding library signage, Assistant City Manager Cano noted that unless the Council provided feedback regarding Option 2, the City could proceed with Option 1 under the City Manager's authority. Option 1 consisting of a monument sign on Main Street and two bronze plaques at the library entrance for \$17,000, rather than the more expensive Option 2, which would replace three existing signs and cost \$268,000. No objections were raised, allowing the City to proceed with Option 1.

Mayor Montano questioned why developers were not covering the costs for undergrounding utilities. Acting City Attorney Creech responded that he could brief the City Council separately on this issue.

Councilmember Chua asked about the feasibility of solar-powered outdoor lighting, to which City Engineer Silveira responded that a pilot project was in progress. She requested that staff report back within 3-6 months on the results of the project.

Councilmember Chua then asked about pickleball facility improvements and expansion, referencing her previous request for a study and asking for a pilot project to evaluate potential locations. She also noted community requests for benches, bag hooks, and sturdier nets at Hall Park. Mayor Montano supported the proposal, suggesting the City identify a site for dedicated pickleball courts. Vice Mayor Barbadillo added that the City should consider partnerships with private entities to help fund the facilities.

Next, Councilmember Lam raised concerns about street lighting inconsistencies, noting that some streets remain too dim while others are overly bright. Public Works Director Di Renzo explained that all streetlights were converted to LED two years ago, but vandalism, such as wires being pulled from poles, had led to outages. Councilmember Lam noted that he had observed lighting inconsistencies firsthand. Assistant City Manager Cano requested that Councilmember Lam provide specific streets

with dim lighting, if possible, as examples for staff follow up. Councilmember Chua proposed a pilot project for solar-powered streetlights, pointing out that Fremont had already implemented them successfully and requested a follow-up report in the coming months.

Councilmember Chua inquired about the Urban Search and Rescue Vehicle, asking Fire Chief Schoonover how it would be used and whether additional staff would be required to operate it. Chief Schoonover explained that the vehicle would enhance the department's response capabilities and confirmed that no additional staffing was necessary.

The conversation then moved to funding gaps and prioritization of new projects. Councilmember Chua asked whether the cost-benefit of new projects had been evaluated. Councilmember Lien sought clarification on whether the funding gap included the nine new projects proposed in the CIP. City Engineer Silveira confirmed that there was a \$57 million funding gap and outlined key unfunded projects, including the pedestrian overcrossing project, community center roof replacement, and Sandoval Park renovations. Councilmember Barbadillo suggested looking into private partnerships to help offset costs.

Mayor Montano then addressed flooding on Main Street near the library, asking about potential solutions. City Engineer Silveira explained that creek maintenance, storm drain expansion, and upstream water storage improvements could help mitigate flooding. Councilmember Chua asked when cost estimates for potential solutions would be available, and staff responded that a clearer assessment would be provided within 3-6 months.

Councilmember Chua then requested a detailed list of all consultants working with the City in 2024, asking for project descriptions, budgets, and actual expenditures. She also requested statistics on the MyMilpitas App, specifically how many service requests were received and how many were resolved. Mayor Montano followed up by asking whether ADA improvements were funded by state or federal sources, to which City Engineer Silveira confirmed that ADA projects were primarily funded through gas tax revenue. Montano suggested hiring a full-time grant writer, but ACM Cano clarified that the City currently relies on a consultant for grant writing.

Mayor Montano raised concerns that the City lacked sufficient funds to cover all projects and suggested seeking VTA grants for public art projects and emphasized the importance of the Main Street Lighting Project and urging staff to explore whether PG&E could contribute financially.

Councilmember Chua reiterated her requests for a solar streetlight pilot project, a formal study on pickleball facility expansion, and a cost-benefit analysis for new CIP projects.

Councilmember Lam requested a review of streetlight replacements and an update on pothole repairs.

Councilmember Barbadillo reiterated the importance of securing additional funding sources for key projects, particularly those facing budget shortfalls and emphasized the need to explore private partnerships as a potential solution for funding pickleball facilities and other infrastructure improvements. Additionally, he weighed in on the Main Street lighting and undergrounding projects, urging the City to ensure that these improvements were implemented efficiently.

In conclusion, City Engineer Silveira provided an overview of the CIP timeline, explaining that he would solicit feedback from the Planning and Parks Commissions, followed by a final public hearing on April 15 for CIP adoption. Mayor Montano concluded the discussion by reiterating that not all projects could be funded and encouraged staff to pursue additional grant opportunities.

ANNOUNCEMENTS

Councilmember Lien asked for a minute of silence in memory of Mike Mendizabal for his contribution to the community.

ADJOURNMENT

Mayor Montano adjourned the meeting at 8:36 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, FEBRUARY 18, 2025

The City Council of the City of Milpitas convened in a Special Meeting on February 18, 2025, in the Barbara Lee Senior Center, 40 N. Milpitas Blvd, Room 140/141, Milpitas, CA, and via teleconference/Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Montano called the Special City Council meeting to order at 4:02 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Barbadillo, Councilmember Chua, Councilmember Lam,
Councilmember Lien

ABSENT: None

PLEDGE OF ALLEGIANCE

Councilmember Lien led the Pledge of Allegiance.

PUBLIC FORUM

There were no public speakers.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

Acting City Attorney Creech asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest. Acting City Attorney Creech asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Councilmember Chua read the City Council Code of Conduct.

APPROVAL OF AGENDA

After discussion, motion: to approve the agenda.

Motion/Second: Councilmember Chua / Vice Mayor Barbadillo

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Barbadillo, Councilmember Chua, Councilmember Lam,
Councilmember Lien

NOES: None

AGENDA ITEMS

- 1. Receive a Staff Presentation on the Preliminary FY 2026-35 Ten-Year General Fund Financial Forecast and Provide Feedback on Desired Service Levels to Inform the FY 2025-26 Budget Development (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)**

City Manager Thomas introduced the item. Finance Director Cofresí-Howe, joined by Budget Manager Alice Vurich, presented the report.

Councilmember Chua inquired about the ERP Sytem timeline for implementation. Finance Director Cofresí-Howe noted that full implementation would take two years. Clarification was sought on whether there would be ongoing technical support, to which the Finance Director confirmed that technical assistance is part of the agreement. Staff was directed to provide updates on the implementation and to ensure technical assistance is available.

Vice Mayor Barbadillo questioned if the findings from the recent community service survey had been incorporated into the ten-year budget projections and asked whether the budget had been adjusted to reflect what residents prioritized in the survey. Finance Director Cofresí-Howe responded that the survey data had not yet been directly incorporated into budget allocations, but that it would serve as a starting point for further discussions. Councilmember Chua asked staff to provide a breakdown of how current spending aligns with the community survey priorities using available financial data to compare actual expenditures with resident preferences and ensuring future budget presentations clearly reflect whether financial decisions address those priorities.

Vice Mayor Barbadillo expressed concern that earlier projections had underestimated the severity of the deficit and that financial projections had worsened in just three months. He pushed for more immediate budget adjustments rather than waiting a year and a half for a full analysis. He also indicated he may be open to a more tempered approach over a longer time period if he could receive assurances that the schedule would be adhered to and commitments met on deliverables. Councilmember Chua and Mayor Montano echoed the Vice Mayor's concerns and agreed on a need to cut expenditures.

Staff detailed measures underway to increase revenues, including a potential ballot measure for modernizing the business tax, promoting City resources, and economic development initiatives. Assistant City Manager Cano confirmed that discussions on business tax modernization would take place this year, with a proposal targeting the ballot in 2026. Additionally, staff outlined efforts to enhance revenue generation through strategic promotion of City assets, tourism, and business attraction programs. Vice Mayor Barbadillo and Councilmember Chua urged for a stronger marketing approach to position Milpitas as a destination for businesses and visitors.

Councilmember Chua requested an additional study session before the final adoption of the FY 2026-2030 Capital Improvement Program (CIP) Budget to allow more time for input and review of CIP Projects. Vice Mayor Barbadillo agreed, emphasizing that council members needed to evaluate which projects could be postponed or reconsidered.

Assistant City Manager Cano reported there was \$508,000 in flexible funds remaining available in the Community Investment Fund and noted that a final allocation proposal would be included in the budget adoption process.

ADJOURNMENT

Mayor Montano adjourned the meeting at 6:01 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, FEBRUARY 18, 2025

The City Council of the City of Milpitas convened in a Regular Meeting on February 18, 2025, in the City Council Chamber, 455 E. Calaveras Blvd, Milpitas, CA, and via teleconference/Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Montano called the Regular City Council meeting to order at 7:00 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Barbadillo, Councilmember Chua, Councilmember Lam,
Councilmember Lien

ABSENT: None.

PLEDGE OF ALLEGIANCE

Councilmember Lam led the pledge of allegiance.

INVOCATION

Mayor Montano provided the invocation.

PRESENTATIONS

Mayor Montano, joined by the City Council, presented a proclamation in recognition of Rare Disease Day.

PUBLIC FORUM

There were no public speakers.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

Acting City Attorney Creech asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest. Acting City Attorney Creech asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Vice Mayor Barbadillo read the City Council Code of Conduct.

APPROVAL OF AGENDA

After discussion, motion: to approve the agenda.

Motion/Second: Councilmember Lien / Councilmember Chua

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Barbadillo, Councilmember Chua, Councilmember Lam,
Councilmember Lien

NOES: None

CONSENT CALENDAR

Councilmember Lam asked to pull Items C5 and C6.

After discussion, motion: to pull Items C5 and C6 and approve the Consent Calendar.

Motion/Second: Councilmember Chua / Vice Mayor Barbadillo

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Barbadillo, Councilmember Chua, Councilmember Lam,
Councilmember Lien

NOES: None

1. **Receive City Council Calendar of Meetings for February and March 2025 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Received City Council Calendar of Meetings for February and March 2025.

2. **Approve City Council City Council Meeting Minutes of February 4, 2025 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Approved City Council Meeting minutes of February 4, 2025.

3. **Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Received the list of anticipated agenda items for the next regular City Council meeting.

4. **Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Received the list of items that have been requested by City Councilmembers and received consensus in previous meetings to date.

5. **FY 2024-25 2nd Quarter Financial Status Report for the Quarter Ended December 31, 2024 (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)**

Item pulled from Consent Calendar.

6. **Review Fiscal Year 2024-25 Mid-Year Report, Adopt a Resolution Approving FY2024-25 Mid-year Budget Amendments, and Adopt a Resolution Amending Resolution No. 1626, the Classification Plan to Approve and Adopt the Pay Schedule titled "New Job Classifications/Salary Table" (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)**

Item pulled from Consent Calendar.

7. **Adopt a Resolution Relating to the Milpitas Tow Service Agreement (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2402)**

Adopted **Resolution No. 9387** relating to the Milpitas Tow Service Agreement to repeal and replace Resolution No. 7747.

8. **Accept the FY 2025 Citizens' Option for Public Safety (COPS) Grant, Accept the Additional FY 2024 COPS Grant to be Spent in Alignment with the City Council Approved FY 2024 Spending Plan, and Approve the Appropriation of Funds to the Police Department's FY 2024-25 Operating Budget for Front-Line Law Enforcement Services (Staff Contact: Jared Hernandez, Chief of**

Police, 408-586-2406)

(1) Accepted the FY 2025 Citizens' Option for Public Safety (COPS) Grant in the amount of \$126,280.00, (2) Accepted the additional FY 2024 COPS Grant in the amount of \$119,318 to be spent in alignment with the City Council approved FY 2024 spending plan; and (3) Approved the appropriation of funds in the total amount of \$245,598 to the Police Department's FY 2024-25 operating budget for front-line law enforcement services.

9. **Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement between the City of Milpitas and Milpitas Pacific Associates, L.P., for the Affordable Housing Project at 308 Sango Court (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)**

Approved and authorized the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement between the City of Milpitas and Milpitas Pacific Associates, L.P., for the Affordable Housing Project at 308 Sango Court.

10. **Receive an Update on the Security Improvements at the McCarthy Ranch Sewer Lift Station (Main Lift) and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

(1) Received an update on the security improvements at the McCarthy Ranch Sewer Lift Station; and
(2) Determined by a four-fifths vote that the condition continues to constitute an emergency.

11. **Consider a Fee Waiver Request from the Christian Worship Center Bay Area (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Approved a fee waiver of \$1,500 for the Christian Worship Center Bay Area's Annual Easter Egg Hunt at Starlite Park on April 19, 2025.

PUBLIC HEARINGS

12. **Recruiting, Hiring, and Vacancy Update for July 1 – December 31, 2024 (Staff Contact: Kelli Parmley, Human Resources Director, 408-586-3086)**

City Manager Thomas introduced the item. Human Resources Director Parmley presented the report.

Councilmember Lien asked about the 11 vacant positions out of the 43 total vacancies that were being held strategically. Human Resources Director Parmley explained that about seven of those were in Public Works, where the department director was carefully assessing staffing needs.

Councilmember Lam raised concerns about the city's four-and-a-half-day workweek and how it affected public service. Human Resources Director Parmley clarified that employees were still working full-time, with some remote work on Fridays. City Manager Thomas added that starting March 1, City Hall would be fully open on Fridays to better serve the public.

Mayor Montano inquired about the status of part-time employees. The mayor also questioned whether part-time employees were given preference in full-time hiring. Human Resources Director Parmley explained that government hiring regulations do not allow automatic preference, though part-time employees are encouraged to apply. The mayor also raised concerns about hiring transparency, stating that some applicants had reported not receiving responses after applying. Human Resources Director Parmley reassured the council that the HR team was improving communication plans to ensure all applicants received timely updates.

Councilmember Chua asked if there was a policy on the number of days a week city employees can work remotely. City Manager Thomas provided clarification on the city's approach to telework and offered to look into developing a policy. Human Resources Director Parmley added the importance of telework in recruitment.

Councilmember Lam asked if the city had a structured approach to prepare for retirements. Human Resources Director Parmley acknowledged that while there is no formal succession policy, discussions were underway among department heads. She cited the Police Department as a strong example of succession planning, with Chief of Police already tracking upcoming retirements and planning accordingly.

Vice Mayor Barbadillo suggested the development of a policy to standardize remote work and succession planning. Human Resources Director Parmley agreed and noted that HR was engaging with department directors to develop a citywide leadership training and professional development program.

Councilmember Lam asked about the average retirement age and whether vacancies were being proactively filled. Human Resources Director Parmley noted that retirement timelines vary and that the city is working on improving succession planning while ensuring equity in internal promotions.

The presentation concluded with Human Resources Director Parmley emphasizing that sustaining a single-digit vacancy rate is a joint effort between HR and department heads. She also stressed the importance of engaging and retaining employees to ensure the long-term success of the city's workforce.

Mayor Montano opened the public hearing.

There were the following public speakers:

1. Voltaire Montemayor

Mayor Montano closed the public hearing.

ITEMS PULLED FROM CONSENT CALENDAR

5. FY 2024-25 2nd Quarter Financial Status Report for the Quarter Ended December 31, 2024 (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)

Councilmember Lam asked to defer the item so that a presentation to Council could be included.

There were the following public speakers:

1. Voltaire Montemayor

After discussion, motion: to defer the item to a future agenda.

Motion/Second: Councilmember Lam / Councilmember Chua

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Barbadillo, Councilmember Chua, Councilmember Lam, Councilmember Lien

NOES: None

6. Review Fiscal Year 2024-25 Mid-Year Report, Adopt a Resolution Approving FY2024-25 Mid-year Budget Amendments, and Adopt a Resolution Amending Resolution No. 1626, the Classification Plan to Approve and Adopt the Pay Schedule titled “New Job Classifications/Salary Table” (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)

Councilmember Lam asked to defer the item.

There were no public speakers.

After discussion, motion: to defer the item to a future agenda.

Motion/Second: Councilmember Lam / Councilmember Chua

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Barbadillo, Councilmember Chua, Councilmember Lam, Councilmember Lien

NOES: None

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Councilmember Chua asked for the City Attorney to look into a policy to require a Super Majority vote by Council for any deductions to budget reserves. There was consensus in support of the request.

Vice Mayor Barbadillo asked to bring back a discussion regarding fentanyl-related issues. There was a consensus to add this item to the prioritization list.

Mayor Montano asked for feasibility study regarding a Police satellite office. There was a consensus to add this item to the prioritization list.

ADJOURNMENT

Mayor Montano adjourned the meeting at 8:36 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta

TENTATIVE CITY COUNCIL AGENDA ITEM LIST

as of 2/27/2025

March 18, 2025 – Regular Meeting (7:00 PM)

INVOCATION (Mayor Montano)

PRESENTATION

- Neighborhood Beautification Awards (Certificate)

CONSENT CALENDAR

1. Receive City Council calendar for March and April 2025 (City Clerk)
2. Approve City Council meeting minutes of March 4, 2025 (City Clerk)
3. Preview list of items for April 1, 2025 (City Clerk)
4. Councilmember Request List (City Clerk)
5. 2024 Housing Element Annual Progress Report (Housing)
6. 2024 General Plan Annual Progress Report (Planning)
7. DOE Grant – SVCE Subrecipient Agreement (Public Works)
8. Emergency Declaration Update - Main Sewer Lift Station Security Measures (Public Works)
9. Add / Delete Staffing Changes for Principal Engineer and Senior Public Works Lead (Public Works)
10. Dempsey Road Water Main Replacement Award (Public Works)

COMMUNITY DEVELOPMENT

11. Innovation District Branding Initiative – Logo Design Development (City Manager / Economic Development)

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

OPEN ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
1	Look into a policy to require a Super Majority vote by Council for any deductions to budget reserves.	Chua	2/18/2025	An update on this item is included in the quarterly prioritization update.
2	Bring back a discussion regarding fentanyl-related issues	Barbadillo	2/18/2025	An update on this item is included in the quarterly prioritization update.
3	Feasibility study regarding a police satellite office.	Montano	2/18/2025	An update on this item is included in the quarterly prioritization update.

ACTIVE ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
4	Staff organize a job fair for City job openings	Chua	11/19/2024	An update on this item is included in the quarterly prioritization update.
5	Bring back a study or analysis of the permit process	Chua	11/19/2024	An update on this item is included in the quarterly prioritization update.
6	Invite the HR Director to a future meeting to present on hiring processes and vacancies	Lien	10/1/2024	An update on this item is included in the quarterly prioritization update.
7	Explore updating the city's business tax rate schedule	Chua	10/1/2024	An update on this item is included in the quarterly prioritization update.
8	Explore funding options for new signage following the decision to rename the Milpitas Library to the Milpitas Jose Esteves Library	Barbadillo	9/3/2024	An update on this item is included in the quarterly prioritization update.
9	Send a letter to Supervisory Otto Lee regarding the weeds on Montague Expressway	Montano	8/13/2024	An update on this item is included in the quarterly prioritization update.
10	Update the animal control ordinance to include other animals such as horses and cats	Chua	9/3/2024	An update on this item is included in the quarterly prioritization update.
11	Look into a property for sale on Main Street to investigate the cost and feasibility of creating a museum for downtown or Old Town Main Street as part of the revitalization efforts.	Montano	8/13/2024	An update on this item is included in the quarterly prioritization update.
12	Look into adopting an ordinance similar to San Jose allowing ADUs (Accessory Dwelling Units) to	Chua	8/13/2024	An update on this item is included in the quarterly prioritization update.
13	Conduct a traffic study on Escuela Parkway to address circulation concerns	Montano	5/7/2024	An update on this item is included in the quarterly prioritization update.
14	Explore the possibility of augmenting the Planning Commission stipend	Barbadillo	4/16/2024	An update on this item is included in the quarterly prioritization update.
15	Consideration of the 20% Low Income Below Market Rate Housing	Montano	12/5/2023	An update on this item is included in the quarterly prioritization update.
16	Bring back Bingo and the Tour at the Senior Center	Chua	11/7/2023	An update on this item is included in the quarterly prioritization update.
17	Referral for utility infrastructure cost on Main Street from Carlo to Corning Streets	Montano	10/17/2023	An update on this item is included in the quarterly prioritization update.
18	Main Street International Festival	Lien	10/3/2023	An update on this item is included in the quarterly prioritization update.
19	Pickleball Pilot Project	Chua	2/28/2023	An update on this item is included in the quarterly prioritization update.
20	Main Street Infrastructure Projects	Montano	2/28/2023	An update on this item is included in the quarterly prioritization update.
21	Main Street Flooding at Library	Chua	2/28/2023	An update on this item is included in the quarterly prioritization update.
22	Have the City look into the possibility of a Citywide Senior Discount	Barbadillo	2/7/2023	An update on this item is included in the quarterly prioritization update.
23	City Manager to look into defining either a standalone teen center or updating information to indicate the Senior Center also functions as a Teen Center	Chua	9/20/2022	An update on this item is included in the quarterly prioritization update.

NOTE: Deferred and Completed Items are not listed

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

ACTIVE ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
24	City Manager look into implementing a workshop for small businesses on the bidding process for projects in the city	Chua	8/9/2022	An update on this item is included in the quarterly prioritization update.
25	Quarterly or Monthly crime statistics on Homekey Project	Chua	6/7/2022	An update on this item is included in the quarterly prioritization update.
26	Memorial Plaque in honor of youth skateboarder that passed away	Montano	6/7/2022	An update on this item is included in the quarterly prioritization update.
27	Evaluate reopening the childcare center with a non-profit organization running the center	Montano	2/1/2022	An update on this item is included in the quarterly prioritization update.
28	Staff to look into mural Art on Great Mall Parkway on the VTA owned Light rail pillars	Montano	11/16/2021	An update on this item is included in the quarterly prioritization update.
29	Have a picture of Albert Vogel Sr. put up in the Senior Center	Montano	10/19/2021	An update on this item is included in the quarterly prioritization update.
30	Include a bust of Maria Lemire on the Mural in front of the Senior Center	Montano	8/17/2021	An update on this item is included in the quarterly prioritization update.
31	Consider Community Museum and Park on Main St.	Phan	8/20/2019	Discussions with the property owner of this site are ongoing.

NOTE: Deferred and Completed Items are not listed



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Authorize and Approve Travel Requests to Sacramento, California, by Mayor Montano, Councilmember Chua, Councilmember Lien, and Councilmember Lam to Attend the League of California Cities 2025 City Leaders Summit from April 23 to 25, 2025 (Staff Contact: Matt Cano, Assistant City Manager, 408-586-3012)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	3/4/2025
Recommendation:	Authorize and approve travel to Sacramento, California, by Mayor Carmen Montano, Councilmember Evelyn Chua, Councilmember Hon Lien, and Councilmember William Lam to attend the League of California Cities 2025 City Leaders Summit from April 23 to 25, 2025, for a total estimated amount of \$6,621, budgeted under the Individual Elected Official Allocation for Conferences/Meetings/Trainings.

BACKGROUND:

The League of California Cities (Cal Cities) is holding its annual City Leaders Summit in Sacramento April 23-25, 2025. The City Leaders Summit offers opportunities for city leaders from across the state to influence policy decisions in the Capitol and gain top-notch leadership skills. City officials can walk the halls of the Capitol and advocate for Cal Cities' top priorities, in-between peer-to-peer discussions and in-depth educational sessions. Additionally, Mayor Montano, Councilmember Chua, Councilmember Lien, and Councilmember Lam's attendance at this Summit will foster relationships with their peers and allow for opportunities to advocate for City of Milpitas funding and priorities. Included in this agenda packet is the preliminary agenda for this Summit as Attachment 1.

ANALYSIS:

The City of Milpitas Travel and Expense Policy requires the City Council to approve all travel for the elected officials and City Manager. City Council approval of the Sacramento travel request will allow Mayor Carmen Montano, Councilmember Evelyn Chua, Councilmember Hon Lien, and Councilmember William Lam to gain knowledge from other California policymakers and bring it back to share with their colleagues, as well as to advocate with our State representatives for City of Milpitas priorities. Continued conference participation and attendance also ensure the Milpitas community is fully represented at the regional, state, and national levels.

POLICY ALTERNATIVE(S):

Not Applicable

FISCAL IMPACT:

The estimated individual expenses for the Sacramento, CA League of CA Cities City Leaders Summit, including the registration fee, lodging, meals, mileage, and incidental reimbursements, are \$1,665 for each elected official.

Attachment 2 details the remaining travel budget allocations for each councilmember for the current fiscal year. Mayor Carmen Montano has exhausted her travel funds for this fiscal year. However, there is sufficient funding remaining in the overall City Council travel account to accommodate this shortfall. As such, should this agenda item be approved, staff will allocate the necessary funds from the overall council travel allocation, thus granting a one-time exception to the Mayor's annual travel budget limit. Councilmembers Chua, Lam and Lien have sufficient funding in their accounts remaining for this travel, as shown on Attachment 2.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action is an organizational or administrative activity of the City government that will not result in direct or indirect physical changes in the environment and is not a project pursuant to Cal. Code of Regs., tit. 14, § 15378.

RECOMMENDATION:

Authorize and approve travel to Sacramento, California, by Mayor Carmen Montano, Councilmember Evelyn Chua, Councilmember Hon Lien, and Councilmember William Lam to attend the League of California Cities 2025 City Leaders Summit from April 23 to 25, 2025, for a total estimated amount of \$6,621, budgeted under the Individual Elected Official Allocation for Conferences/Meetings/Trainings.

ATTACHMENT(S):

- (a) 2025 City Leaders Summit Draft Agenda
- (b) Council Conferences Budget Tracking



CITY LEADERS SUMMIT

April 23-25, 2025

*Schedule subject to change.
Speaker names will be added as they are confirmed.*

Wednesday, April 23

9:00 a.m.-5:30 p.m.

Registration Open

10:00 a.m.-11:15 a.m.

Opening General Session

Day one of the conference focuses on legislative advocacy. Join Cal Cities leadership and lobbyists for an update on high priority legislation that you will want to advocate on when you meet with legislative officers later in the day.

11:30 a.m.-12:15 p.m.

Press Conference

12:15-5:00 p.m.

Lunch on Your Own/Lobbying at the Capitol

2:00-5:00 p.m.

Educational Sessions

More information to be announced at a later date.

5:00-7:00 p.m.

Reception

Thursday, April 24

7:30 a.m.-4:00 p.m.

Registration Open

7:30-8:30 a.m.

Networking Breakfast

8:30-9:45 a.m.

Concurrent Sessions

Aligning Goal Setting and the Performance Evaluation Process: Best Practices to Retain Top Executive Talent

This session will dive into innovative, practical strategies for setting clear goals and conducting effective performance evaluations for appointed officials like city managers, city attorneys, and city clerks. Elected city leaders will discover streamlined techniques for facilitating alignment between council priorities and managerial execution, leading to a more cohesive leadership team and improved retention. Learn best practices to simplify and enhance the performance review process including the contract negotiation component, resulting in a supportive environment where roles are clear, goals are aligned, and every appointed executive in your organization is positioned for success.

Moderator: Jacob Green, President & CEO, Jacob Green & Associates

Bridging Prosperity: Leveraging the Synergy Between Housing, Commerce, and Public Spaces to Create Thriving Communities

By strategically investing in affordable housing and integrating it with other essential community elements, jurisdictions can spark significant economic and community reinvestment, leading to sustainable and inclusive growth for all residents. Using an integrated development approach, explore the nexus of affordable housing, economic development, equity and community revitalization through strategic investments to drive economic growth and community betterment.

Moderator: Tara Matthews, Vice President / Principal, RSG, Inc.

Speakers: Dena Fuentes, Director, RSG

Rebecca Louie, President/CEO, Wakeland Housing and Development Corporation

Rochelle Mills, President and CEO, Innovative Housing Opportunities

10:00-11:15 a.m.

Concurrent Sessions

Partners in Local Governance: Strength, Continuity, Leadership in Modern Local Government

Successful local governance relies on a strong partnership between elected officials and professional staff. This session brings together seasoned leaders from both sides of the dais to share their experiences, challenges, and lessons learned in fostering effective collaboration. Through real-world stories and candid discussions, this session will explore the dynamics of governance, communication, and decision-making, offering strategies to strengthen relationships, build effective council-city manager partnerships and improve outcomes for communities.

Moderator: The Honorable Joe Simitian

Speakers: Mary Bier, Council Member, City of Pacifica

Kevin Woodhouse, City Manager, Pacifica

Speed Sessions

When Public Comment Crosses the Line (10:00-10:20 a.m.)

Cities of all sizes have recently experienced a surge in public comment that is excessively vulgar and fiery, and at times even beyond what may be protected by the Brown Act and First Amendment. Elected officials surely anticipate criticism and sharp commentary, but what about when the remarks serve to make meeting attendees and those on the dais fear for their personal safety? Cities often find their hands tied when mitigating public comment that would be prohibited in most other public forums, such as state and federal legislatures and courts. Generally, applicable rules of decorum are often not enough to regulate or discourage the conduct in more extreme instances. When public comment moves from critical to frightening, what can cities do? This panel presentation will discuss the possibility of a workplace violence restraining order against meeting attendees whose conduct injects fear into public meetings.

Speaker: John Funk, City Attorney, Downey

Unofficial Guide to Surviving and Thriving in Elected Office (10:25-10:45 a.m.)

Discover the tips, tricks, and truths no one tells you before you're sworn in. This session will share hard-earned wisdom, from building coalitions to managing crises, to growing thick layers of skin in order to do the right thing. Learn to lead effectively while keeping your ego in check, your sanity intact, and your relationships intentional.

Speaker: Scott Alvord, CEO, Advanced Development Concepts, LLC

Today's Roadmap to Economic Development: Climate Action, Zoning, and Housing (10:50-11:10 a.m.)

Economic development has transitioned from redevelopment to sustainability; from retail to residential; from shopping trips to retail apps, all with a focus on green infrastructure, resiliency, and density. In a post-COVID digital world consumers want a 15-minute community with restaurants, jobs, and great schools. The private sector is investing in green energy projects, with federal and state funding available to support these efforts. Meanwhile, the state is encouraging cities to increase density, as housing represents the highest land value. This session will show city leaders how to implement effective economic development by taking advantage of zoning and financing tools to attract and induce private investment the community wants.

Speaker: Larry Kosmont, Chair & CEO, Kosmont Companies

11:15 a.m.-12:15 p.m.

Networking Lunch

12:15-1:45 p.m.

General Session: Building Communities of Trust: How Cities Can Bridge the Trust Divide

Nothing is more essential to human happiness—or the success of our societies—than trust in one another. Yet, trust has been eroding. Too many people feel disconnected from their neighbors, suspicious of strangers, and excluded from the social fabric of their communities. The good news? Our cities have the power to help bridge the trust divide. In this visual journey, the speaker shares fascinating and often funny social experiments to demonstrate that we can redesign our communities to draw people together in ways that nurture the bonds that keep us all healthy, happy, and strong. By understanding the effect that design has on our emotions and decisions, we can all help shape this empowering new vision of city life.

2:00-3:15 p.m.

Concurrent Sessions

What Happens When Reporters Leave Your Town - And What to Do About It

California has lost one-third of its newspapers since 2005, turning many cities into news “mirages.” This panel will explore the impact of the shifting media environment on public safety and city governments, including the decline in reliable media coverage and reduced reporting on city council meetings. Drawing from the experience of city officials and reporters, along with the support of the California Association of Public Information Officers and an [in-depth feature article in Western City magazine](#), this panel will explore how some cities are finding new ways to communicate essential information to residents and other efforts to build more local reporting capacity.

Moderator: Brian Hendershot, Managing Editor, Western City Magazine, Cal Cities

Speakers: Soheila Bana, Council Member, City of Richmond

Patricia Lock Dawson, Mayor, City of Riverside

Christa Scharfenberg, Project Director, UC Berkeley Journalism - CA Local News Fellowship

Amy Williams, Assistant to the City Manager/Chief of Staff, Sacramento

Addressing Climate and Environmental Inequities in Black Communities

Black communities face disproportionate climate risks, from health disparities like asthma to economic instability due to environmental hazards. Despite state mandates such as SB 272 requiring climate adaptation planning, funding gaps and equity considerations remain unaddressed, leaving these neighborhoods vulnerable. This panel will explore how local governments can drive meaningful change by prioritizing climate resilience funding, green job creation, housing equity, and community-led solutions. Join us for a critical discussion on

advancing environmental justice and ensuring Black communities have a voice in climate policy and adaptation efforts.

Moderator: Princess Washington, Council Member, City of Suisun City

Speakers: Troy Finley, President, National Action Network Bay Area
Zoe Siegel, Senior Director of Climate Resilience, Greenbelt Alliance

3:15-3:45 p.m.

Break

3:45-5:00 p.m.

Concurrent Sessions

Gangs Out of Downey: A Crime Prevention Model

This session will highlight the impactful gang prevention efforts led by Gangs Out of Downey (GOOD), in collaboration with community partners, including the City of Downey. It will showcase how these partnerships create efficient, community-driven strategies to support the safety and well-being of Downey's youth and their families. GOOD and its partners leverage their expertise and resources to provide intervention, prevention, and diversion services, aligning with National Gang Center best practices that emphasize engaging community groups, after-school activities, and family support programs. Key initiatives like Kids & Cops Day and the School Resource Officer (SRO) program will be explored, demonstrating how these programs foster trust and positive relationships between youth and law enforcement. The City of Downey's financial support, including Community Development Block Grant funds and contributions to GOOD's programs and events, highlights a shared commitment to providing pathways for opportunity and well-being for young residents. Through these collaborative efforts, GOOD has been instrumental in maintaining Downey as a gang-free city, raising awareness about gang-related dangers, and empowering local youth to pursue positive futures.

Moderator: Roger Bradley, City Manager, Downey

Speakers: Darrell Jackson, Founder, 10-20 Club Inc.

Scott Loughner, Chief of Police, Downey Police Department

Hector Sosa, Mayor, City of Downey

California's Economic Outlook: Navigating the Future with Data-Driven Insights

Join UCLA Anderson Forecast and Avenu Insights & Analytics for an in-depth analysis of California's economic landscape and emerging trends that impact cities and their leaders. For over six decades, UCLA Anderson Forecast has delivered highly respected economic forecasts, while Avenu has guided California's local governments with insights on regional and local trends for over 40 years. This session provides a comprehensive view of both the state and local economic forecasts, equipping leaders with actionable insights to support resilient, prosperous communities

Moderator: Reva Feldman, Retired City Manager, Malibu

Speakers: Thomas Adams, Director of Sales and Use Tax Audit, Avenu Insights & Analytics
Jerry Nickelsburg, Professor, UCLA

Friday, April 25

8:00-11:00 a.m.

Registration Open

8:00-9:00 a.m.

Networking Breakfast

8:45-10:00 a.m.

Concurrent Sessions

Navigating PFAS Litigation: Securing Municipal Remediation Funds

This session will provide an in-depth look at the legal strategies and current overview of PFAS litigation, focusing on how municipal lawyers can protect clients and secure funds for PFAS remediation. As environmental concerns and regulations intensify, city leaders must understand statute of limitations issues, emerging regulations, and the current status of nationwide PFAS litigation, including the importance of timely action. Discover critical insights into the current settlements, future settlements, multi-district litigation (MDL) status, significant deadlines, and the role of municipal attorneys in protecting public health by securing financial resources for their communities.

Speaker: Michael Stag, Managing Partner, Stag Liuzza

Earning Public Trust: Practical Strategies for Transparent and Effective Leadership

Trust is the cornerstone of good governance and effective collaboration with our communities, and elected leaders play a pivotal role in fostering trust with our cities. Clear, transparent messaging, publicly addressing resident concerns and openly acknowledging mistakes are keen aspects of trust building exercises. In this session, the panel will explore proven strategies for building trust with residents. From transparency in decision-making to council processes and decorum standards, attendees will learn practical approaches that forge collaboration and not division in the city-resident relationship. This session will highlight experiences of elected leaders and public servants who have successfully navigated challenges that either threatened or rebuilt trust in their cities.

Moderator: Ryder Smith, President, Tripepi Smith

Speakers: Dante Hall, City Manager, Hercules
Brenda Olmos, Council Member, City of Paramount

10:30 a.m.-12:00 p.m.

Closing General Session: What Makes Each Generation Want to Vote

Age matters . . . but maybe not in the way you are thinking. What motivates Gen-X to go to the ballot box or keeps them on the sidelines is different than what moves Gen-Z one way or the other. This session will look at what makes each generation unique, what motivates them to vote, and how to create personalized messages to better connect with each age group. In addition to exploring the differences between Boomers and Millennials or Generation-X and Generation-Z, we'll look at some of the things all age groups have in common. This high-energy, interactive, and inspiring session will make you think, laugh, and learn.

Speaker: Lee Silber, Lead Trainer, Creative-Lee Speaking

Council Conferences/Trainings FY 24-25 Budget Tracking Sheet

Mayor Montano				
	Training/Travel Event	FY24-25 Amount Expended/Estimates	Total	Remaining Balance
			\$ 11,659.59	-\$ 1,659.59
1	Long Beach Annual Conference and Expo: Oct 16 - 18, 2024	\$ 2,685.65	estimates only	estimates only
2	Cities Association of SCC Annual Holiday Dinner: Dec 8, 2024	\$ 50.00		
3	League of Cal Cities 2025 New Mayors and Council Members Academy: Jan 21-23	\$ 1408.19		
4	USCM 93rd Winter Meeting: Jan 16 - 20, 2025	\$ 5,723.55		
5	2025 Peninsula Legislators Meeting Attendance Fee	\$ 126.80		
6	Cal Cities City Leaders Summit April 23-35	\$1,665.40		

Vice Mayor Barbadillo				
	Training/Travel Event	FY24-25 Amount Expended/Estimates	Total	Remaining Balance
			\$ 75.00	\$ 9,925.00
1	Cities Association of SCC Annual Holiday Dinner: Dec 8, 2024	\$ 75.00		

Councilmember Chua				
	Training/Travel Event	FY24-25 Amount Expended/Estimates	Total	Remaining Balance
			\$ 7468.95	\$ 2,531.05
1	Long Beach Annual Conference and Expo: Oct 16 - 18, 2024 Cancellation fee only	\$ 75.00	estimates only	estimates only
2	USCM 93rd Winter Meeting: Jan 16 - 20, 2025-	\$ 5,653.55		
3	LoCC 2025 New Mayors and Council Members Academy-cancellation fee only	\$ 75.00		
4	Cal Cities City Leaders Summit April 23-35	\$1,665.40		

Councilmember Lien				
	Training/Travel Event	FY24-25 Amount Expended/Estimates	Total	Remaining Balance
			\$ 3,957.47	\$ 6,042.53
1	Long Beach Annual Conference and Expo: Oct 16 - 18, 2024 Cancellation fee only	\$ 75.00	estimates only	estimates only
2	2025 NorCal Mayors and Council Members Academy Reg	\$ 1408.19		
3	USCM 93rd Winter Meeting: Jan 16 - 20, 2025-Flight cancellation fee	\$ 758.88		
4	Cities Association of SCC Annual Holiday Dinner: Dec 8, 2024	\$ 50.00		
5	Cal Cities City Leaders Summit April 23-35, 2025	\$1,665.40		

Councilmember Lam				
	Training/Travel Event	FY24-25 Amount Expended/Estimates	Total	Remaining Balance
			\$ 3504.05	\$ 6,495.95
1	Cities Association of SCC Annual Holiday Dinner: Dec 8, 2024	\$ 50.00	estimates only	estimates only
2	2025 NorCal Mayors and Council Members Academy Reg	\$ 1498.20		
3	Sterling Hotel	\$ 290.45		
4	Cal Cities City Leaders Summit April 23-35	\$1,665.40		



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Expressing Support by the City of Milpitas to Fully Fund Metro Tango Subdistrict Park from TASP Impact Fees per the Outdoor Recreation Legacy Partnership Grant Application Requirement (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)
Category:	Consent Calendar-Community Development
Meeting Date:	3/4/2025
Recommendation:	Adopt a resolution expressing support by the City of Milpitas to fully fund Metro Tango Subdistrict Park, Project No. 2023, in the amount of \$10 million from TASP Impact Fees per the Outdoor Recreation Legacy Partnership Grant Application requirement.

BACKGROUND:

The Metro Tango Subdistrict Park, Project No. 2023 (Project) is in the adopted 2025-2029 Capital Improvement Program. The Project provides for the design and construction of a new 4-acre park on two city-owned parcels at 1831 Tarob Court and 1700 Sango Court within the Tango Subdistrict of the Milpitas Metro Specific Plan.

On March 19, 2024, the City Council approved a design service agreement with Callander Associates Landscape Architecture, Inc. (CALA) in the amount of \$420,237 for planning, community outreach, and design services. The Project is currently in the community outreach phase.

Blais and Associates (B&A), a firm retained by the City for both grant identification and writing services, identified the Outdoor Recreation Legacy Partnership (ORLP) Grants Program as a potential funding opportunity for the Project. The ORLP provides matching grants up to 50% of the total project costs to support park projects in underserved communities that lack access to parks and outdoor recreation. It is managed by the U.S. Department of the Interior – National Parks Service and funded through the Land and Water Conservation Fund. After a comprehensive evaluation of the grant requirements, staff determined the Project would qualify for this funding opportunity.

ANALYSIS:

The ORLP grant application process is conducted in two steps where the California Department of Parks and Recreation's Office of Grants and Local Services reviews applications at the state level and then selects applications to move forward to the National Park Service to compete in the nationwide competition. The deadline for the first-round application is March 11, 2025.

The Project meets all eligibility criteria except for the committed funding requirement whereby the applicant must commit 100% of the funding at the time of first round application submission. The ORLP operates as a reimbursement-based program where the applicant must be prepared to finance the project's cost, with the understanding that the project would be reimbursed up to 50% upon completion.

Based on feedback from two rounds of community engagement, CALA has developed a comprehensive conceptual design that reflects community priorities and aims to create a multi-use space for all residents. The park is anticipated to feature tennis court with lighting, bankshot basketball, community garden, dog play area, walking pathways, restroom, fitness stations, tot and youth play areas, landscaping, seating areas, shaded group picnic areas, safety lighting, and on-street parking. The preliminary Project cost is \$10 million. Staff anticipates presenting the final refined conceptual plan to the Parks, Recreation & Cultural Resources

Commission in May and City Council for approval in June 2025. The Project design is expected to be completed by the end of 2026 to start the construction in 2027, pending construction of the street network.

The Project, identified as number DB #28, is listed in the Basic Infrastructure Program of the Transit Area Specific Plan (TASP) and earmarked to be funded by the TASP Impact Fee. Staff recommends the City Council approve a budget appropriation of \$10 million to the Project to meet the funding commitment requirement of ORLP to proceed with the application submission.

POLICY ALTERNATIVE(S):

Alternative 1: Do not support to fully fund the Project in the amount of \$10 million from the TASP Impact Fee to apply for the Outdoor Recreation Legacy Partnership Grant Application.

Pros: The City will not allocate resources to prepare the grant application.

Cons: The City will forgo an opportunity to supplement, up to \$5 million, the Project budget of \$10 million. If the Project is selected, the designated funding from the TASP Impact Fee can be reallocated to other park projects listed in the Basic Infrastructure Program of the Transit Area Specific Plan in the category of Park and Community Facilities (DB#21-36).

Reasons not recommended: The City will forgo an opportunity to supplement up to \$5 million of the park's estimated construction cost. If the Project is selected, the earmarked funding from the TASP Impact Fee can help support the financing of other park projects listed in the Basic Infrastructure Program of the Transit Area Specific Plan in the category of Park and Community Facilities (DB#21-36).

FISCAL IMPACT:

There is approximate of \$49.6m in the TASP Impact Fee fund balance where \$19.6m is designated for the category of Park and Community Facilities (DB#21-36). There is sufficient funding in TASP to meet the funding requirement per the ORLP grant criteria.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The proposed activity of applying for a grant is not a project pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15378(b). The fiscal management of budgeting is an ongoing administrative fiscal activity and is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3). The programmatic impacts of having a park in this location were previously analyzed and addressed in the Environmental Impact Report for the Milpitas Metro Specific Plan (SCH#: 2006032091), and no further environmental review is required pursuant to CEQA Guidelines Section 15162 as the present action presents no substantial changes to that prior project or the circumstances under which it would be undertaken and no new information of substantial importance has arisen. To the extent any further environmental review is required, it will be completed prior to the commitment to any specific project action beyond the scope of the prior environmental review.

RECOMMENDATION:

Adopt a resolution expressing support by the City of Milpitas to fully fund Metro Tango Subdistrict Park, Project No. 2023, in the amount of \$10 million from TASP Impact Fee per the Outdoor Recreation Legacy Partnership Grant Application requirement.

ATTACHMENT(S):

a) Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
EXPRESSING SUPPORT TO FULLY FUND METRO TANGO SUBDISTRICT
PARK, PROJECT NO. 2023 IN THE AMOUNT OF \$10 MILLION FROM TASP
IMPACT FEE PER THE OUTDOOR RECREATION LEGACY PARTNERSHIP
GRANT APPLICATION REQUIREMENT**

WHEREAS, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, Metro Tango Subdistrict Park, Project No. 2023 (“Project”) is in the adopted 2025-2029 Capital Improvement Program; and

WHEREAS, The Project, identified as number DB #28, is listed in the Basic Infrastructure Program of Transit Area Specific Plan (TASP) and is designated to be funded by the TASP Impact Fee.

WHEREAS, On March 19, 2024, City Council approved a design services agreement with Callandar Associates Landscape Architecture, Inc. in the amount of \$420,237 for the planning, community outreach, and design services for the park; and

WHEREAS, The preliminary Project cost is \$10 million; and

WHEREAS, The Outdoor Recreation Legacy Partnership Grants Program provides matching grants of up to 50% of total project costs to cities for park projects in underserved communities lack access to parks and outdoor recreation; and

WHEREAS, The ORLP operates as a reimbursement-based program where the applicant must be prepared to fully fund the project cost, with the understanding the project would be reimbursed up to 50% upon completion. The program mandates that applicants fully commit 100% of the project funding at the time of application.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

SECTION 1. Recitals

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference; and

SECTION 2. City Council Approval

The City Council of the City of Milpitas hereby adopts Resolution XXXX expressing support by the City of Milpitas to fully fund Metro Tango Subdistrict Park, Project No. 2023, in the amount of \$10 million from TASP Impact Fee per the Outdoor Recreation Legacy Partnership Grant Application Requirement.

PASSED AND ADOPTED this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Christopher Creech, Acting City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, for Fiscal Year 2025-26 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)
Category:	Consent Calendar-Community Development
Meeting Date:	3/4/2025
Recommendation:	Adopt a resolution initiating proceedings for the annual levy and collection of assessments, and ordering the preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, for Fiscal Year 2025-26.

BACKGROUND:

On May 2, 1995, the City Council completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, establishing the Landscaping and Lighting Maintenance Assessment District No. 95-1 - McCarthy Ranch (LLMD 95-1) for the improvement and maintenance of public landscaping, irrigation, pedestrian lighting, gateway columns and entry signs along Ranch Drive and North McCarthy Boulevard between State Route 237 and Dixon Landing Road as shown on the attached location map (**Attachment 1**).

ANALYSIS:

The Landscaping and Lighting Act of 1972 requires the adoption of a resolution (**Attachment 2**) directing preparation of the annual engineer's report evaluating LLMD 95-1 maintenance and improvement costs and generally describing any proposed new improvements or any substantial changes in existing improvements. At subsequent meetings, the City Council will be asked to approve the completed engineer's report and schedule a public hearing for the proposed assessment this coming May and June. Upon City Council approval, the assessment for the maintenance and improvement work will be added to the 2025-26 property tax bills of property owners within the boundaries of LLMD 95-1.

POLICY ALTERNATIVE(S):

Alternative 1:

Not adopt a resolution initiating proceeding for the annual levy and collection of assessments and ordering the preparation of the annual engineer's report for LLMD 95-1.

Pros: None

Cons: If the City Council does not adopt the Resolution according to the Landscaping and Lighting Act of 1972, the City will be unable to collect assessments for LLMD 95-1.

Reason not recommended: Staff recommends approving the Resolution confirming the assessment and ordering the levy for FY 2025-26 to allow for the continued maintenance and service of LLMD 95-1.

FISCAL IMPACT:

The levy and collection of assessments provides a dedicated revenue source for the City to improve and maintain public landscaping, irrigation, pedestrian lighting, gateway columns and entry signs along Ranch Drive and North McCarthy Boulevard between State Route 237 and Dixon Landing Road within LLMD 95-1.

The completion of the engineer's report will determine the FY 2025-26 maintenance budget for LLMD 95-1. Otherwise, this action item has no fiscal impact.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

Levy and collection of assessment is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

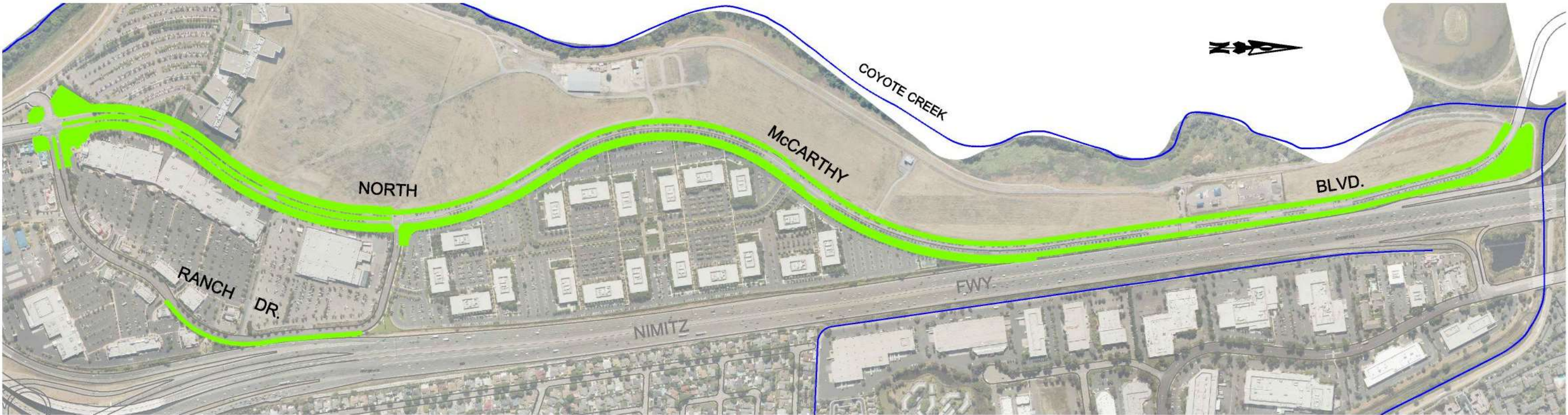
RECOMMENDATION:

Adopt a resolution initiating proceedings for the annual levy and collection of assessments and ordering the preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, for Fiscal Year 2025-26.

ATTACHMENT(S):

- a) Location Map
- b) Resolution

CITY OF MILPITAS
LANDSCAPING MAINTENANCE DISTRICT (LMD) 95-1
(N.T.S.)



 2025-2026 FISCAL YEAR LANDSCAPE AREA FUNDED FOR MAINTENANCE

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 95-1 - MCCARTHY RANCH FOR FISCAL YEAR 2025-26, ORDERING THE PREPARATION OF THE ANNUAL ENGINEER'S REPORT, AND MAKING CERTAIN FINDINGS RELATED THERETO

WHEREAS, on May 2, 1995, the City Council (the "City Council") of the City of Milpitas (the "City") completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the "Act") to establish Landscaping and Lighting Maintenance Assessment District No. 95-1 - McCarthy Ranch (the "Maintenance District"), for the purpose of paying for the installation, construction, maintenance and/or servicing of certain improvements authorized under the Act, and incidental expenses in connection therewith (collectively, the "Improvements"); and

WHEREAS, Section 22620, *et seq.* of the Act provides for the levy of annual assessments after formation of the Maintenance District; and

WHEREAS, the City has retained NBS Government Finance Group as assessment engineer for the purpose of assisting with the annual levy of the Maintenance District, and the preparation and filing of a report in accordance with Section 22565, *et seq.*, of the Act (the "Engineer's Report"); and

WHEREAS, pursuant to Section 22622 of the Act, the City Council wishes to initiate proceedings to provide for the levy of assessments for Fiscal Year 2025-26 in order to provide funding for the necessary costs and expenses pertaining to the maintenance of the Improvements within the Maintenance District.

NOW, THEREFORE, the City Council hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Engineer's Report: The City Council hereby orders NBS Government Finance Group to prepare and file with the City Clerk the Engineer's Report concerning the levy and collection of assessments within the Maintenance District for the fiscal year commencing July 1, 2025, and ending June 30, 2026, in accordance with Section 22565, *et seq.*, of the Act.
3. New Improvements or Changes to Existing Improvements: There are no changes to existing Improvements nor are there any items being added to the list of Improvements previously approved at the formation of the Maintenance District.

PASSED AND ADOPTED this ____ day of _____, 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Christopher Creech, Assistant City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, for Fiscal Year 2025-26 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)
Category:	Consent Calendar-Community Development
Meeting Date:	3/4/2025
Recommendation:	Adopt a resolution initiating proceedings for the annual levy and collection of assessments and ordering the preparation of the annual engineer's report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, for Fiscal Year 2025-26.

BACKGROUND:

On June 16, 1998, the City Council completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, establishing the Landscaping and Lighting Maintenance Assessment District No. 98-1 - Sinclair Horizon (LLMD 98-1) for the improvement and maintenance of public landscaping, irrigation, and pedestrian walking path adjacent to Sinclair Frontage Road and Los Coches Creek abutting the Sinclair Horizon residential subdivision as shown in the attached location map (**Attachment 1**).

ANALYSIS:

The Landscaping and Lighting Act of 1972 requires adoption (**Attachment 2**) of a resolution directing preparation of the annual engineer's report evaluating LLMD 98-1 maintenance and improvement costs and generally describing any proposed new improvements or any substantial changes in existing improvements. At subsequent meetings, the City Council will be asked to approve the completed engineer's report and to schedule a public hearing for the proposed assessment this coming May and June. Upon City Council approval, the assessment for the maintenance and improvement work will be added to the 2025-26 property tax bills of property owners within the boundaries of LLMD 98-1.

POLICY ALTERNATIVE(S):

Alternative 1:

Not adopt a resolution initiating proceeding for the annual levy and collection of assessments and ordering the preparation of the annual engineer's report for LLMD 98-1.

Pros: None

Cons: If the City Council does not adopt the Resolution according to the Landscaping and Lighting Act of 1972, the City will be unable to collect assessments for LLMD 98-1.

Reason not recommended: Staff recommends approving the Resolution confirming the assessment and ordering the levy for FY 2025-26 to allow for the continued maintenance and service of LLMD 98-1.

FISCAL IMPACT:

The levy and collection of assessments provides a dedicated funding resource for the City to improve and maintain public landscaping, irrigation, and pedestrian walking path adjacent to Sinclair Frontage Road and Los Coches Creek abutting the Sinclair Horizon residential subdivision within LLMD 98-1. The completion of the engineer's report will determine the FY 2025-26 maintenance budget for the LLMD 98-1. Otherwise, this action item has no fiscal impact.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

Levy and collection of assessment is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

RECOMMENDATION:

Adopt a resolution initiating proceedings for the annual levy and collection of assessments and ordering the preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, for Fiscal Year 2025-26.

ATTACHMENT(S):

- a) Location Map
- b) Resolution

CITY OF MILPITAS
LANDSCAPING MAINTENANCE DISTRICT (LMD) 98-1
(N.T.S.)



 2025-2026 FISCAL YEAR LANDSCAPE AREA FUNDED FOR MAINTENANCE

ST

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR THE LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 98-1 SINCLAIR HORIZON FOR FISCAL YEAR 2025-26, ORDERING THE PREPARATION OF THE ANNUAL ENGINEER'S REPORT, AND MAKING CERTAIN FINDINGS RELATED THERETO

WHEREAS, on June 16, 1998, the City Council (the "City Council") of the City of Milpitas (the "City") completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the "Act") to establish Landscaping and Lighting Maintenance Assessment District No. 98-1 - Sinclair Horizon (the "Maintenance District"), for the purpose of paying for the installation, construction, maintenance and/or servicing of certain improvements authorized under the Act, and incidental expenses in connection therewith (collectively, the "Improvements"); and

WHEREAS, Section 22620, *et seq.* of the Act provides for the levy of annual assessments after formation of the Maintenance District; and

WHEREAS, the City has retained NBS Government Finance Group as assessment engineer for the purpose of assisting with the annual levy of the Maintenance District, and the preparation and filing of a report in accordance with Section 22565, *et seq.*, of the Act (the "Engineer's Report"); and

WHEREAS, pursuant to Section 22622 of the Act, the City Council wishes to initiate proceedings to provide for the levy of assessments for Fiscal Year 2025-26 in order to provide funding for the necessary costs and expenses pertaining to the maintenance of the Improvements within the Maintenance District.

NOW, THEREFORE, the City Council hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Engineer's Report: The City Council hereby orders NBS Government Finance Group to prepare and file with the City Clerk the Engineer's Report concerning the levy and collection of assessments within the Maintenance District for the fiscal year commencing July 1, 2025, and ending June 30, 2026, in accordance with Section 22565, *et seq.*, of the Act.
3. New Improvements or Changes to Existing Improvements: There are no changes to existing Improvements nor are there any items being added to the list of Improvements previously approved at the formation of the Maintenance District.

PASSED AND ADOPTED this ____ day of _____, 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Christopher Creech, Assistant City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive an Update on the Security Improvements at the McCarthy Ranch Sewer Lift Station (Main Lift) and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	3/4/2025
Recommendation:	(1) Receive an update on the security improvements at the McCarthy Ranch Sewer Lift Station; and (2) Determine by a four-fifths vote that the condition continues to constitute an emergency.

BACKGROUND:

Pursuant to Public Contract Code section 22050 and the attached Council Resolution No. 9134, the Director of Public Works, in the case of emergency, may authorize a repair of a public facility and procure the work without giving notice for bids. An emergency is defined as “a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.” Additionally, State law requires the Public Works Director, as the City official with delegated authority to take emergency action, to report any emergency authorization and the reason(s) for the authorization to the City Council not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action. Further, the Public Works Director is required to report why the emergency would not permit a delay resulting from a competitive solicitation for bids and the City Council is required to review the emergency action at every regularly scheduled meeting thereafter until the emergency repair is completed. The City Council shall continue to review the emergency action at every regularly scheduled meeting thereafter until the action is terminated. At each review, the City Council shall determine, by a four-fifths vote, whether there is a need to continue the action.

Consistent with applicable State law and Council Resolution, on July 30, 2024, the Public Works Director declared an emergency and authorized the City to contract with Trofholz Technologies and Diamond Fencing to implement various security and access control improvements to the McCarthy Ranch Sewer Lift Station (Main Lift). Further, within the required timeframe the Public Works Director informed the City Council via [Information Memorandum](#) on July 31, 2024, regarding the emergency authorization, the reasons for the authorization, and the cost for repair in a not to exceed amount of \$700,000.

PROJECT/STATUS UPDATE:

On January 25, 2025, the Main Lift station experienced another burglary resulting in additional property damage and theft of City vehicles. Three Ford-F250 heavy-duty pickup trucks were stolen and at least one of them was used to forcibly drive through the wrought-iron gate. The vehicles have since been recovered, although staff is assessing the full extent of the damage. Property damage to Main Lift was limited to the two wrought-iron gates. The affected gates are located at the main entry gate into the Main Lift station, and between the Main Lift station and Corporation Yard. The newly installed fence was not affected by this incident. The main entrance has been outfitted with 8-foot temporary fencing reinforced security screens. Replacement gates are currently being fabricated and anticipated to be on-site the week of March 24, 2025. Target installation date and full operation is tentatively scheduled for the first week of April.

The budgeted project contingency should be sufficient to cover the replacement of the recently damaged gates.

The installation of security enhancements by Trofholz Technologies, Inc. were also not compromised. Information Technology staff is working on establishing the network connectivity to operate the security cameras, card readers, and motion sensors at the Main Lift facility. Cameras on the electrical building are operational and provide coverage/recording of the main gate as well as the sewer pump station buildings. Milpitas Police Department have also provided mobile security camera tower for monitoring the property. Access control readers and motions sensors have been installed and are active. Remaining cameras throughout the property are currently undergoing testing and verification in coordination with the Information Technology and Police departments.

FISCAL IMPACT:

Funding for these repairs is available in the City's Capital Improvement Program (CIP) budget. CIP Project 6124 – Sewer Pump Station Rehabilitation Project will fund the installation of security cameras, card readers, and motion sensors. The funding source of this CIP project is the Sewer Infrastructure Fund. The available balance as of 02/25/2025 is \$1,263,580.

CIP 6130 – Main Lift Odor Emission Control Project will fund the removal and replacement of the perimeter fencing. The funding source of this CIP Project are Sewer Infrastructure Fund, and Sewer Treatment Fund. The available balance as of 2/25/2025 is \$5,365.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The emergency repair work is exempt from CEQA, per CEQA Guidelines Section 15301, Existing Facilities and 15302, Replacement or Reconstruction.

RECOMMENDATION:

- 1) Receive an update on the security improvements at the McCarthy Ranch Sewer Lift Station.
- 2) Determine by a four-fifths vote that the condition continues to constitute an emergency.

ATTACHMENT(S):

None.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution approving an Economic Development Incentive Agreement with Rivian, LLC, for the Operation of an Industrial Facility Located at 755 Yosemite Drive (Staff Contact: Alex Andrade, Economic Development & Strategic Initiatives Director, 408-586-3046; and Luz Cofresí-Howe, Finance Director, 408-585-3111)
Category:	Public Hearings-Community Development
Meeting Date:	3/4/2025
Recommendation:	(1) Conduct a public hearing as required by Government Code Section 53083 for the proposed Economic Development Subsidy Report; and (2) Adopt a resolution approving an Economic Development Incentive Agreement by and between the City of Milpitas and Rivian, LLC for the operation of an industrial facility located at 755 Yosemite Drive and authorize the City Manager to execute the agreement.

BACKGROUND:

The City Council has identified Economic Development and Job Growth as priorities, with a focus on strengthening the economic foundations that support the community's prosperity and opportunity while ensuring a sustainable and livable city. In support of this City Council priority, the Office of Economic Development (OED) focuses on attracting, retaining, and expanding business and employment opportunities to stimulate the local economy and diversify City revenue sources to enhance Milpitas' economic vitality.

City staff has been working on a significant business attraction effort with Rivian, LLC (Rivian) for several months. Rivian is an American electric vehicle (EV) company established in 2009. Rivian designs and manufactures all-electric vehicles, with its flagship models R1T (pickup truck) and R1S (sports utility vehicle), and commercial vans, aimed at reducing greenhouse gas emissions. In March 2024, Rivian introduced three midsize models, the R2, R3, and R3X to deliver performance and utility at an affordable price. Rivian employs 4,000 people in California and has a total workforce of 16,000 in the United States. Rivian has attracted significant investment from major partners, including Amazon. Amazon has committed to purchasing 100,000 custom electric delivery vans, with more than 20,000 already in use worldwide, including approximately 110 operating in Milpitas. In addition, German automaker Volkswagen has announced plans to invest \$5.8 billion in Rivian by 2027 through a joint venture and, on November 26, 2024, the United States Department of Energy announced a conditional commitment to Rivian for up to \$6.57 billion direct loan to finance the development and construction of Project Horizon, an EV manufacturing facility located in Georgia.

Motivated by consumer demand and investment opportunities, Rivian is in expansion mode and interested in occupying 755 Yosemite Drive in Milpitas (Attachment A: Site Plan) to function as a Last Mile Hub (LMH). The 755 Yosemite Drive LMH is the location for inspections/service, sales/leases, and importantly, where customers pick up their vehicles. Rivian believes the business activities at the Milpitas LMH will result in substantial public benefits to the City in sales tax revenues, as these business activities are recorded at the point of delivery. Consequently, Rivian submitted a letter of intent to the City of Milpitas, proposing a tax revenue-sharing arrangement.

This Agenda Report describes the good-faith negotiation completed with Rivian resulting in net new revenues for the City and high-quality jobs for area residents. The Agenda Report presents the proposed Economic Development Subsidy Report (Report) as stipulated by State of California Government Code §53083 and requires a public hearing, and City Council-adopted resolution, and the Economic Development Incentive Agreement (Agreement) with Rivian.

ANALYSIS:

Business attraction efforts are critical to drive City economic growth by increasing tax revenues, creating job opportunities, fostering innovation, and enhancing the City's business-friendly reputation. If the proposed Agreement with Rivian is approved by the City Council as recommended by staff, the action will meet several City goals of the Economic Development Strategy, General Plan 2040's Economic Development Element, and the Climate Action Plan.

- **Economic Development Strategy Goals:** Create a resilient and sustainable local economy, capture emerging innovation and technologies, and identify forward-looking investment and growth opportunities.
- **General Plan 2040 Economic Development Element Actions:**
 - ED 1-2 Promote and support innovative and emerging technologies for 21st-century business and community needs;
 - ED 2-4 Facilitate development projects that provide sales tax revenues; and
 - ED 4-1 Leverage public investments to enhance the City's economic vitality and ensure Milpitas is a prosperous, healthy, and safe community that is attractive to business.
- **Climate Action Plan Circular and Green Economy:**
 - GE-1 Foster green and sustainable economic development opportunities and support circular economy policies;
 - GE-1.1: Support and attract clean technology businesses and green jobs in Milpitas; and
 - GE-1.2: Incentivize and promote green business practices.

The City of Milpitas and its former Redevelopment Agency have executed economic development subsidies historically through sharing of property and sales tax revenue, financial assistance, property purchase, and grants. Agreements executed by the City of Milpitas and its former Redevelopment Agency include various business, developer, and Santa Clara County partnerships such as Silicon Graphics International, Clear Channel/Milpitas Sign Company, KLA-Tencor, South Main Street Senior Lifestyles, American Rescue Plan Act (Economic Vitality Investment Funds) grants to local businesses and hotels, and Santa Clara County on the Elmwood Properties.

Economic development subsidies are direct or indirect payments to individuals or businesses to assist the local economy. Direct subsidies are cash payments from the government or a targeted tax cut, whereas indirect subsidies take the form of discounts or forgiven charges. Subsidies may offset market failures and externalities to achieve greater economic efficiency. Governmental organizations have utilized subsidies to encourage firms to invest in research and development, job creation, and revenue generation.

The information below summarizes Rivian's letter of intent, key business terms and conditions outlined in the proposed Agreement, and details of the Economic Development Subsidy Report required by California Government Code §53083, which was posted on the City's website on February 21, 2025.

Rivian's Letter of Intent (LOI)

In August 2024, Rivian submitted an LOI to the City, proposing a tax revenue-sharing arrangement.

- Rivian would establish a LMH at 755 Yosemite Drive in Milpitas, which would offer sales and leasing, vehicle delivery and inspections, and servicing of all-electric, zero-emission vehicles manufactured off-site to customers;
- Rivian would maintain at least 25 high-quality jobs at the 755 Yosemite Drive LMH; and
- Rivian proposed to receive 65% of local sales tax revenue generated at the 755 Yosemite Drive LMH while the City would receive the remaining 35%.

Staff from the City Manager's Office, City Attorney's Office, Finance Department, and OED met to review Rivian's proposed LOI and develop a formal response. In November 2024, the Directors of the OED and Finance presented a counter-proposal to Rivian representatives, and, in February 2025, Rivian representatives agreed to the City counter-proposal on a tax-sharing agreement.

Economic Development Incentive Agreement

An Economic Development Incentive Agreement is a legal contract by and between the City of Milpitas and Rivian, LLC whereby a financial incentive is provided for benefits including sales tax revenues, job creation, and community benefits aimed at stimulating economic growth in Milpitas (Attachment B). Below are key business terms and conditions to which City staff and Rivian representatives have agreed to in concept through initial good-faith negotiations.

Key Business Terms and Conditions

Proposal: The City of Milpitas proposes an economic development incentive to Rivian, LLC. Rivian will remodel and operate an approximately 97,000 square-foot industrial facility located at 755 Yosemite Drive, Milpitas, CA 95053 in the Heavy Industrial (M2) zone to accommodate its LMH for inspections/service, sales/leases, and vehicle pick up. Rivian will receive payments made by the City from local sales taxes attributable to the 755 Yosemite Drive LMH business activities and received by the City from the State. Local sales taxes are defined as the portion of sales tax received by the City from the sales and use tax attributable to the sales, leasing, and servicing of vehicles delivered from the site, and any other business activities transacted at the site. The partnership with Rivian is expected to result in substantial sales tax revenues and new high-quality job opportunities. While Rivian is interested in operating in Milpitas, representatives have actively explored two other locations in the Bay Area.

Agreement Start Date: As of the writing of this Agenda Report, early 2026 is the targeted time frame. Rivian must meet all City permitting and State sales tax collection criteria.

Agreement End Date: The Economic Development Incentive Agreement will conclude 96 months (8 years) after the start date. If Rivian exercises its five (5) year lease extension, City staff and Rivian will renegotiate the Agreement and sales and use tax revenue sharing.

755 Yosemite Drive Lease Term: Rivian proposes to lease the 755 Yosemite Drive site for an initial eight (8) year term, with an option to extend the lease term for an additional five (5) years. The City is not a party to the 755 Yosemite Drive lease between Rivian and the landowner.

Point of Sale Designation: Rivian's 755 Yosemite Drive LMH shall consummate all taxable sales transactions resulting from Rivian's business activities at the site and identify the City as such in all reports to the California Department of Tax and Fees Administration (CDTFA), in accordance and conformity with the Bradley-Burns Uniform Local Sales and Use Tax Law (Revenue and Taxation Code 7200, et. seq.). Rivian shall designate the City as its "point of sale" for those Rivian products serviced, sold, and/or leased and other business activities that are attributable to the 755 Yosemite Drive LMH. Rivian shall maintain the appropriate master sales permits applicable to and required for the operation of the 755 Yosemite Drive LMH.

Tax Sharing Agreement:

- The City will not make economic incentive payments until Rivian pays local sales taxes to the CDTFA and the City has received its allocation of the respective sales taxes from the State.
- The City estimates the annual Agreement Payments to Rivian as follows:

Agreement Computation Percentages

Years 1 to 3:	35% to Rivian, 65% to City
Years 4 to 8:	50% to Rivian, 50% to City

- Year 1: Agreement Payments to Rivian are estimated to total \$1,037,190 with \$1,926,210 to the City;
- Year 2: Agreement Payments to Rivian are estimated to total \$1,037,190 with \$1,926,210 to the City;
- Year 3: Agreement Payments to Rivian are estimated to total \$1,728,650 with \$3,210,350 to the City;
- Years 4-8 combined: Agreement Payments to Rivian and City are estimated to total \$12,347,500 each.

The estimated revenue gain for the City, over the 8-year term of the agreement is \$19,410,270. The City estimates the total amount of the expenditure of public funds, or of revenue loss, because of the economic development subsidy will be up to \$16,150,530 over the 8-year term of the agreement.

Economic Development Subsidy Report: As of January 1, 2014, Government Code §53083 requires the City of Milpitas to post the proposed Economic Development Subsidy Report (Attachment C) on the City website for the entire subsidy term; the initial posting took place on February 21, 2025. An economic development subsidy is triggered if the expenditure of any public funds or loss of revenue to a local agency in the amount of \$100,000 or more, to stimulate economic development within a local jurisdiction occurs. A resolution is required under Government Code §53083 for the City Council consideration and adoption (Attachment D).

Land Use Entitlements: The project site is located at 755 Yosemite Drive in Milpitas. The building size equals 96,250 square feet of industrial space and the parcel measures 7.18 acres. The site is located within the Heavy Industrial (M2) Zoning District and falls under the Manufacturing land use designation in the General Plan. Rivian must secure all required City permits and pay all applicable fees. The proposed primary use of auto storage and repair is permitted by right in the M2 Zoning District. The described scope of work includes mostly interior tenant improvements and minor exterior building changes, including exterior signage. The minor exterior building changes will likely require a Minor Site Development Permit, which can be approved by staff or the Zoning Administrator. In addition, permits will be required for building, mechanical, electrical, and plumbing aspects, along with fire permits for fire alarms, sprinklers, and HazMat where applicable. Other permits may be needed for exterior site work and signage. Once the City receives the full package submittal with the scope of work, fees will be computed and finalized.

Defaults and Termination: Rivian does not have an obligation to continue operations at the site under the proposed Agreement. Rivian may discontinue business activities at any time, and the City remedy is to cease the sales tax sharing agreement. The City and Rivian will make a legitimate and good faith effort to meet and confer to reach a mutually satisfactory resolution to any disputes and alleged failures to meet its full obligations of the Agreement before sending a notice of default. If Rivian intends to terminate this Agreement resulting from an uncured City default, Rivian shall provide the City six (6) months' written notice.

Additional Public Benefits: The Agreement, if approved by the City Council, will cultivate a strong, stable, and diverse local economy. Partnering with Rivian will allow for supporting a growing business sector that is environmentally conscious and creates green jobs. Other public benefits and positive externalities are summarized here:

- Facility Construction: Tenant improvements are estimated at \$3 to \$3.5 million. Approximately 23,000 to 28,000 person-hours of temporary construction jobs will be created to complete the planned leasehold improvements.
- Facility Operation:
 - Minimum of 25 full- and part-time professional and technical jobs.
 - Hourly wages from \$28 to \$39 per hour.
 - Qualified Rivian staff will have employee benefits, including health insurance, bonuses, and 401(k) matching plan per rivianbenefits.com/us.
 - Rivian will use commercially reasonable efforts to recruit and hire City residents for any full- and part-time employment opportunities as determined by Rivian in its sole discretion. The City shall be authorized to post and advertise job recruitment information on the City's website and other job recruitment sites within the region.
- Increased secured and unsecured property tax revenues resulting from tenant improvements enhancing the value of the leased property.
- Permit Fees: Development review and permit fees will be estimated upon formal application submittal.
- Meets City Council Priority of Economic Development and Job Growth via the following documents:
 - Economic Development Strategy.
 - General Plan 2040 – Economic Development Element.
 - Climate Action Plan.
- As additional consideration for the benefits conferred under this Agreement, Rivian further agrees to participate in supporting community benefit events and activities consistent with Rivian's practices and policies.
- Rivian's business attraction effort allows Economic Development staff to utilize the EV leader's prestige in the Innovation District's plan to attract businesses within the automotive technology and artificial intelligence sectors.
- The 755 Yosemite Drive site includes an approximately 97,000 square foot industrial building with a parcel that measures over 7 acres, which makes it an efficient highest and best use and a lucrative one.

Conclusion

In summary, City executives from the City Manager's Office, City Attorney's Office, Finance Department, Planning Department, and the Office of Economic Development have conducted proper due diligence to ensure the economic analysis underscores sound community benefits to the Milpitas community and the City of Milpitas. Staff asserts Rivian business activities will result in substantial public benefits via sales tax revenues due to the point of sale taking place at the point of delivery, 755 Yosemite Drive in Milpitas. Moreover, the goals of cultivating a strong, stable, and diverse local economy, as well as achieving fiscal sustainability and maintaining adequate revenues to provide quality and essential public services, will be met if the City Council approves the proposed Agreement with Rivian.

OED aims to encourage new development in key opportunity areas that provide high-quality work environments and competitive business locations. While Rivian is interested in operating in Milpitas, representatives explored sites in two other Bay Area locations. A successful business attraction effort with Rivian affirms Milpitas as a vital, vibrant location for innovative businesses seeking a welcoming business environment and talented and creative workforce.

On November 5, 2024, 80% of Milpitas voters voted for Measure J, the Public Services Reauthorization Measure, which continues the existing voter-approved 1/4-cent sales for 8 additional years to maintain Milpitas' local services and quality of life. While Measure J will support many essential public services in the future, the City of Milpitas seeks a dynamic business landscape as it navigates through forthcoming fiscal sustainability uncertainties. Staff recommends the City Council approve the proposed Economic Development Incentive Agreement with Rivian as it will diversify the local economy and create a positive multiplier effect in attracting new investment to Milpitas.

POLICY ALTERNATIVES:

Alternative 1: Do not approve the Economic Development Incentive Agreement with Rivian at this time and return at a future date for consideration.

Pros: Staff would receive City Council comments and direction and return to City Council at a later date for approval of the Economic Development Incentive Agreement.

Cons: Depending on City Council direction, not approving the Economic Development Incentive Agreement may result in Rivian locating in another Bay Area jurisdiction, and the loss of high-quality jobs and significant tax sales revenues, which the City of Milpitas needs for long-term fiscal sustainability due to increasing costs in resources to ensure the community continues to receive essential public services.

Reason not recommended: The City Council's continued commitment to ensuring Milpitas remains competitive in the ever-evolving economic landscape of Silicon Valley is vital. Approving the proposed Economic Development Incentive Agreement with Rivian ensures community members benefit from the partnership and Milpitas maintains its competitiveness in (1) attracting emerging technologies and innovation, (2) preparing the local workforce for future jobs, (3) identifying forward-looking investment and growth opportunities, (4) encouraging development activity, and (5) sustaining the City's long-term fiscal health. For these reasons, Alternative 1 is not recommended.

FISCAL IMPACT:

The City of Milpitas will not make any direct upfront investment of City funds to the Rivian project. The City is obligated to make quarterly Agreement payments to Rivian only to the extent the City receives sales tax from the 755 Yosemite Drive LMH operation based on business activities that include inspections/service, sales/leases, and pick up of vehicles. Although not certain, the City and Rivian anticipate the initial allocation of sales tax revenues to be made within the first quarter of calendar year 2026. The sales tax payments are not guaranteed but are subject to the continuing presence in good standing and performance of the 755 Yosemite Drive LMH.

California Government Code §53083 requires the City of Milpitas to post the proposed Economic Development Subsidy Report, which includes an estimate of the economic performance of Rivian's LMH and the revenues potentially available to the City as a community benefit, on the City's website. Rivian contemplates the total

projected sales tax revenue over the 8-year life of the agreement as approximately \$35,560,800, with \$16,150,530 for Rivian and \$19,410,270 for the City (or \$2.42 million average per year). Additionally, an increase in point-of-sale revenues may also cause an increase in the County and State pool of revenue allocations.

It is important to note these sales tax revenue numbers are estimates only and cannot be used for financial forecasting and budgeting purposes. Actual sales numbers may vary significantly from these estimates based on currently known and unknown factors. As economic conditions and sales tax revenue are both highly volatile, revenue projections used for budget forecasting purposes must be based on actual revenues collected and established trends.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The proposed 755 Yosemite Drive LMH would occupy an existing building, and this associated action has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and is not a project pursuant to Pub. Resources Code, § 21065 and Cal. Code Regs., tit. 14, § 15378. Moreover, the present action does not approve that redevelopment and is at most a continuing administrative, fiscal, or maintenance activity that does not commit the City to any project that has the potential to result in either direct or indirect physical change in the environment and is not a project pursuant to Cal. Code Regs., tit. 14, § 15378.

RECOMMENDATION:

(1) Conduct a public hearing as required by Government Code Section 53083 for the proposed Economic Development Subsidy Report; and

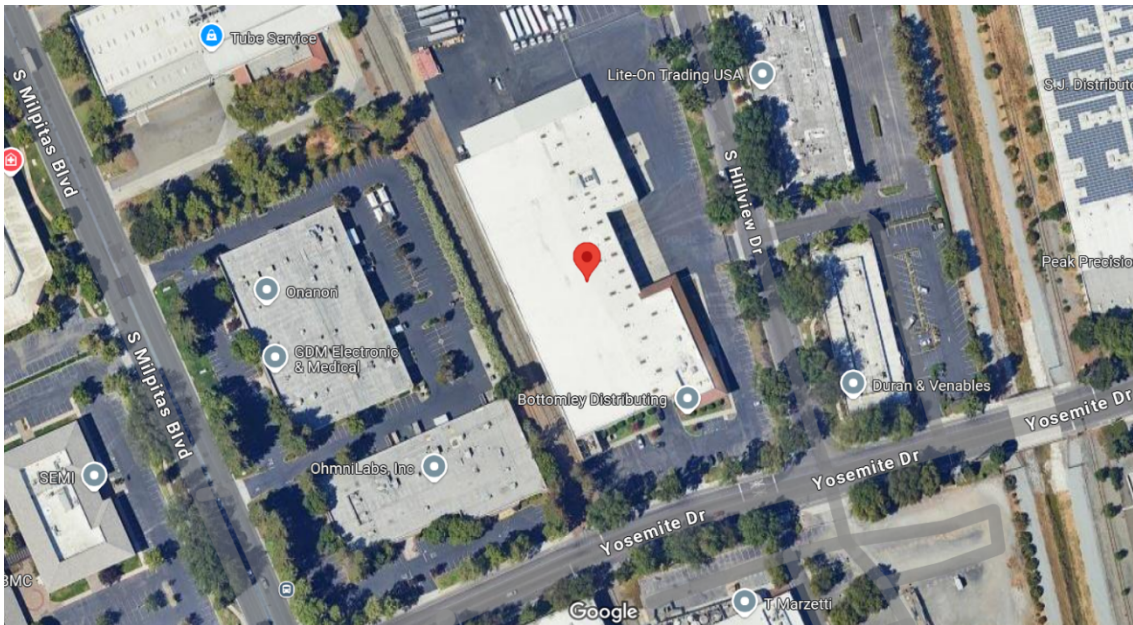
(2) Adopt a resolution approving an Economic Development Incentive Agreement by and between the City of Milpitas and Rivian, LLC for the operation of an industrial facility located at 755 Yosemite Drive and authorize the City Manager to execute the agreement.

ATTACHMENTS:

- (a) Site Map
- (b) Economic Development Incentive Agreement
- (c) Economic Development Subsidy Report
- (d) Resolution

Attachment A – Site Map

755 Yosemite Drive, Zoning District M2, General Plan MFG



Building Size: 96,250 SF of Industrial Space, Lot Size: 7.18 Acres



ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

BETWEEN

THE CITY OF MILPITAS

A CALIFORNIA MUNICIPAL CORPORATION

AND

RIVIAN, LLC, A DELAWARE LIMITED LIABILITY COMPANY

This ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT ("Agreement") is entered this [___] day of [___], 2025 between the CITY OF MILPITAS ("City"), a public agency with its principal place of business at 455 East Calaveras Boulevard, Milpitas, California 95035, and RIVIAN, LLC, a Delaware limited liability company ("Rivian") with its principal place of business at 13250 N. Haggerty Road, Plymouth, MI 48170. City and Rivian are sometimes individually referred to herein as "Party" and collectively as "Parties".

RECITALS

WHEREAS, Rivian is considering leasing, remodeling, and operating an existing, approximately 97,000 square-foot industrial property located at 755 Yosemite Drive in Milpitas, California ("Property"), for the sales and leasing, vehicle delivery and inspections, and servicing of all-electric, zero-emission vehicles manufactured off-site and delivered by Rivian to customers from the Property (the "755 Yosemite Drive Last Mile Hub"); and

WHEREAS, Rivian's directed customer sales model allows customers to custom build their vehicles and choose their preferred delivery option, either at a Rivian location or through home delivery where available; and

WHEREAS, Rivian wishes to locate the 755 Yosemite Drive Last Mile Hub in the City because of the operational advantages including, but not limited to, the strategic location of the City which supports alternative transportation routes and methods, as well as access to and for customers in Northern California, and a qualified workforce; and

WHEREAS, the City has determined the establishment by Rivian of the 755 Yosemite Drive Last Mile Hub, which would participate in the sales process within the City, will generate substantial revenue for the City, create approximately twenty-five (25) permanent, full-time highly-skilled jobs that meet City Council priorities of Economic Development and Job Growth, fulfilling Economic Development Strategy implementation actions as well as supporting the Milpitas 2040 General Plan's Economic Development Element Goals, to attract businesses focusing on emerging technologies including artificial intelligence and automotive technology, facilitate the development of projects that provides sales and/or use tax receipts among other revenues, and leverage public investments to enhance the City's economic vitality; and

WHEREAS, the City has determined the ongoing operation of the 755 Yosemite Drive Last Mile Hub will yield substantial advantages for both the City and its community, including, but not limited to, new employment opportunities, property tax revenues, sales tax revenues, and other related benefits; and

WHEREAS, California Government Code §53083 mandates that local agencies shall provide public notice and a hearing concerning any economic development subsidy within their jurisdiction prior to obtaining approval from their governing body; and

WHEREAS California Government Code §53083 reporting requirements regarding an Economic Development Subsidy aimed at stimulating economic development within the local

jurisdiction is considered to be triggered when the expenditure of public funds or a loss of revenue to a local agency amounts to \$100,000 or more, as further detailed in Section 1.3.9; and

WHEREAS, Compliance with California Government Code §53083 requires the City of Milpitas to post the information regarding the proposed economic development subsidy on the City website throughout the entire duration of the subsidy; and

WHEREAS, Rivian wishes to apply for and obtain a Direct Pay Permit to self-assess and pay sales and/or use taxes directly to the California Department of Tax and Fee Administration (“CDTFA”) instead of to the lessor from whom the Property is leased; and

WHEREAS, Rivian intends to designate the City as a point of sale for Rivian's products sold and/or leased, as further detailed in Section 2.2 below; and

WHEREAS, the economic incentives provided in this Economic Development Incentive Agreement (“Agreement”) are intended to encourage Rivian to lease, remodel and operate the 755 Yosemite Drive Last Mile Hub within the City of Milpitas (“City”), serve as a community partner, and remain in the City at least eight (8) years; and

WHEREAS, this Agreement is not, and shall not be construed to be, an approval or an agreement to issue permits or a granting of any right or entitlement by the City concerning the 755 Yosemite Drive Last Mile Hub, Rivian’s Business Activities or any other project, development, or construction by Rivian in the City; and

WHEREAS, accordingly, the City has concluded that entering into this Agreement and Rivian's performance of the Covenants serves a significant public purpose and further fosters a healthy local economy in the City.

1. TERMS.

1.1. **Effective Date of this Agreement.** The Agreement is dated [_____, 2025] for reference purposes only. This Agreement will not become effective until the date on which all the following are true (“Effective Date”):

- 1.1.1. This Agreement has been approved and executed by an authorized signatory of Rivian and delivered to the City; and
- 1.1.2. Following all legally required notices and hearings, this Agreement has been approved by the City Council; and
- 1.1.3. This Agreement has been executed by the appropriate authorities of the City and delivered to Rivian; and
- 1.1.4. Rivian has entered into an agreement to lease the 755 Yosemite Drive Last Mile Hub within the City; and
- 1.1.5. The 755 Yosemite Drive Last Mile Hub is generating sales and/or use tax revenues for City.

If all the foregoing conditions precedent have not been satisfied within five (5) years of the Effective Date, this Agreement shall not thereafter become

effective, and any prior signatures and approvals of the Parties will be deemed void and of no force or effect. The City Manager shall be able to administratively extend this Section 1.1.5 beyond that initial five (5) year term, annually. Rivian will provide quarterly updates on the status of the Property selection to the City until that time the site selection for the 755 Yosemite Drive Last Mile Hub has been completed.

1.2. Parties to the Agreement

1.2.1. **The City.** The address of the City for the purposes of this Agreement is:

City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035
(408) 586-3000

Attn: City Manager

With Copies to the City Attorney and the City Finance Director

The City represents and warrants to Rivian that, to the best of the City's actual current knowledge:

- 1.2.1.1. The City is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the laws of the State of California;
- 1.2.1.2. The City has taken all actions required by law to approve the execution of this Agreement;
- 1.2.1.3. The City's entry into this Agreement and/or the performance of the City's obligations under this Agreement does not violate any contract, agreement, or other legal obligation of the City;
- 1.2.1.4. The City's entry into this Agreement and/or the performance of the City's obligations under this Agreement does not constitute a violation of any state or federal statute or judicial decision to which the City is subject;
- 1.2.1.5. There are no pending lawsuits or other actions or proceedings which would prevent or impair the timely performance of the City's obligations under this Agreement;
- 1.2.1.6. The City has the legal right, power, and authority to enter into this Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Agreement has been duly authorized and no other action by the City is requisite to the valid and binding execution, delivery, and performance of this Agreement, except as otherwise expressly set forth herein; and

1.2.1.7. The individual executing this Agreement is authorized to execute this Agreement on behalf of the City.

The representations and warranties set forth above are material considerations to Rivian and the City acknowledges Rivian is relying upon the representations set forth above in undertaking Rivian's obligations set forth in this Agreement.

As used in this Agreement, the term "City's actual current knowledge" shall mean, and shall be limited to, the actual current knowledge of the City Manager as of the Effective Date, without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

All the terms, covenants and conditions of this Agreement shall be binding on and shall inure to the benefit of the City and its executors, administrators, successors, and assigns.

1.2.2. **Rivian.** The address of Rivian for purposes of this Agreement is Rivian, LLC.

13250 N. Haggerty Road

Plymouth, MI 48170

Attn: Indirect Tax

With Copies to:

legal@rivian.com

tax@rivian.com

Rivian represents and warrants to the City that, to the best of its actual current knowledge:

1.2.2.1. Rivian is a duly formed Delaware limited liability company, qualified and in good standing to do business under the laws of the State of California;

1.2.2.2. The individual(s) executing this Agreement is/are authorized to execute this Agreement on behalf of Rivian;

1.2.2.3. Rivian has taken all actions required by law to approve the execution of this Agreement;

1.2.2.4. Rivian's entry into this Agreement and/or the performance of its obligations under this Agreement does not violate any contract, agreement, or other legal obligation of Rivian;

1.2.2.5. Rivian's entry into this Agreement and/or the performance of its obligations under this Agreement does not constitute a violation of any state or federal statute or judicial decision to which Rivian is subject;

- 1.2.2.6. There are no pending lawsuits or other actions or proceedings which would prevent or impair the timely performance of Rivian's obligations under this Agreement; and
- 1.2.2.7. Rivian has the legal right, power, and authority to enter into this Agreement and to consummate the transactions contemplated hereby, and the execution, delivery, and performance of this Agreement have been duly authorized and no other action by Rivian is requisite to the valid and binding execution, delivery, and performance of this Agreement, except as otherwise expressly set forth herein;
- 1.2.2.8. Rivian's managerial personnel located, or to be located, at the 755 Yosemite Drive Last Mile Hub possess, or will possess, sufficient experience and qualifications necessary, as determined by Rivian in its sole discretion, to conduct Rivian's Business Activities (hereinafter defined in Section 1.3.17) as required by this Agreement; and

Rivian covenants that nothing in this Agreement or the implementation thereof shall violate the provisions or intent of Government Code Section 53083 et seq.

The representations and warranties set forth herein are material considerations to the City, and Rivian acknowledges the City is relying upon the representations set forth above in undertaking the City's obligations.

As used in this Agreement, the term "actual current knowledge of Rivian" shall mean, and shall be limited to, the actual current knowledge of the individual(s) executing this Agreement on behalf of Rivian as of the Effective Date, without having undertaken any independent inquiry or investigation for the purpose of making such representation or warranty and without any duty of inquiry or investigation.

All the terms, covenants and conditions of this Agreement shall be binding on and shall inure to the benefit of Rivian and its permitted executors, administrators, successors, and assigns. Wherever the term "Rivian" is used herein, such term shall include any permitted executors, administrators, assignee, or successor of Rivian.

The qualifications and identity of Rivian are of particular concern to the City, and it is because of such qualifications and identity that the City has entered into this Agreement with Rivian. No voluntary or involuntary successor-in-interest of Rivian shall acquire any rights or powers under this Agreement except as expressly set forth herein in Section 7.15.

1.3. Definitions.

- 1.3.1. "Agreement Payment(s)" means those contingent payments to be made by the City to Rivian pursuant to Section 3 of this Agreement in consideration of the Covenants and Rivian's timely and faithful performance thereunder.
- 1.3.2. "Additional Offices" means locations other than the 755 Yosemite Drive Last Mile Hub used for the promotion, sale, leasing, and/or servicing of Rivian Materials.
- 1.3.3. "CDTFA" means the California Department of Tax and Fee Administration.
- 1.3.4. "City" means the City of Milpitas, a California municipal corporation, and any executor, administrator, assignee of, or successor to, its rights, powers, and responsibilities.
- 1.3.5. "Computation Quarter" means each calendar quarter beginning on January 1, April 1, July 1, or October 1, as applicable, and ending on the succeeding March 31, June 30, September 30, or December 31, as applicable. The first Computation Quarter within the Eligibility Period is referred to herein as "Computation Quarter 1," with each succeeding Computation Quarter within the Eligibility Period being consecutively numbered, concluding with Computation Quarter 32 unless the Parties agree to extend this Agreement past the Covenant Term pursuant to Section 1.3.6. The first Computation Quarter within the Eligibility Period shall commence at the time that all the conditions are met under Section 1.1 above, including that the 755 Yosemite Drive Last Mile Hub is generating Sales Tax Revenue for the City.
- 1.3.6. "Covenant Term" means, a period of eight (8) years following the Effective Date (unless terminated sooner pursuant to specific provisions of this Agreement). Twelve months prior to the end of the Covenant Term of this Agreement, Rivian and the City agree to engage in good faith discussions to negotiate a potential extension of this Agreement for an additional five (5) years, in alignment with the underlying lease of the Property, including with commercially reasonable, mutually agreeable modifications that address any issues raised during the Covenant Term of this Agreement. Any such mutually agreeable extension shall be set forth in a written amendment to this Agreement properly executed by both parties.
- 1.3.7. "Covenants" means those covenants described in Section 2 below.
- 1.3.8. "Direct Pay Permit" means a permit issued by the CDTFA allowing Rivian to self-assess and pay sales and/or use taxes directly to CDTFA instead of to the lessor from whom the Property is leased.
- 1.3.9. "Economic development subsidy" means any expenditure of public funds or loss of revenue to a local agency in the amount of one hundred thousand dollars (\$100,000) or more, for the purpose of stimulating economic development within the jurisdiction of a local agency, including, but not limited to, bonds, grants, loans, loan guarantees, fee waivers, land price

subsidies, matching funds, tax abatements, tax exemptions, and tax credits. "Economic development subsidy" shall not include expenditures of public funds by, or loss of revenue to, the local agency for the purpose of providing housing affordable to persons and families of low or moderate income, as defined in Section 50093 of the California Health and Safety Code.

- 1.3.10. "Eligibility Period" means the period commencing as of the first (1st) day of Computation Quarter 1 and ending the last day of the final Computation Quarter contemplated by the lease of the 755 Yosemite Drive Last Mile Hub, but not less than Computation Quarter 32.
- 1.3.11. "Fiscal Year" means Rivian's fiscal year for financial accounting purposes beginning on the Monday following the Sunday nearest January 1 of each year and ending on the Sunday nearest December 31 of the following year.
- 1.3.12. "755 Yosemite Drive Last Mile Hub" means an existing, approximately 97,000 square-foot industrial property located at 755 Yosemite Drive in Milpitas, California that Rivian will lease for the sales and leasing, vehicle delivery and inspections, and servicing of electric vehicles manufactured off-site and delivered by Rivian to customers from the Property.
- 1.3.13. "Last Mile Hub" means a regional or territorial delivery or distribution center for Materials delivered or transported to a place of receipt for customers in that area.
- 1.3.14. "Local agency" means a city, including a charter city, county, or city and county.
- 1.3.15. "Material" or "Materials" means all tangible personal property offered for sale or lease to Rivian's customers/clients which is subject to the Sales Tax Law. Materials excludes parts, accessories, or other tangible personal property sold or leased in connection with repair, maintenance, or other non-sales or non-leasing operations conducted at Additional Offices or through mobile repair services.
- 1.3.16. "Rivian" means and refers to Rivian, LLC, a Delaware limited liability company, and its successors and assigns, cumulatively.
- 1.3.17. "Rivian's Business Activities" means all sales or leases of Material conducted through the 755 Yosemite Drive Last Mile Hub, including sales or leases conducted electronically on the internet or through phone sales, provided that the sale is consummated at the 755 Yosemite Drive Last Mile Hub or delivered or distributed through the 755 Yosemite Drive Last Mile Hub.
- 1.3.18. "Penalty Assessments" means and refers to penalties, assessments, collection costs and other costs, fees or charges resulting from late or

underpaid payments of Sales Tax, and which are levied, assessed, or otherwise collected from Rivian.

- 1.3.19. "Property" means that real property at 755 Yosemite Drive within the City of Milpitas on which the 755 Yosemite Drive Last Mile Hub is located.
- 1.3.20. "Sales Tax" means and refers to all sales and use taxes levied under the authority of the Sales Tax Law attributable to the 755 Yosemite Drive Last Mile Hub in City and Rivian's Business Activities, excluding that which is to be refunded to Rivian because of an overpayment of such tax.
- 1.3.21. "Sales Tax Law" means and refers to (a) California Revenue and Taxation Code Section 7200 et seq., and any successor law thereto; (b) any legislation allowing City or other public agency with jurisdiction in the City to levy any form of local Sales Tax on the operations of Rivian; and (c) regulations of CDTFA and other binding rulings and interpretations relating to (a) and (b) of this Section 1.3.21 by relevant California State authorities.
- 1.3.22. "Sales Tax Revenues" means the net Sales Tax received by the City from the CDTFA pursuant to the application of the Sales Tax Law (as such statutes may hereafter be amended, substituted, replaced, re-numbered, moved or modified by any successor law) attributable to the 755 Yosemite Drive Last Mile Hub in the City in a particular Computation Quarter. Sales Tax Revenues shall not include (i) Penalty Assessments; (ii) any Sales Tax levied by, collected for or allocated to the State of California, the County of Santa Clara, or a district or any entity (including an allocation to a statewide or countywide pool); (iii) any administrative fee charged by the CDTFA; (iv) any Sales Tax subject to any sharing, rebate, offset or other charge imposed pursuant to any applicable provision of federal, state or local (except City) law, rule or regulation; (v) any Sales Tax attributable to any transaction not consummated within the Eligibility Period; or (vi) any Sales Tax (or other funds measured by Sales Tax) required by the State of California to be paid over to another public entity (including the State) or set aside and/or pledged to a specific use other than for deposit into or payment from the City's general fund.

2. COVENANTS

- 2.1. **Operating and Use Covenant.** Rivian covenants and agrees that for the Covenant Term Rivian shall take all actions and to do all things necessary, proper, or advisable to operate, or cause to be operated upon the Property, the 755 Yosemite Drive Last Mile Hub in the City, consistent with all applicable provisions of federal, state, and local laws and regulations. Rivian will operate its business at the 755 Yosemite Drive Last Mile Hub in a commercially reasonable manner. Rivian's obligations pursuant to the immediately preceding sentence include, without limitation, the obligation to obtain all federal, state, and local licenses and permits required for the operation of the

business at the 755 Yosemite Drive Last Mile Hub. For the term of this Agreement, Rivian may use the Property for the purposes of the operation of the 755 Yosemite Drive Last Mile Hub or comparable function, with the intent, but subject to Rivian's exercise of its business judgment to modify operations from time to time, of generating the greatest feasible amount of Sales Tax Revenues over the Covenant Term, and otherwise conducting Rivian's Business Activities in accordance with this Agreement.

- 2.2. **Covenant to Designate City as Point of Sale.** Rivian covenants and agrees that, for the term of the Operating and Use Covenant as described in Section 2.1, Rivian shall maintain such licenses and permits as may be required by any governmental agency to conduct Rivian's Business Activities related to the 755 Yosemite Drive Last Mile Hub, ensuring the point of sale for all such Business Activities consummated at or occurring through the 755 Yosemite Drive Last Mile Hub is identified as the City in all reports to the CDTFA in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Revenue and Taxation Code 7200, et seq.), as it may be amended or substituted. Rivian shall use its best commercially reasonable efforts to conduct its business such that the 755 Yosemite Drive Last Mile Hub is the place of delivery, the place of use, and the place of sale for purposes of imposing Sales Tax, to ensure that all sales and leases of Rivian's Materials consummated at the 755 Yosemite Drive Last Mile Hub during the Covenant Term will be allocated to the City pursuant to the Sales Tax Law and the current standards of the CDTFA. Rivian shall maintain the appropriate master sales permits applicable to and required for the operation of the 755 Yosemite Drive Last Mile Hub. Rivian shall consummate all taxable sales transactions for Rivian's Business Activities at the 755 Yosemite Drive Last Mile Hub, consistent with all applicable statutory and CDTFA regulatory requirements applicable to Rivian's Business Activities and the designation of the City as the "point of sale" for all Rivian's taxable sales occurring because of Rivian's Business Activities.
- 2.3. **Economic Subsidy Reporting Obligations.** Rivian covenants and agrees that for the term of the Agreement, Rivian shall assist City by providing the requisite information relevant to Rivian's operation of the 755 Yosemite Drive Last Mile Hub, required by California Government Code §53083 and California Revenue and Taxation Code 7213, as well as other reporting obligations imposed upon the City through legislation at the state or federal level subsequent to the execution of this Agreement, upon written request of the City, and in advance of the requisite reporting obligations described therein.
- 2.4. **Covenant Against Solicitation and Acceptance of Economic Incentives During the Term of the Agreement.** Rivian covenants and agrees that, during the Covenant Term, Rivian will not directly or indirectly solicit or accept any "Financial Assistance" from any other public or private person or entity if such Financial Assistance is given for the purpose of causing or would result in a Rivian Default (as defined herein). For purposes of this Section 2.4, the term "Financial Assistance" means any direct or

indirect payment, subsidy, rebate, or other similar or dissimilar monetary or non-monetary benefit, including, without implied limitation, payment of land subsidies, relocation expenses, public financings, property, sales and/or use tax relief, rebates, exemptions or credits, relief from public improvement obligations, and payment for public improvements to or for the benefit of Rivian.

- 2.5. **Covenant With Respect to Other Rivian Agreements.** The City understands, acknowledges, and agrees that Rivian has established and may establish Additional Offices outside the City consistent with this Agreement and Cal. Govt. Code Sections 53083 et seq.. Subject to Sections 2.2, 2.4, and this Section 2.5, nothing in this Agreement limits Rivian's right to conduct sales and other business and operations at or from the Additional Offices, but the City makes no representations or warranties with respect to Rivian's operations with respect to Additional Offices. Rivian covenants and agrees that under no circumstances will Rivian's agreements with respect to Additional Offices affect Rivian's obligations under Section 2.2 with respect to City's designation as point of sale for Rivian's Business Activities consummated at or through the 755 Yosemite Drive Last Mile Hub, and, subject to this Section 2.5, any other representations, warranties and covenants of Rivian contained in this Agreement. In consideration of the mutual promises, conditions and Covenants of this Agreement, the City hereby waives and releases any objections, claims or demands of any kind with respect to the existence of or course of performance by Rivian under agreements that comply with all applicable laws, including without limitation Cal. Govt. Code Sections 53083 and 53084.5, and are similar in concept to this Agreement entered into by Rivian with any of the cities in which such Additional Offices are located, provided such agreements are consistent with this Agreement, including Section 2.4. City likewise covenants not to sue, and not to commence arbitration proceedings under this Agreement or to commence administrative proceedings of any nature before the CDFTA or otherwise, or to challenge such allocations or activities in any way to the extent of objections, claims or demands of any kind which are waived or released by this Section 2.5. No failure or delay by any party in the exercise of any right hereunder shall constitute a waiver thereof, nor shall any single or partial exercise of any such right preclude other or further exercise thereof, or any other right.

3. AGREEMENT PAYMENTS.

- 3.1. **Statement of Intent.** The consideration to be paid to Rivian in exchange for the Covenants and Rivian's performance of its obligations as set forth in this Agreement, and subject to satisfaction of all conditions precedent thereto, shall consist of the sum of the City payment(s) to Rivian for each Computation Quarter during the Eligibility Period that the City receives Sales Tax Revenue, an amount equal to the annual percentages of the Sales Tax Revenues as shown in Table 1: *Agreement Computation Percentages* below, based on the City's current sales tax rate at the time

of execution of this Agreement, attributable to annual taxable sales at the 755 Yosemite Drive Last Mile Hub received by the City ("Agreement Payment").

Table 1. Agreement Computation Percentages and Estimated Amounts

Period	Computation Percentages	Estimated Amounts to Rivian
Years 1 to 3 :	35% to Rivian, 65% to City	\$ 3,803,030
Years 4 to 8 :	50% to Rivian, 50% to City	\$ 12,347,500
Total Estimated Amount to Rivian		\$ 16,150,330

City obligations under this Section 3 are contingent on a Computation Quarter-to-Quarter basis and, for each Computation Quarter, the City obligations to make any payments hereunder are expressly contingent upon Rivian having, for the entirety of such Computation Quarter, completely fulfilled its material obligations under this Agreement, including, without limitation, the Covenants. Should such condition precedent not be satisfied for each Computation Quarter, then the City shall have no obligation under this Section 3.1 to make any Agreement Payments to Rivian in such Computation Quarter.

- 3.2. **Computation Quarter Agreement Payments.** Within thirty (30) days following the end of each Computation Quarter, Rivian shall submit to the City copies of its quarterly reports to the CDTFA for the applicable Computation Quarter arising from Rivian's Business Activities conducted at the 755 Yosemite Drive Last Mile Hub. Within one hundred twenty (120) days following the end of each Computation Quarter, the City shall pay to Rivian any Computation Quarter Agreement Payment due for such Computation Quarter. The City's first payment to Rivian shall be made following the first Computational Quarter in which Rivian has performed its obligations under this Agreement and the 755 Yosemite Drive Last Mile Hub generates sales or use tax revenue.
- 3.3. **No Carry Forward or Back.** The determination of the Agreement Payment(s) shall be determined and calculated on a Computation Quarter to Computation Quarter basis. Except as provided in Section 3.4, no Sales Tax Revenue which is generated in a Computation Quarter other than the Computation Quarter for which the Agreement Payment is being determined shall be used or considered in the calculation of any Agreement Payment which may be due for that Computation Quarter.
- 3.4. **CDTFA Determination of Improperly Allocated Local Sales Tax Revenues.** If, at any time during or after the Eligibility Period of this Agreement, the CDTFA or a court of competent jurisdiction determines that all or any portion of the Sales Tax Revenues received by the City were improperly allocated and/or paid to the City, and if the CDTFA or a court of competent jurisdiction requires repayment of, offsets against future sales tax payments, or otherwise recaptures from the City those improperly allocated and/or paid Sales Tax Revenues, then Rivian shall, within thirty (30) calendar days

after written demand from the City, repay all Agreement Payments (or applicable portions thereof) theretofore paid to Rivian which are attributable to such repaid, offset or recaptured Sales Tax Revenues. If Rivian fails to make such repayment within thirty (30) calendar days after the City's written demand, then Rivian shall be in breach of this Agreement and such obligation shall accrue interest from the date of the City's original written demand at the then-maximum legal rate imposed by the California Code of Civil Procedure on prejudgment monetary obligations, compounded monthly, until paid. Additionally, the City may deduct any amount required to be repaid by Rivian under this Section 3.4 from any future Agreement Payments otherwise payable to Rivian under this Agreement. Nothing in this Section 3.4 will require repayment by Rivian of any City Payments made or received with respect to Sales Tax Revenues for any periods other than those periods for which the CDTFA or a court of competent jurisdiction has required redistribution, repayment, offset, or recapture by or against City. The City will promptly contact Rivian regarding any communication from the CDTFA pertaining to Sales Tax allocations associated with the 755 Yosemite Drive Last Mile Hub.

3.4.1. **Not a Pledge of Sales Tax.** Rivian acknowledges the City is not making a pledge of Sales Tax Revenues, the City General Fund or any other source of funds. The definition of Sales Tax Revenues, as used herein, is used merely as a measure of the amount of the payment due hereunder and as a means of computing the City payment in consideration for the Covenants. It is acknowledged by Rivian that, as to each Computation Quarter, the City obligation to make payments is specifically contingent upon receipt by the City of, and limited to, the Sales Tax Revenues derived from the operation of the 755 Yosemite Drive Last Mile Hub for such Computation Quarter. It is further acknowledged by Rivian that this Agreement only applies to Sales Tax Revenues generated by Rivian for the respective Computation Quarter.

4. DEFAULT.

- 4.1. **Rivian Default.** City shall provide Rivian with written notice of Rivian's failure to comply with any material provision of this Agreement ("Rivian Default"), including, without limitation, the Covenants. Rivian shall have thirty (30) days from the date of such notice to either cure such Rivian Default or, if such Rivian Default cannot be reasonably cured during such thirty (30) day period, to commence to cure within said thirty (30) day period and diligently prosecute such cure to completion thereafter.
- 4.2. **City Default.** Rivian shall provide City with written notice of the City's failure ("City Default") to strictly abide by any material provision of this Agreement. City shall have thirty (30) days from the date of such notice to either cure such City Default or, if such City Default cannot be reasonably cured during such thirty (30) day period, to commence to cure within said thirty (30) day period and diligently prosecute such cure

to completion thereafter. If Rivian intends to terminate this Agreement resulting from an uncured City Default, Rivian shall provide the City six (6) months' written notice.

- 4.3. **Meet and Confer.** The City and Rivian will make a legitimate and good faith effort to meet and confer to reach a mutually satisfactory resolution to any disputes and alleged failures to meet its full obligations of this Agreement before sending a notice of default under this Section 4.

4.4. **Mediation**

In the event of any dispute, claim, or controversy arising out of or relating to this Agreement, or the breach, termination, or validity thereof (collectively referred to as "Dispute"), and the respective Party or Parties are unable to cure said Dispute within the time period stated in §§4.1 and 4.2, the Parties agree that they will first attempt to resolve the Dispute through informal discussions. If the Dispute is not resolved within thirty (30) days of the initial informal discussion, the Parties agree to participate in mediation, which shall be conducted in accordance with the following provisions:

4.4.1. Mediation Procedure

4.4.1.1. Selection of Mediator. The Parties shall select a neutral mediator by mutual agreement. If the Parties cannot agree on a mediator within fifteen (15) days after the end of the informal discussion period, either Party may request the American Arbitration Association ("AAA") or any other mutually agreed-upon mediation service to provide a list of qualified mediators from whom the Parties shall select.

4.4.1.2. Location. Mediation shall take place in Milpitas, California, unless the Parties mutually agree to another location.

4.4.1.3. Conduct of Mediation. The mediation shall be conducted in accordance with the rules of the chosen mediation service, or if there are none, in a manner mutually agreed to by the Parties and the mediator.

4.4.1.4. Confidentiality. All discussions, statements, and documents exchanged during the mediation process shall be confidential and shall not be admissible in any subsequent legal proceedings, unless both Parties agree otherwise in writing.

4.4.1.5. Costs. The costs of mediation, including the mediator's fees, shall be shared equally by the Parties unless otherwise agreed.

- 4.4.2. **Litigation.** If the Dispute is not resolved through mediation within sixty (60) days of the mediation session, then either Party may pursue any rights or remedies available under law or equity, including but not limited to litigation, as further defined in Section 5.

5. GENERAL REMEDIES FOR DEFAULT.

- 5.1. Remedies under this Agreement are limited to an order for specific performance from a Court of competent jurisdiction. No other remedy shall be available to any party.
- 5.2. **City Rights to Terminate its Obligations under Section 3.** The City's obligations under Section 3 shall automatically terminate without cost, expense, or liability to Rivian, upon the occurrence of any one or more of the following: (i) Rivian Default, as to which any applicable notice and cure period provided for herein has expired; (ii) the end of the Eligibility Period; or (iii) upon the final determination by a court of competent jurisdiction that any one or more of the Covenants are void, voidable, invalid, or even unenforceable for any reason whatsoever, including, without limitation, legal infirmity. Termination of City obligations under Section 3 in accordance with this Section 5.2 shall not operate to forgive, modify, discharge or excuse Rivian's obligations arising under this Agreement.

6. **RIVIAN TERMINATION.** Notwithstanding any other provisions of this Agreement, Rivian may, at its option, upon written notice to City, terminate this Agreement and/or relocate the 755 Yosemite Drive Last Mile Hub to any other city or county in California or elsewhere and reallocate Rivian's business activities accordingly and in conformance with applicable sales tax law. Rivian shall provide at least six (6) months of written notice to the City prior to termination. The relocation of the 755 Yosemite Drive Last Mile Hub shall be subject to Government Code section 53084.

7. GENERAL TERMS.

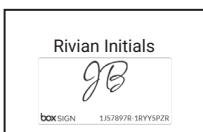
- 7.1. **Tax Consequences.** Rivian acknowledges that it may experience tax consequences because of its receipt of the payments provided for in this Agreement and agrees that it shall bear all responsibility, liability, costs, and expenses connected in any way therewith.
- 7.2. **Rights Not Granted Under Agreement.** This Agreement is not, and shall not be construed to be, a Development Agreement under Government Code Section 65864 et seq., or a disposition and development agreement under Health and Safety Code Section 33000 et seq. This Agreement is not, and shall not be construed to be, an approval or an agreement to issue permits or a granting of any right or entitlement by the City concerning the 755 Yosemite Drive Last Mile Hub, Rivian's Business Activities or any other project, development, or construction by Rivian in the City. This Agreement does not, and shall not be construed to, exempt Rivian from the application and/or exercise of the City's or City's power of eminent domain or its police power, including, but not limited to, the regulation of land uses and the taking of any actions necessary to protect the health, safety, and welfare of its community.
- 7.3. **Consent.** Whenever consent or approval of any Party is required under this Agreement, that Party shall not unreasonably withhold, delay, or condition such consent or approval unless otherwise allowed by a specific provision of this Agreement.

- 7.4. **Notices and Demands.** All notices or other communications required or permitted between the City and Rivian under this Agreement shall be in writing, and may be (i) personally delivered, (ii) sent by United States registered or certified mail, postage prepaid, return receipt requested, or (iii) sent by nationally recognized overnight courier service (e.g., Federal Express), addressed to the Parties at the addresses provided in Section 1.2, subject to the right of either Party to designate a different address for itself by notice similarly given. Any notice so given by registered or certified United States mail shall be deemed to have been given on the fifth business day after the same is deposited in the United States mail. Any notice not so given by registered or certified mail, such as notices delivered by courier service (e.g., Federal Express), shall be deemed given upon receipt of the same by the Party to whom the notice is given.
- 7.5. **Nonliability of the City or City Officials and Employees.** No board member, official, contractor, consultant, attorney or employee of the City or City shall be personally liable to Rivian, any voluntary or involuntary successors or assignees, or any lender or other party holding an interest in the Property, in the event of any default or breach by the City, or for any amount which may become due to Rivian or to its successors or assignees, or on any obligations arising under this Agreement.
- 7.6. **Conflict of Interests.** No board member, official, contractor, consultant, attorney or employee of the City or City shall have any personal interest, direct or indirect, in this Agreement nor shall any such board member, official or employee participate in any decision relating to this Agreement which affects their personal interests or the interests of any corporation, partnership or association in which they are directly or indirectly interested.
- 7.7. **Pledge or Hypothecation of Agreement Payments.** Rivian may assign any Agreement Payment(s) due in accordance with the terms of this Agreement (but not any other right or obligation of this Agreement) upon thirty (30) days' prior written notice to City as collateral for any loan or financing obtained by Rivian in connection with the 755 Yosemite Drive Last Mile Hub; provided that nothing in this Section 7.7 shall be deemed to limit the operation of Section 7.14. Without limiting the general applicability of the foregoing, Rivian acknowledges that Rivian's lender and any transferee of Rivian's lender shall be subject to the transfer restrictions of Section 7.14.
- 7.8. **Entire Agreement; Disclosure.** This Agreement contains all the terms and conditions agreed upon by the Parties and supersedes any previous agreements between the Parties concerning the subject matter of this Agreement. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. All prior written or oral offers, counteroffers, memoranda of understanding, proposals and the like are superseded by this Agreement. The terms and existence of this Agreement will not be publicized or made public beyond what is required by applicable Federal and State law, including but not

limited to City approval of this Agreement and the California Public Records Act (Government Code Section 6250, *et seq.*).

The Parties acknowledge this Agreement is the product of mutual arms-length negotiations and that each Party has been, or has had the opportunity to have been, represented by legal counsel in the negotiation and drafting of this Agreement. Accordingly, the rule of judicial construction which provides that ambiguities in a document are to be construed against the drafter of that document shall have no application to the interpretation or enforcement of this Agreement. In any action or proceeding to interpret and/or enforce this Agreement, the trier of fact may refer to extrinsic evidence not in conflict with any specific provision of this Agreement to ascertain and give effect to the intent of the Parties hereto.

- 7.9. **Time Deadlines Critical; Extensions and Delays; No Excuse Due to Economic Changes.** Time is of the essence in the performance of the City and Rivian obligations under this Agreement. In addition to specific provisions of this Agreement providing for extensions of time, times for performance hereunder shall be extended where delays or defaults are due to war; insurrection; any form of labor dispute; lockouts; riots; floods; earthquakes; fires; acts of God or of third parties; third party litigation; acts of a public enemy; initiative or referenda; acts of governmental authorities (except that the failure of the City to act as required hereunder shall not excuse its performance); moratoria; epidemics; quarantine restrictions; and freight embargoes (collectively, "Enforced Delays") provided, however, that the Party claiming the extension notify the other Party of the nature of the matter causing the default; and, provided further, that the extension of time shall be only for the period of the Enforced Delays. However, deadlines for performance may not be extended as provided above due to any inability of Rivian to obtain or maintain acceptable financing for the operation of the 755 Yosemite Drive Last Mile Hub.



ANYTHING IN THIS COVENANT AGREEMENT TO THE CONTRARY NOTWITHSTANDING, RIVIAN ASSUMES THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES AND/OR MARKET DEMAND/CONDITIONS AND WAIVES, TO THE GREATEST LEGAL EXTENT, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, FRUSTRATION OF PURPOSE, CHANGED ECONOMIC CIRCUMSTANCES OR SIMILAR THEORIES.



RIVIAN EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF RIVIAN SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN THE MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS AGREEMENT. RIVIAN EXPRESSLY ASSUMES THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET

CHANGES, WHETHER OR NOT FORESEEABLE AS OF RIVIAN'S EXECUTION OF THIS AGREEMENT.

- 7.10. **Amendments to This Agreement.** Any amendments to this Agreement must be in writing and signed by the appropriate authorities of both the City and Rivian. The City Manager is authorized on behalf of the City to approve and execute minor amendments to this Agreement, including, but not limited to, the granting of extensions of time to Rivian, not to exceed ninety (90) days in the aggregate.
- 7.11. **Jurisdiction and Venue.** Any legal action or proceeding concerning this Agreement shall be filed and prosecuted in the appropriate California state court in the County of Santa Clara, California. Both Parties hereto irrevocably consents to the personal jurisdiction of that court. The City and Rivian each hereby expressly waive the benefit of any provision of federal or state law or judicial decision providing for the filing, removal, or change of venue to any other court or jurisdiction, including, without implied limitation, federal district court, due to any diversity of citizenship between the City and Rivian, due to the fact that the City is a party to such action or proceeding or due to the fact that a federal question or federal right is involved or alleged to be involved. Without limiting the generality of the foregoing, the City and Rivian specifically waive any rights provided to it pursuant to California Code of Civil Procedure Section 394. Rivian acknowledges that the provisions of this Section 7.11 are material consideration to the City for its entry into this Agreement, in that the City will avoid the potential cost, expense and inconvenience of litigating in a distant forum.
- 7.12. **Interpretation.** The City and Rivian acknowledge that this Agreement is the product of mutual arms-length negotiation and drafting and that both Parties have been represented by legal counsel in the negotiation and drafting of this Agreement. Accordingly, the rule of construction which provides that ambiguities in a document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of this Agreement. In any action or proceeding to interpret or enforce this Agreement, the finder of fact may refer to any extrinsic evidence not in direct conflict with any specific provision of this Agreement to determine and give effect to the intention of the Parties.
- 7.13. **Counterpart Originals; Integration.** This Agreement may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument. This Agreement and any exhibits represent the entire understanding of the Parties and supersedes all negotiations, letters of intent, memoranda of understanding or previous agreements between the parties with respect to all or any part of the subject matter hereof.
- 7.14. **No Waiver.** Failure to insist on any one occasion upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment of any rights or powers

hereunder at any one time or more times be deemed a waiver or relinquishment of such other right or power at any other time or times.

- 7.15. **Successors and Assigns.** The terms, covenants and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns. Rivian may not assign, transfer, encumber or hypothecate its rights or obligations under this Agreement to any person or entity, without the written consent of the City, which may not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Rivian shall have the right to assign this Agreement or any right or obligation hereunder to its immediate or ultimate parent, or to an affiliate, by providing advance written notice to City. An "affiliate" shall mean any legal entity that, at the applicable time, directly or indirectly controls, is controlled with or by, or is under common control with, Rivian. Upon the permitted sale, transfer or conveyance by Rivian of its interest therein, Rivian shall thereupon be relieved of its obligations under this Agreement from and after the date of sale, transfer or conveyance except with respect to any defaults in the performance of its obligations hereunder or thereunder which occurred prior to such sale, transfer or conveyance, and the transferee shall thereafter be solely responsible for the performance of all of the duties and obligations of Rivian under this Agreement.
- 7.16. **No Third Party Beneficiaries.** The performance of the respective obligations of the City and Rivian under this Agreement are not intended to benefit any party other than the City or Rivian, except as expressly provided otherwise herein. No person or entity not a signatory to this Agreement shall have any rights or causes of action against any party to this Agreement because of that party's performance or non-performance under this Agreement, except as expressly provided otherwise herein.
- 7.17. **No Effect on Eminent Domain Authority.** Nothing in this Agreement shall be deemed to limit, modify, or abridge or affect in any manner whatsoever the City's or City's eminent domain powers with respect to the 755 Yosemite Drive Last Mile Hub, or any other property owned by the 755 Yosemite Drive Last Mile Hub.
- 7.18. **Warranty Against Payment of Consideration for Agreement.** Rivian warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement. Third parties, for the purposes of this Section 7.18, shall not include persons to whom fees are paid for professional services if rendered by attorneys, financial consultants, accountants, engineers, architects, and the like when such fees are considered necessary by Rivian.
- 7.19. **Severability.** The City and Rivian declare that the provisions of this Agreement are severable. If it is determined by a court of competent jurisdiction that any term, condition or provision hereof is void, voidable, or unenforceable for any reason whatsoever, then such term, condition or provision shall be severed from this Agreement and the remainder of the Agreement enforced in accordance with its terms.

- 7.20. **Further Acts and Releases.** The City and Rivian each agree to take such additional acts and execute such other documents as may be reasonable and necessary in the performance of their obligations hereunder.
- 7.21. **Estoppels;** At the request of Rivian or any holder of a mortgage or deed of trust secured by all or any portion of the Property, the City shall promptly execute and deliver to Rivian or such holder a written statement of the City as to any of the following matters as to which Rivian or such holder may inquire: (i) that no default or breach exists, or would exist with the passage of time, or giving of notice, or both, by Rivian pursuant to this Agreement, if such be the case; (ii) the total amount of Agreement Payments made by the City to Rivian pursuant to this Agreement prior to the date of such written statement; (iii) the amount of any Agreement Payments earned by or due and owing to Rivian pursuant to this Agreement as of the date of such written statement; (iv) the Agreement Payments for a particular Computation Quarter; (v) if the City has determined that Rivian is in default or breach hereunder, the nature of such default and the action or actions required to be taken by Rivian to cure such default or breach; and (vi) any other matter affecting the rights or obligations of Rivian hereunder as to which Rivian or such holder may reasonably inquire. The form of any estoppel letter shall be prepared by Rivian or such holder at its sole cost and expense and shall be reasonably acceptable in form and content to the City and Rivian. The City may make any of the representations described above based on the actual current knowledge of the then-current City Manager.
- 7.22. **Indemnity.** Rivian shall defend (using counsel of City's choosing), indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against any and all third party claims, losses, proceedings, damages, causes of action, liability, cost and expense (including attorney's fees) arising from, in connection with or related to this Agreement or the functions or operations of the 755 Yosemite Drive Last Mile Hub. The City shall fully cooperate in the defense of any such actions and upon written request of Rivian shall provide to Rivian such documents and records in possession of the City that are relevant to such actions and not otherwise protected by law. Notwithstanding the foregoing, should any third party bring any such action or proceeding, Rivian shall have the right to terminate this Agreement, and as of such date of termination, all unaccrued liabilities of the parties under this Agreement shall cease except for Rivian's obligation of indemnity owed to the City as provided in this Section 7.22.
- 7.23. **Public Benefits.**
- 7.23.1. **Community Participation.** As additional consideration for the benefits conferred under this Agreement, Rivian further agrees to participate in supporting community benefit events and activities consistent with Rivian's practices and policies.

- 7.23.2. **Employment Outreach for Local Residents.** A goal of the City in entering into this Agreement is to foster employment opportunities for City residents. To that end, Rivian will use commercially reasonable efforts to recruit and hire City residents for any full- and part-time employment opportunities as determined by Rivian in its sole discretion. The City shall be authorized to post and advertise any job recruitment information provided to the City on the City website and other jobs available and job recruitment sites within the region. Any offers of employment will be at Rivian's sole discretion. Nothing in this paragraph will require Rivian to offer employment to individuals who are not otherwise qualified for such employment. Without limiting the generality of the foregoing, the provisions of this Section 7.23.2 are not intended, and will not be construed, to benefit or be enforceable by any person whatsoever other than the City.
- 7.24. **State of California Legislation Impact on Covenant Payment.** Rivian acknowledges that the California Legislature has in the past adopted certain legislation which diverted to the State of California a portion of the Sales Tax Revenues which were otherwise payable to the City. Rivian acknowledges that it is possible that the California legislature may enact similar legislation in the future which would cause a corresponding reduction of and/or delay in the payment of the Sales Tax Revenues, and that such reduction will cause Rivian a corresponding reduction and/or delay in the payment of the Agreement Payments due to Rivian during such time as such legislation is in effect. Furthermore, Rivian acknowledges that it is possible that the legislation described above, or some variant thereof, may be enacted and effective during one or more subsequent times during the Eligibility Period and may materially and negatively impact the amount of Sales Tax Revenues and, accordingly, Agreement Payments. The City does not make any representation, warranty or commitment concerning the future actions of the California legislature with respect to the allocation of Sales Tax Revenues to the City. Rivian agrees that it is undertaking its obligations under this Agreement after having considered, and is expressly assuming the risk of, the possibility of the enactment of such legislation.
- 7.25. **Direct Pay Permit Obligations.** Rivian shall apply for a Direct Pay Permit from CDTFA, and shall be solely responsible for self-assessing state, local, and any other sales and/or use taxes quarterly to CDTFA associated with the interior build-out of the 755 Yosemite Drive Last Mile Hub. Rivian will take all necessary steps to establish and implement the necessary controls and processes to track purchases eligible for direct allocation. Rivian shall further certify to the CDTFA that it has purchased or leased the real property for the 755 Yosemite Drive Last Mile Hub pursuant to any state requirements.

[SIGNATURES ON FOLLOWING PAGE(S)]

SIGNATURE PAGE FOR ECONOMIC INCENTIVE AGREEMENT BETWEEN
THE CITY OF MILPITAS
AND
RIVIAN, LLC

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF MILPITAS

Approved By:

Ned Thomas
City Manager

Approved as to Form:

Christopher Creech
Acting City Attorney

Approved:

Luz Cofresí-Howe
Finance Director

Approved:

Alex Andrade
Economic Development & Strategic Initiatives Director

RIVIAN, LLC



box SIGN 1J57897R-1RYY5PZR
Name James Bomar

VP of Tax and Trade
Title

Feb 14, 2025
Date



Attachment C: Economic Development Subsidy Report
ECONOMIC DEVELOPMENT SUBSIDY REPORT
PURSUANT TO GOVERNMENT CODE SECTION 53083
FOR AN ECONOMIC INCENTIVE AGREEMENT BY AND BETWEEN
THE CITY OF MILPITAS
AND
RIVIAN, LLC

Pursuant to Government Code Section 53083, the City Council of the City of Milpitas must hold a noticed public hearing and, prior to the public hearing, provide all of the following information in written form and available to the public and through the City Internet website, regarding a proposed economic development subsidy to be provided by the City pursuant to an Economic Development Incentive Agreement (“Agreement”) by and between the City of Milpitas (“City”) and Rivian, LLC (“Rivian”). The Agreement provides an economic development subsidy from the City to Rivian to incentivize the leasing of an existing, approximately 97,000 square-foot industrial property located at 755 Yosemite Drive in Milpitas, California (“Property”), for the sales and leasing, vehicle delivery and inspections, and servicing of all-electric, zero-emission vehicles manufactured off-site and delivered by Rivian to customers from the Property (“Last Mile Hub”).

Notice was published on the City Internet website on February 21, 2025, for a public hearing to be held on March 4, 2025.

The purpose of this Economic Development Subsidy Report (“Report”) is to provide the information required pursuant to Government Code Section 53083 regarding the Agreement. This Report shall remain available to the public and posted on the City Internet website until the end date of the economic development subsidy, as further described in Item 2 below.

- 1. The name and address of all corporations or any other business entities, except for sole proprietorships, that are the beneficiary of the economic development subsidy, if applicable.**

The Agreement is with Rivian, LLC, a Delaware corporation (“Rivian”). Rivian is the sole beneficiary of the economic development subsidy.

Rivian, LLC
13250 N. Haggerty Road
Plymouth, MI 48170
legal@rivian.com
tax@rivian.com

- 2. The start and end dates and schedule, if applicable, for the economic development subsidy.**

The Agreement, and the obligations of the parties therein, will not become effective



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until the date on which all the following are true ("Effective Date"):

- a) The Agreement has been approved and executed by an authorized signatory of Rivian and delivered to the City;
- b) Following all legally required notices and hearings, the Agreement has been approved by the City Council;
- c) The Agreement has been executed by the appropriate authorities of the City and delivered to Rivian;
- d) Rivian has entered into an agreement to lease a Last Mile Hub within the City; and
- e) The Last Mile Hub is generating sales and/or use tax revenues for the City.

The term will begin on the Effective Date of the Agreement and continue for eight (8) years. The first Agreement Payment will be paid following the first Computation Quarter (as defined in Section 7 herein) in which Rivian has performed its covenants and other obligations pursuant to the Agreement, including that the Last Mile Hub has begun generating sales and/or use tax revenues for the City.

3. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy.

The economic development subsidy shall be the sum of an amount equal to the annual percentages of the Sales Tax Revenues, as shown in Table 1. *Agreement Computation Percentages*, attributable to annual taxable sales and leases at the Last Mile Hub quarterly received by the City following the Effective Date.

Table 1. *Agreement Computation Percentages*

Years 1 to 3:	35% to Rivian, 65% to City
Years 4 to 8:	50% to Rivian, 50% to City

The City estimates the annual Agreement Payments to Rivian as follows:

- in Year 1, the Agreement Payments to Rivian are estimated to total \$1,037,190 with \$1,926,210 to the City;
- in Year 2, the Agreement Payments to Rivian are estimated to total \$1,037,190 with \$1,926,210 to the City;
- in Year 3, the Agreement Payments to Rivian are estimated to total \$1,728,650 with



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RIVIAN, LLC

\$3,210,350 to the City;

- in Years 4 to 8 combined, the Agreement Payments to Rivian are estimated to total \$12,347,500 with \$12,347,500 to the City;

The City estimates the total amount of revenue gain for the City, over the 8-year term of the agreement to be \$19,410,270.

The City estimates the total amount of the expenditure of public funds, or of revenue loss, because of the economic development subsidy will be up to \$16,150,530 over the 8-year term of the agreement.

4. A statement of the public purposes for the economic development subsidy.

The economic development subsidy in this Agreement is intended to incentivize the leasing of an existing, approximately 97,000 square-foot industrial property located at 755 Yosemite Drive in Milpitas, California for the sales and leasing, vehicle delivery and inspections, and servicing of all-electric, zero-emission vehicles manufactured off-site and delivered by Rivian to customers from the Property (“Last Mile Hub”), and support the Rivian Last Mile Hub remaining in Milpitas for no less than eight (8) years.

Founded in 2009 and headquartered in Irvine, California, Rivian is an American manufacturer specializing in all-electric, zero-emission vehicles. Rivian employs 4,000 people in California and has a total workforce of over 16,000 across the U.S. and is known for its designs and production of vehicles such as the R1T pickup, R1S SUV, and commercial delivery vans, all aimed at reducing pollution from traditional vehicles.

The Property is located in the Heavy Industrial Zone (M2). The Property currently is vacant and typically would be occupied by light industrial and warehouse uses which provide few jobs and limited revenues to the City. Through the Agreement, Rivian will lease the Property to be occupied as a Last Mile Hub within the City subject to the Economic Development Incentive Agreement. Once operational, this Last Mile Hub will generate new Local Sales Taxes for the City, which will support community-wide public services. The Last Mile Hub will also generate secured and unsecured property taxes from the improvements constructed to support the operations, and establish a business that –for public, transportation, and environmental benefit – strategically utilizes the railway proximity, whereas that proximity may otherwise be contrary to attracting the highest, best use for this property.



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The City has determined that the establishment by Rivian of a Last Mile Hub as described that participates in sales tax generating business activities within the City will generate substantial new revenue for the City, create approximately twenty-five (25) permanent, high-skilled jobs that meet the City Council priorities of Economic Development and Job Growth and fulfill Economic Development Strategy implementation actions. Additionally, the establishment of the Last Mile Hub supports the Milpitas 2040 General Plan's Economic Development Element Goals to attract businesses focusing on emerging technologies including artificial intelligence and automotive technology, facilitates the development of projects that provide sales and/or use tax receipts among other revenues, and leverages public investments to enhance the City's economic vitality. This Agreement supports the City commitment to fostering a business-friendly environment, stimulating economic growth, and generating new job opportunities and revenue sources that will enhance services for residents and the community. Further, Rivian's commitment to zero emissions vehicles is consistent with and tends to forward the City's Climate Action Plan.

5. Projected tax revenue to the local agency as a result of the economic development subsidy.

Rivian Covenants to the City will cause Rivian Sales Taxes to be paid to the City, which is estimated to total \$35,560,800 over the eight (8) year term of the Agreement. The projected net tax revenue accruing to the City as a result of the economic development subsidy proffered in the Agreement is estimated to total \$19,410,270 (\$2.43 million average per year).

Rivian's planned tenant improvements of \$3-\$3.5 million are contemplated to enhance the base valuation of the Property upon reassessment, with a potential increase of real property taxes of \$4,878 to \$8,130 per annum which will compound over time.

In addition, the City will receive permitting fees in Year 1 of the Agreement, and ongoing annual business license fees from Rivian for the Last Mile Hub.

6. Estimated number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions.

The Rivian Last Mile Hub within the City is anticipated to result in the creation of approximately twenty-five (25) permanent, full-time, highly skilled and benefitted jobs. While Rivian does not contemplate part-time jobs to be available at the Last Mile Hub



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RIVIAN, LLC

at this time, approximately 23,000 to 28,000 person hours of temporary construction jobs will be created to complete the planned leasehold improvements.

As expressed in the Agreement, Rivian acknowledges that a goal of the City in entering into this Agreement is to foster employment opportunities for City residents. To that end, Rivian will use commercially reasonable efforts to recruit and hire City residents for any employment opportunities as determined by Rivian in its sole discretion. The City shall be authorized to post and advertise any job recruitment information provided to the City on the City website and other jobs available and job recruitment sites within the region. Any offers of employment will be at Rivian's sole discretion. Nothing in the Agreement will require Rivian to offer employment to individuals who are not otherwise qualified for such employment.

(a) A description and total value of any state or federal subsidies in the process of being applied for, or received by, the Last Mile Hub.

None.

(b) A description of any accountability measures, including, but not limited to, claw backs of subsidies, provided in the Agreement if the Last Mile Hub does not meet the goals outlined in the Agreement for an economic development incentive subsidy.

If Rivian does not meet any of the Covenants required by the Agreement, the City may terminate its obligations with respect to Agreement Payments without cost, expense or liability, after providing Rivian an opportunity to cure. Rivian's contractual covenants include an operating and use covenant for the new Last Mile Hub, a required designation of City as point of sale for the Last Mile Hub, economic subsidy reporting obligations, and obligations against solicitation or acceptance of financial assistance, as defined. Rivian also covenants the Last Mile Hub shall not be used for any purpose outside of that set forth in the Agreement as the Last Mile Hub.

7. Terms Used in This Notice.

As used in this notice, the following terms have the following meanings:

(a) "Agreement Payment" means the consideration to be paid to Rivian in exchange for the Covenants and Rivian's performance of its obligations as set forth in the Agreement, and subject to satisfaction of all conditions precedent thereto.



Attachment C: Economic Development Subsidy Report
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- (b) "Computation Quarter" means each three-month period within the Agreement Term beginning on the first day of each Fiscal Quarter and ending on the last day of such Fiscal Quarter.
- (c) "Covenants" means those covenants described in the Agreement.
- (d) "Economic development subsidy" means any expenditure of public funds or loss of revenue to a local agency in the amount of one hundred thousand dollars (\$100,000) or more, for the purpose of stimulating economic development within the jurisdiction of a local agency, including, but not limited to, bonds, grants, loans, loan guarantees, enterprise zone or empowerment zone incentives, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, and tax credits. "Economic development subsidy" shall not include expenditures of public funds by, or loss of revenue to, the local agency for the purpose of providing housing affordable to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.
- (e) "Eligibility Period" means the period commencing as of the first (1st) day of Computation Quarter 1 and ending the last day of the final Computation Quarter contemplated by the lease of the Last Mile Hub, but not less than Computation Quarter 32.
- (f) "Fiscal Quarter" means one three-month period, or portion thereof, within the Agreement Term and commencing on January 1, April 1, July 1, or August 1, and ending on, as applicable, the immediately following March 31, June 30, September 30, or December 31.
- (g) "Local agency" means a city, including a charter city, county, or city and county.

Attachment D - RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING THE ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT AND ECONOMIC DEVELOPMENT SUBSIDY REPORT BY AND BETWEEN THE CITY OF MILPITAS AND RIVIAN, LLC.

WHEREAS, the Milpitas City Council has prioritized Economic Development and Job Growth whereby business attraction efforts are critical to driving economic growth by increasing tax revenues, creating job opportunities, fostering innovation, and enhancing the City's business-friendly reputation; and

WHEREAS, the Economic Development Incentive Agreement meets several City goals through the Economic Development Strategy, General Plan 2040's Economic Development Element, and the Climate Action Plan. It includes Economic Development Strategy goals of creating a resilient and sustainable local economy, capturing emerging innovation and technologies, General Plan 2040 Economic Development Element Actions ED 1-2 Promote and support innovative and emerging technologies for 21st-century business and community needs, ED 2-4 Facilitate development projects that provide sales tax revenues, and Climate Action Plan Circular and Green Economy GE-1 Foster green and sustainable economic development opportunities and support circular economy policies, and GE-1.1: Support and attract clean technology businesses and green jobs in Milpitas.

WHEREAS, Rivian, LLC is an American electric vehicle (EV) company established in 2009. Rivian designs and manufactures all-electric vehicles, with its flagship models R1T (pickup truck) and R1S (SUV), and commercial vans, aimed at reducing greenhouse gas emissions. In March 2024, Rivian introduced three midsize models, the R2, R3, and R3X to deliver performance and utility at an affordable price. Rivian employs 4,000 people in California and has a total workforce of 16,000 in the United States.

WHEREAS, Rivian is considering leasing, remodeling, and operating an existing, approximately 97,000 square-foot industrial property located at 755 Yosemite Drive in Milpitas, California, for the sales and leasing, vehicle delivery and inspections, and servicing of all-electric, zero-emission vehicles manufactured off-site and delivered by Rivian to customers from the property known as a Last Mile Hub; and

WHEREAS, Rivian wishes to locate a Last Mile Hub in Milpitas because of the operational advantages including, but not limited to, the strategic location of the city which supports alternative transportation routes and methods, as well as access to and for customers in Northern California, and a qualified workforce; and

WHEREAS, the City has determined the establishment by Rivian of a Last Mile Hub that participates in the sales/lease process in Milpitas will generate substantial revenue through the Economic Development Incentive Agreement for the City, and create approximately twenty-five (25) permanent, full-time highly skilled jobs; and

WHEREAS, the City has determined the ongoing operation of the Last Mile Hub will yield substantial advantages for both the City and its community, including, but not limited to, new employment opportunities, property tax revenues, sales tax revenues, and other related benefits; and

WHEREAS, California Government Code §53083 mandates that local agencies shall provide public notice and a hearing concerning any economic development subsidy within their jurisdiction prior to obtaining approval from their governing body; and

WHEREAS, California Government Code §53083 reporting requirements regarding an Economic Development Subsidy aimed at stimulating economic development within the local jurisdiction is triggered when the expenditure of public funds or a loss of revenue to a local agency amounts to \$100,000 or more; and

WHEREAS, Compliance with California Government Code §53083 requires the City of Milpitas to post the information regarding the proposed economic development subsidy on the City website throughout the entire duration of the subsidy, which took place [beginning](#) on February 21, 2025; and

WHEREAS, Rivian wishes to apply for and obtain a Direct Pay Permit to self-assess and pay sales and/or use taxes directly to the California Department of Tax and Fee Administration (“CDTFA”) instead of to the lessor from whom the property is leased; and

WHEREAS, Rivian intends to designate the City as a point of sale for Rivian's products sold and/or leased at the Last Mile Hub in Milpitas; and

WHEREAS, the economic incentives provided in the Economic Development Incentive Agreement are intended to encourage Rivian to lease, remodel, and operate a Last Mile Hub within Milpitas, serve as a community partner, and remain in Milpitas for up to eight (8) years; and

WHEREAS, this Resolution is not, and shall not be construed to be, an approval or an agreement to issue permits or a granting of any right or entitlement by the City concerning the Last Mile Hub, Rivian’s business activities or any other project, development, or construction by Rivian in Milpitas; and

WHEREAS, accordingly, the City has concluded that entering into an Economic Development Incentive Agreement and Rivian's performance of those covenants serves a significant public purpose and further fosters a healthy local economy in Milpitas as forth by a City Council Resolution.

THEREFORE BE IT RESOLVED, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. ~~Furthermore~~, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council approves the Economic Development Incentive Agreement and Economic Development Subsidy Report by and between the City of Milpitas and Rivian, LLC. [The City Manager or his designee is authorized to execute the Economic Development Incentive Agreement on behalf of the City of Milpitas.](#)

Passed and adopted this 4th day of March 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

~~Michael Mutaipassi~~ Christopher Creech, Acting City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	2025 Weed Abatement Public Hearing and Resolution Adoption to Abate the Weeds (Staff Contact: Arthur Belton, Deputy Fire Chief/Fire Marshal, 408-586-3384)
Category:	Public Hearings-Public Safety
Meeting Date:	3/4/2025
Recommendation:	(1) Conduct a public hearing; and (2) Adopt a resolution directing the County of Santa Clara Consumer and Environmental Protection Agency Weed Abatement Program to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.

BACKGROUND:

Fire risk in California with regard to climate has been steadily increasing each wildfire season. Much of the loss to property and life is attributed to areas known as Wildland Urban Interface (WUI) where housing development has been integrated into traditionally open land space. However, some notable fire storms have not been limited to WUI, resulting in rapid fire spread within fully developed city landscapes. Three factors that contribute to wildfire behavior and spread are weather, topography and fuel load. Of these factors, fuel load is the one that can be engaged proactively to reduce the risk of fire initiation and spread. As a result, community fire prevention efforts focus on factors such as fuel reduction and defensible space. Weeds are significant contributors to initial and escalating fire growth. Categorized as light, flashy fuels, they are an easily ignitable fuel source that burns rapidly, increasing fire risk both in frequency and size. For many years Milpitas has been successful in reducing the fire risk of these light, flashy fuels through a weed abatement program.

On February 2, 1976, an Agreement was established and approved to abate weeds by the County of Santa Clara for the City of Milpitas. On June 21, 2022, City Council approved an amended and restated agreement, authorizing the City Manager to execute and sign the updated agreement. The Agreement promotes the efficiency and economy of operations in the abatement of weeds by the City and the County. The major procedural functions to be performed by the County and / or City shall include but not limited to:

1. The County shall prepare the list of parcels requiring abatement of weeds in the City and transmit the said list to the City for review and approval for processing.
2. The County shall prepare the notice of weed abatement and cause such notice to be mailed to the owners of the parcels requiring weed abatement.
3. The City Council shall conduct public hearings on the proposed removal of weeds pursuant to the provisions of the City Ordinance when the City Fire Marshal presents such appropriate resolutions for adoption. The City Council may by resolution declare the weeds on the respective parcels of the land as nuisance and make the determination to proceed with the abatement of weeds and authorize the performance of the service to remove the weeds in accordance with the aforementioned Agreement.
4. Upon proper authorization by the City, the County shall remove the weeds on the designated properties.
5. The County shall render to the City an itemized assessment report for the cost of the weed abatement services performed on the respective parcels.
6. The City Council, after a public hearing, shall require the County Assessor's Office to include the costs of the weed abatement services performed for the City for the current year as a special assessment on

bills for taxes levied against the affected parcels. Such special assessments shall be liens on the respective properties.

7. Pursuant to California Health and Safety Code 14915, a copy of the report, as confirmed, shall be turned over to the auditor of the County, on or before the tenth day of August following such confirmation, and the auditor shall enter the amounts of the assessments against the respective parcels of land as they appear on the current assessment roll, (Amended by Stats. 1939, Ch. 354).

ANALYSIS:

On February 4, 2025, the City Council adopted Resolution No. 9384 declaring weeds on certain described properties to be a public nuisance, and to set a public hearing for March 4, 2025. A copy of the resolution was forwarded to the County of Santa Clara Consumer and Environmental Protection Agency- Weed Abatement Program (County). A notice for the public hearing was sent by the City Clerk's Office to the local newspaper for publication. Additionally, the notice was mailed to owners of the properties proposed for abatement by the City of Milpitas and the County. The purpose of the public hearing is for the parcel owners who object to the removal of the weeds to state their objections before the weeds are removed and the costs made as a lien upon the property. A list of properties to be abated is included in the City Council's agenda packet along with a resolution directing the County to abate the weeds.

POLICY ALTERNATIVE(S):

Alternative 1: Not pass a resolution

Pros: None

Cons: This would reverse a long-standing agreement with Santa Clara County to provide weed abatement service within the City of Milpitas

Reason for Not Recommending: Without a resolution, property owners will not be notified and weed abatement will not be conducted. Weeds covered under this program, classified as "light flashy fuels" are prone to easy ignition and contribute significantly to rapid fire growth. Left unmitigated, these weeds pose a significant public safety issue in terms of fire potential.

FISCAL IMPACT:

At a City Council meeting prior to August 10th of each year during a public hearing, the City's municipal code provides the City Council hear the assessment report for the list of weeds abated within the City, together with any objections of the property owners liable to be assessed, and to make such modifications on the proposed assessment as it deems necessary. Following adoption by the City Council, the resolution will be recorded and charges thereon become a lien on the land involved to be collected in the same manner as property taxes.

There are no City-owned parcels listed (Attachment 1) for weed abatement services. If the money collected from property owners in Santa Clara County for weed abatement services does not cover the County's fixed costs, the County can request the City to pay its fair share of the deficit by September 1. The City's deficit share is determined by the percentage of parcels in the City that received weed abatement services compared to the total number of parcels serviced by the County. The County payment request would include details about the total shortfall, any available program revenues to offset it, and the City's calculated share of the shortfall.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

RECOMMENDATION:

- 1) Conduct a public hearing.
- 2) Adopt a resolution directing the County of Santa Clara Consumer and Environmental Protection Agency Weed Abatement Program to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.

ATTACHMENT(S):

- a) 2025 Milpitas Commencement Report (Exhibit A)
- b) Resolution

2025 WEED ABATEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MILPITAS

EXHIBIT A

Situs				APN
634	N	ABEL	ST	022-06-010
7280		MARYLINN	DR	022-07-007
99	S	MAIN	ST	022-24-017
111	S.	Main	ST	022-24-040
		VALLEY	WY	022-28-026
1735		CALIFORNIA	CR	022-37-002
1301		CALIFORNIA	CIR	022-38-002
81		DIXON	RD	026-05-021
		DIXON	RD	026-05-023
1878	N	MILPITAS	BLVD	026-05-024
51		DIXON	RD	026-05-053
		DIXON	RD	026-06-012
1720		ARIZONA	AVE	026-07-016
1840		ARIZONA	AVE	026-07-051
1640		ARIZONA	AVE	026-11-067
		BOTHELO	LN	028-23-017
		RAILROAD	AVE	028-24-006
1390		EL CAMINO HIGURA		029-02-007
1327		CALLE ORIENTE		029-05-010
880		EVANS	RD	029-06-003
666		EVANS	RD	029-06-008
826		CALAVERAS RIDGE	DR	029-06-031
322	N	PARK VICTORIA	DR	029-16-006
1220		COUNTRY CLUB	DR	029-52-014
1039		CAMARILLO	CT	029-52-015
673		QUINCE	LN	029-59-014
517		VISTA RIDGE	DR	042-30-009
519		VISTA RIDGE	DR	042-30-010
529		VISTA RIDGE	DR	042-30-015
410		VISTA RIDGE	DR	042-30-024
350		VISTA RIDGE	DR	042-30-025
531		VISTA RIDGE	DR	042-30-029
		SERRA	WY	083-06-006
		MAIN	ST	083-06-008
	S	MAIN	ST	083-07-015
540	S	ABEL	ST	083-13-013
91		MONTAGUE	EXPY	083-42-002
		HAMMOND	WAY	086-25-018
	S	MAIN	ST	086-25-028

		HAMMOND	WAY	086-25-030
		HAMMOND	WY	086-25-032
		BOTHELO	AVE	086-26-039
		HAMMOND	WY	086-26-040
		HAMMOND	WY	086-26-042
		MILPITAS	BLVD	086-28-006
		VISTA	WAY	086-29-005
		WRIGLEY	WAY	086-29-036
		YOSEMITE	DR	086-29-047
876		YOSEMITE	DR	086-30-047
		YOSEMITE	DR	086-30-048
		AMES	AVE	086-30-060
		SINCLAIR FRONTAGE	RD	086-31-003
		MILPITAS	BLVD	086-32-084
1646		CENTRE POINT	DR	086-33-110
		COSTA	ST	086-41-014
1001	S	MILPITAS	BLVD	086-42-033
		GARDEN	ST	086-94-014
375		DEMPSEY	RD	088-01-002
	S	PARK VICTORIA	DR	088-04-062
		DEMPSEY	RD	088-04-076
534	S	PARK VICTORIA	DR	088-06-039
1459		CANTON	DR	088-09-039
1496		JUPITER	CT	088-09-089
2013		YOSEMITE	DR	088-20-023
575		CARLSBAD	ST	088-20-102
632		CARLSBAD	ST	088-20-125
1791		ROCKY MOUNTAIN	AV	088-23-075
1966		YOSEMITE	DR	088-26-149
		OLD PIEDMONT	RD	092-34-008
1250		PIEDMONT	RD	092-34-014
2235		URIDIAS RANCH	RD	092-37-050

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING THE CITY MANAGER TO CONTRACT WITH THE OFFICE OF SANTA CLARA COUNTY CONSUMER AND ENVIRONMENTAL PROTECTION AGENCY – WEED ABATEMENT PROGRAM TO ABATE WEEDS AND/OR CAUSE THE REMOVAL OF RUBBISH, REFUSE OR DIRT DECLARED TO BE A PUBLIC NUISANCE, TO KEEP AN ACCOUNT OF THE COSTS OF ABATING SUCH NUISANCE, AND TO FILE SUCH ACCOUNT IN A REPORT AND ASSESSMENT LIST WITH THE CITY COUNCIL

WHEREAS, the City Council of the City of Milpitas adopted Resolution No. 9384 on February 4, 2025, declaring weeds and/or the accumulation of rubbish, refuse or dirt on the properties listed on the annual list attached hereto as **Exhibit A** to be a public nuisance and setting a public hearing in accordance with Title V, Chapter 202 of the Milpitas Municipal Code; and

WHEREAS, a public hearing was duly noticed as required by law and such hearing was held on March 4, 2025, to hear public comments and consider any objections to the proposed removal of the weeds, rubbish, refuse and/or dirt; and

WHEREAS, the City Council duly considered and overruled any objections to the proposed nuisance abatement by the Office of Santa Clara County Consumer and Environmental Protection Agency – Weed Abatement Program.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Manager is hereby ordered and authorized to contract with the Office of Santa Clara County Consumer and Environmental Protection Agency – Weed Abatement Program to abate such public nuisances existing on those properties included on the attached **Exhibit A**. The City Council finds and determines that these properties and/or the adjacent sidewalks and streets on this list contain unlawful weeds, rubbish, refuse, or dirt in violation of Section V-202-2.00 of the Milpitas Municipal Code, that such conditions and properties constitute a nuisance in violation of Section V-202-3.00 of the Milpitas Municipal Code, and that such conditions and properties are ordered to be abated pursuant to Section V-202-7.00 of the Milpitas Municipal Code. All objections not expressly allowed by a majority vote of the City Council at the hearing on March 4, 2025 are overruled. The Office of Santa Clara County Consumer and Environmental Protection Agency – Weed Abatement Program shall keep an account of the cost of abatement on each listed parcel and submit to the City Clerk, for confirmation by the City Council, an itemized written report showing such costs to be assessed on the listed properties as provided for in the Milpitas Municipal Code, Sections V-202-7.00 through V-202-10.00.

PASSED AND ADOPTED this 4th day of March, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Christopher Creech, Acting City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive an Overview of the Public Review Draft of the Full Updated Zoning Ordinance (Phase 2 of the Comprehensive Zoning Ordinance Update) and Provide Comments to Staff (Staff Contact: Jay Lee, Planning Director, 408-586-3077; and Holly Pearson, Senior Special Projects Associate, 408-609-0072)
Category:	Community Development
Meeting Date:	3/4/2025
Recommendation:	Receive an overview of the Public Review Draft of the full updated Zoning Ordinance (Phase 2 of the Comprehensive Zoning Ordinance Update) and provide comments.

BACKGROUND:

In early 2023, the City of Milpitas (City) launched a comprehensive update of the City Zoning Ordinance, which is the primary implementation tool for the City General Plan with regard to land use and urban development. The Zoning Ordinance (also called the zoning code) is the set of local laws and regulations that determine the form and appearance of new development and expansions or other modifications to existing buildings, as well as what types of land uses (retail, offices, residential units, industry, etc.) may be located where. Lisa Wise Consulting, Inc., a California-based firm with extensive experience in zoning code updates for local jurisdictions across the state, was retained to work with the Planning Department on the project.

The first phase of the Comprehensive Zoning Ordinance Update work, which focused on consistency with the updated general plan (Milpitas 2040 General Plan) and the recently adopted Milpitas Metro Specific Plan, resulted in the creation of the new Business Park Research and Development (BPRD) Zone and Metro Area Zones, along with related updates to the City's zoning map. These ordinance and map changes were adopted by City Council on June 18, 2024, and became effective 30 days after that date.

The second phase of the Zoning Update Project consists of detailed update work on the entire code. Objectives of this phase of work include reorganizing the code and making it more user friendly; modernizing the zoning regulations in keeping with changes in state and federal law and current best practices in land use planning; incorporating changes that will implement various City policy documents, such as the Climate Action Plan and the Housing Element; and promoting more compact, mixed-use and transit-oriented development in appropriate areas of Milpitas.

On December 18, 2024, the City released the public review draft of the updated full Zoning Ordinance. The new draft Zoning Ordinance represents a thorough reorganization and modernization of the existing zoning code (currently Title XI, Chapter 10 of the Milpitas Municipal Code). In addition, a new draft of the Citywide zoning map is available for public review. This proposed version of the zoning map includes only minor changes to overlay zones related to the Phase 2 zoning code updates. No changes have been made to the base zoning for any properties in Milpitas, with the exception of the conversion of the existing Mobile Home Park overlay to a new Mobile Home Park base zone – see “Summary of Phase 2 Draft Updates to Citywide Zoning Map” section on pages 7-8 for further information.

The public comment period for the draft updated Zoning Ordinance and zoning map is open through March 7, 2025. Planning Department staff is requesting comments on these drafts from City Council and members of the community at this special study session. The draft Zoning Ordinance and map will be revised as needed based on comments received, then brought to the Planning Commission and City Council for consideration for adoption this summer.

ANALYSIS:

Work on Phase 2 of the Comprehensive Zoning Update began in late 2023. Initial efforts focused on the preliminary identification of topics for further study and public input, followed by analysis of how to best reorganize and revise the existing Zoning Ordinance. In general, changes to the updated Zoning Ordinance focus primarily on improving the clarity, structure, and organization, and “user friendliness” of the code. This report provides a summary of the draft updated Zoning Ordinance, included in its entirety as Attachment A, noting highlights of the changes that are proposed as compared to the existing code.

The draft updated code features an entirely new structure and numbering convention; however, many sections of the existing code have been carried over to the new Zoning Ordinance structure without substantial changes. Other existing code sections have been completely rewritten, and several new sections have been added to the draft updated code, addressing topics that are not currently part of the City’s Zoning Ordinance. An acronym sheet (Attachment B) has also been prepared that defines the various acronyms used within the draft Zoning Ordinance.

The land use regulations and development standards for most of the zoning districts in the City will remain largely the same as they are in the existing Zoning Ordinance; that is, there are few changes to standards such as maximum building heights, minimum building setbacks, allowable density, and allowable uses. The minor changes in allowable height, density, setbacks, and other development standards that are proposed are necessary for the Zoning Ordinance to implement and be consistent with the City General Plan, including the 2023-2031 Housing Element, as required by state law. No changes are proposed to the existing, voter-approved hillside development regulations in the “H” Hillside Combining District.

The draft updated Zoning Ordinance does not include any changes or additions related to the City’s proposed Housing Opportunity Districts (HODs), which are being considered and discussed under a separate effort. The existing Town Center (TC) Zone, which would be amended in conjunction with the HOD project (if approved), has been carried forward in the draft updated Zoning Ordinance with essentially no changes. If the HOD project is approved, zoning changes related to the Town Center Zone and proposed new Neighborhood Commercial Mixed Use (NCMU) Zone would be incorporated into the Zoning Ordinance at that time.

Overview of Public Review Draft Zoning Ordinance

New Structure and Numbering System

The Zoning Ordinance is currently a chapter within Title XI–Zoning, Planning, and Annexation of the Milpitas Municipal Code (MMC). For the comprehensive update, it is proposed to be moved to its own new title of the MMC (Title XIII–Zoning). This allows the Zoning Ordinance to have a new numbering system that allows for better organization and ease of navigation, as well as for new chapters or sections to be easily added and integrated into the numbering sequence in the future, between existing chapters or sections.

The proposed new Title XIII–Zoning is organized into five parts, with corresponding letter headings:

Part A: General

The introductory part of the updated code addresses the purpose and authority of the Zoning Ordinance, rules of interpretation (of language, numbers), and rules of measurement (lot width, depth, and slope; building height and setbacks; floor area ratio).

Part B: Zone Regulations

This part of the updated code includes all base and overlay zones and corresponding regulations. As in the existing code, base zones are grouped into Residential, Commercial, Mixed Use, Industrial, Metro Specific Plan, and Other. Also included are the existing Milpitas Commercial Specific Plan Area and relevant zoning standards, and those overlay and combining zones that have been retained (Freeway Corridor, Site and Architectural, and “H” Hillside Combining zones) – see the section *Summary of Phase 2*

Draft Updates to Citywide Zoning Map on pages 7-8 for information about existing overlay zones that are proposed to be eliminated).

Part C: Citywide Standards

This part of the code contains general development standards that are applicable in all or several zones throughout the city, related to topics such as accessory structures, fences and walls, lighting, performance standards, exceptions to maximum building height, and allowed encroachments into required setbacks. It includes the chapters on landscaping standards, parking and loading requirements, signs, density bonus for affordable housing, condominium conversions, and nonconforming buildings and uses. It also includes a chapter titled “Specific to Uses,” which contains special regulations for specific land uses such as accessory dwelling units (ADUs), alcoholic beverage sales, cannabis uses, emergency shelters, home occupations, mobile food vending, short-term rentals, temporary uses and structures, wireless telecommunication facilities, and many others.

Part D: Procedures and Administration

Part D is the part of the Zoning Ordinance dedicated to procedures and administration that sets forth the various permit types (Site Development Permits, Use Permits, Variances, Home Occupation Permits, Special Event Permits, and others) and the procedure for review and approval for each type. It establishes the applicable review authority for each permit type (Planning, Director, Zoning Administrator, Planning Commission, or City Council). It also establishes City procedures for preparation and adoption of Zoning Ordinance and zoning map amendments, General Plan amendments, specific plans, planned unit developments (PUDs), and development agreements. Finally, this part contains the code enforcement procedures and penalties for violations of the provisions of the Zoning Ordinance.

Part E: Definitions

The Definitions part of the code is divided into three chapters: Definitions of Terms (general terms used in the Zoning Ordinance) Definitions of Uses (the land uses that may be permitted or conditionally permitted within the various zones), and Definitions of Sign Terms (specific terms used in the Signs chapter in Part C).

Overall Approach and Revisions

Throughout the draft updated code, existing text has been reorganized and regrouped to fit into a more logical sequence, and to make it easier and quicker for users to find and reference the information they need. For instance, definitions have been collected into a single place instead of being spread throughout the code. Similar chapters (such as those related to Residential, Commercial, and Industrial Zone standards) have been organized similarly so a reader can locate information more quickly when moving between chapters. In addition, archaic or confusing language has been replaced with new language that is more clear and stylistically consistent.

In several sections of the draft Zoning Ordinance, new tables, diagrams, illustrations, and other graphics have been incorporated that help to explain and demonstrate definitions, procedures, and standards in the code. In addition, many existing procedures and zoning standards have been clarified and simplified. For example, in the existing Zoning Ordinance, the sections for each category of zones (i.e., Residential Zones, Commercial Zones, Industrial Zones) include subsections with special standards and procedures, which are proposed to be consolidated and moved to Part C: Citywide Standards in the updated code. This reduces unnecessary repetition and offers a more efficient way of presenting information that applies to multiple zoning districts.

Finally, legal requirements derived from state law, federal law, and court rulings that have come into effect since the last updates to the Zoning Ordinance have been reflected in the code in the form of new regulations, standards, and procedures. One example is the proposed changes to Zoning Ordinance provisions for emergency shelters, low barrier navigation centers, supportive housing, and other housing types addressed in the City’s adopted 2023-2031 Housing Element that reflect recent changes in state law. Another noteworthy example is the substantial proposed changes to how the City classifies and regulates signs, which are necessitated by the 2015 *Reed v. Town of Gilbert* U.S. Supreme Court ruling that generally precludes

municipalities from imposing content-based restrictions on signage (in other words, sign regulations may not pertain to the content or the message of a sign, but only to aspects such as the sign's type, size, and manner and duration of display).

New and Substantially Modified Content - Highlights

Definitions and Land Use Classifications [See Chapters E.2 and E.4]. Among the most important and beneficial changes made in the draft Zoning Ordinance are revisions to the existing definitions section, which currently contains both definitions of words/terms used in the code and definitions of land uses that appear in the zone regulations. In the updated code, general definitions and land use definitions have been separated into two distinct chapters. Words and terms that are technical in nature and/or have a specific meaning, context, or usage in the Zoning Ordinance are defined, but not commonly used and well understood English words that appear in the code.

Furthermore, the land use definitions have been extensively revised, simplified, and recategorized. In the existing code, in many cases, very specific business types are listed within the use tables – in the Commercial Zone Uses table (Table XI-10-5.02.1), “Contractor’s yards,” “Landscape contractor,” and “Lumberyards,” are listed separately. By contrast, in the draft updated code, a new and consolidated land use classification for “Construction Yard and Equipment Rental” is included and defined. Having broader, well-defined classes of land uses is much more efficient than listing specific business or use types separately – not only because it is more concise, but also because it allows staff to interpret proposed uses or business types that may not be individually listed in the code, but that would clearly fit within a defined and well-described grouping or category of uses.

Permit Types and Review Authorities [See Section D.2.030]. The roster of Planning permit types and the applicable review authority for each has been revised for clarification, and to provide for an appropriate level of review/discretion and public notification for development projects of various sizes and scales. See Table D.2.030-A: Review Authorities (Attachment 1, page XIII-D.2.) for the proposed review authorities for each permit type, and see Subsections D.4.020 through D.4.120 (Attachment 1, pages XIII-D.16 through XIII-D.42) for details about which permit type(s) is/are required based on the type and size of project. These revisions also fully implement a previous objective of the City Council to transition reviews from the Planning Commission Subcommittee to the Zoning Administrator so as to streamline the development review process.

Many types of projects are now subject to a “lower” level of review. For example, in the existing code, a Site Development Permit (SDP) (Zoning Administrator review) is required for construction of a new single-family dwelling or a new commercial building under 10,000 square feet (per MMC XI-10-57.03(C)(1)(a)). In the draft updated code, both of these project types would be subject to a Minor Site Development Permit (Zoning Administrator) (per Table D.4.020-B). Although the review authority remains the same for these project types, under the updated code both would require a Minor SDP instead of a SDP, resulting in lower permit fees. Staff anticipates the Planning Permit Fee Schedule will be updated and adjusted concurrently with adoption of the updated Zoning Ordinance to reflect new project types and associated staff review time.

In the current code, a 10,000 square foot addition to an existing commercial building requires a Site Development Permit (Zoning Administrator review) (per MMC XI-10-57.03(C)(1)(e)(i); in the updated code, it would be subject to a Minor Site Development Permit (Planning Director review) per Table D.4.020-B). In the existing code, any new fence requires a Minor Site Development Permit (Planning Director review) (per Table XI-10-57.03-1), and in the updated code a new fence that complies with the height, design, and materials standards in Subsection C.2.040 – Fences, Walls and Hedges would be exempt from Site Development Permit review (per D.4.040.B.3.f).

Minor Deviations from Zoning Standards [See Section D.4.050]. In the existing Zoning Ordinance, deviations from many zoning standards and requirements may be allowed with a Conditional Use Permit (see Table XI-10-57.04-1). Although this allows a great deal of flexibility for applicants, the CUP process is

costly and time-consuming. Moreover, the code currently provides little to no guidance as to whether and under what circumstances such CUP requests should be granted, which results in uncertainty for both Planning staff and applicants. Under general best practices in land use planning, CUPs should be employed for the review and approval of land uses that are specified as conditionally permitted in given zones; they are not intended to be used to grant exceptions to or relaxation of zoning standards.

In the draft updated code, this open-ended provision allowing for deviations from zoning standards with a CUP is proposed to be replaced with a new Minor Deviations provision. A Minor Deviation request would be a new permit type, and the draft code sets forth specific types of deviations from zoning standards that may be approved subject to this permit. Moreover, the code specifies the maximum amount of deviation that may be allowed and specific findings that must be met for approval to be granted. This procedure would provide for more consistency, predictability, and transparency, as compared to the existing CUP process, while retaining appropriate flexibility for applicants in unique situations.

Parking [See Sections C.6.040 through C.6.070]. The standards in the existing Zoning Ordinance for the number of off-street parking spaces required by land use are outdated and not consistent with current best planning practices (regional, state, and national). In the case of most land uses, the City's existing parking requirements are too high, contributing to an undesirable cycle of too much urban land being dedicated to the parking of cars, low-density development patterns, and a lack of viable, alternative transportation options such as walking, bicycling, and using public transit.

To correct this problem, modest reductions are proposed to the minimum parking requirements for most land uses. The draft updated parking standards are comparable to those adopted by other mid-sized, suburban jurisdictions in the San Francisco Bay Area, and are intended to more realistically reflect the amount of parking demand generated by specific land uses, such as retail, multifamily residential, and offices. Examples of proposed changes to parking requirements include:

Land Use	Existing Parking requirement	Proposed Parking Requirement
Single Family Residence: 2-bedroom 3-bedroom	2 spaces per unit 2 spaces per unit	1 space per unit 2 spaces per unit (<i>no change</i>)
Multi-Family Residence: 1-bedroom 2-bedroom	1.5 spaces per unit 2 spaces per unit	1 space per unit 1.5 spaces per unit
Full-Service Restaurant:	1 space per 39 square feet of floor area	1 space per 200 square feet of floor area
General Retail Stores:	1 space per 200 square feet of floor area	1 space per 400 square feet of floor area

In addition, to further support alternative and more sustainable transportation modes, the draft updated code allows for additional reductions to the total amount of required parking on a site through the implementation of alternative parking strategies and transportation demand management (TDM) measures that would contribute to reductions in the actual parking demand generated by a property. Alternative parking strategies would be voluntary and could be incorporated according to the applicant's choice. Possible alternative parking strategies include shared parking where two or more different land uses share parking spaces based on different peak demand times for parking usage, provision of spaces for car share vehicles, and provision of electric vehicle (EV) charging spaces, and additional bicycle parking spaces. TDM measures would be mandatory for larger new development projects based on project type (e.g., multifamily residential projects with 20 or more units, office projects with 10,000 or more square feet of floor area, hotels with 40 or more rooms). Examples of TDM measures that may be

incorporated into a TDM plan include carpooling/vanpooling provisions, free or subsidized transit passes for residents, on-site car sharing, and construction of bicycle/pedestrian infrastructure improvements near a project site.

Signs [See Chapter C.8]. The Signs chapter of the draft Zoning Ordinance has been completely rewritten. The most significant change is that sign requirements and standards have been revised to focus on content neutrality, as noted above – that is, to address the time, place, and manner of a sign’s display as well as the physical appearance (size, proportions, colors, font styles) rather than the content or the message conveyed by the sign. Zoning standards for signs have been reorganized into a table format for easier reference, and new illustrations have been included to demonstrate sign types and applicable standards for size and placement. In addition, color graphics and photos have been added to illustrate the sign design standards.

Single-Family Residential Design Standards [See Section C.10.210]. The Zoning Ordinance does not currently include design standards for single-family residences. As part of the proposed code update, a new section on design standards for single-family dwellings has been added in order to improve and enhance the appearance and aesthetic quality of residential neighborhoods in Milpitas. These standards would be applicable only to new single-family homes; they would not apply to modifications to existing homes.

The proposed new design standards for single-family homes are simple and address aspects such as orientation of primary entrances toward the street, privacy requirements for second-story windows near property lines, limits on blank walls, and requirements for durable and high-quality exterior building materials.

Landscaping Standards [See Chapter C.4]. The existing Zoning Ordinance does not broadly address site landscaping for new construction projects or expansions/improvements to existing facilities. In the draft update, a new chapter dedicated to landscaping requirements has been added to the Citywide Standards portion of the code. The proposed new landscaping standards would apply to most types and scales of projects (exceptions for small projects and certain property types are noted), and a conceptual landscape plan would be required to be submitted with the development application package. The draft standards address topics such as the areas of a site to be landscaped, requirements for drought-tolerant species, standards for size and spacing of plants and trees, and requirements for the installation and maintenance of plantings.

Special Use Standards [See Chapter C.10]. While the existing Zoning Ordinance contains many development and/or operational standards that apply to specific land uses, these are currently scattered throughout the code. In many cases, this makes it difficult to identify and understand the full range of regulations and standards that would apply to a specific proposal. In the draft updated ordinance, all standards that are specific to certain land uses have been consolidated into a single chapter, C.10—Specific to Uses, in the Citywide Standards portion of the code. This chapter includes sections dedicated to specific land uses, including adult-oriented businesses, eating and drinking establishments, massage establishments, and many others.

Although most of the use-specific standards in this chapter have been carried over without substantial changes from the existing code, some sections have been added, updated, or modified in the draft Zoning Ordinance. For example, new proposed standards have been added for Animal Husbandry (addressing the raising of domestic animals other than pets), drive-through facilities (such as for fast food restaurants and pharmacies), service stations, and car washes.

Special use standards that have been expanded and improved include:

- *Home Occupations:* Number of clients allowed at a time at a home-based business proposed to be increased from one to two; draft new standards for the storage of vehicles used for home-based businesses added; cottage food operations as allowed by state law proposed to be allowed as home occupations.

- **Temporary uses:** New Temporary Use Permit type and procedure created; greater detail and clarity added as to the types of temporary uses that do and do not require Planning review and approval.

New Zoning Incentives [See Section C.2.060]. The draft updated Zoning Ordinance includes proposed new incentives to encourage certain desirable elements to be incorporated into development project proposals. These include larger affordable rental units (3+ bedroom) to help meet the need for affordable family housing in Milpitas; the consolidation of multiple smaller lots into larger lots that can support higher-density, multifamily housing; and building energy efficiency that exceeds the minimum requirements of state and local building codes. The types of incentives provided for the above project components range from reduced requirements for building setbacks, common open space, and guest parking to streamlined/expedited development review.

How the Zoning Update will Benefit Milpitas Residents, Businesses, and Builders

The proposed, new and improved code offers many benefits to the different groups of users that reference, apply, and interpret the City's Zoning Ordinance. Some examples include:

- For **homeowners and other property owners** who wish to make improvements to their existing lots and buildings or to construct new structures, simpler and less expensive permit requirements would apply for many project types, reducing the time and cost involved in obtaining needed approvals.
- For **architects and designers** who design new buildings or additions/modifications to existing buildings, the updated structure and organization of the draft code – including improved development standards tables with better cross-references to other applicable code sections, and a new, clearly organized Citywide Standards section – makes it easier to find and compile information on all zoning regulations and standards that would apply to specific projects and in specific situations.
- For **Milpitas residents in general**, new landscaping requirements, new single-family dwelling design standards, and improved design standards for signs would maintain and enhance the quality and appearance of residential, commercial, and mixed-use areas of Milpitas, resulting in more attractive and appealing neighborhoods.
- For **small business owners** seeking approvals to open new businesses or make changes to existing businesses, modernized and improved definitions and categories for land uses, and inclusion of those land uses in use tables by zone, would make it easier to understand where specific business types are permitted or not permitted in the city and what permits (if any) are required.
- For **real estate developers** who wish to apply for entitlements for large-scale development projects in Milpitas, lower parking requirements would allow for more efficient use of sites (more floor area could be dedicated to the primary use of a site instead of to parking that may exceed actual demand) and would help make projects more financially feasible (since the cost of providing parking spaces is typically high).
- For **Planning and Code Enforcement staff**, the improved overall structure and organization of the code make it easier and quicker to find the information she/he/they are looking for. More thorough and consistent cross-references to other related code sections – in the use tables, development standards tables, and throughout the text of the Zoning Ordinance – make it easier to identify and understand the additional standards and requirements that apply to a given proposal or situation. These changes will also support City staff in explaining zoning regulations to property owners, builders, and other interested parties.

Summary of Phase 2 Draft Updates to Citywide Zoning Map

As noted above, the proposed updates to the City's zoning map that will be considered concurrently with the draft Zoning Ordinance are limited to minor changes that are mostly related to existing "overlay zones".

Overlay zones are supplemental or secondary zoning districts placed over existing base zones, adding extra regulations or standards that apply to specific areas. Outdated or obsolete overlay zones are proposed to be

eliminated from the Zoning Ordinance, including the Gateway Office (OO), High Rise (HR), Recreation and Entertainment (RE), and Transit-Oriented Development (TOD) overlays.

The reason for removal of these overlays is usually because either the purpose they were created to serve no longer exists, or because new base zones have been (or will be) adopted, such that the applicable development standards and requirements in the base zone now fulfill the purpose that was previously intended by the overlay. The best example is the elimination of the TOD overlay, which previously applied to areas around the BART station, Milpitas Transit Center, and Great Mall VTA Light Rail station. The TOD overlay applied standards related to density and pedestrian-oriented uses and design, but the areas where the TOD overlay currently applies are now within the new Metro Specific Plan Zones or are part of the Gateway-Main Street Specific Plan, and will soon be rezoned to new transit-oriented base zones as part of the specific plan work.

The draft updated zoning map also includes the application of the existing Freeway Corridor (FC) Overlay to all non-residentially zoned parcels within 300 feet of Interstate 680, Interstate 880, and State Highway 237. The applicability for the FC Overlay is currently included in the Zoning Ordinance text, but the overlay is not officially mapped.

Finally, the existing Mobile Home Park (MHP) overlay is proposed to be replaced with a new Mobile Home Park base zone, since this type of unique residential area is better addressed through base zone standards rather than an overlay applied to the existing single-family residential zone (R1). The allowed uses and development standards from the existing MHP overlay have been carried over to the new draft Mobile Home Park base zone.

Public Outreach

Since the December 18 release of the public review draft, the Planning Department has conducted various outreach efforts for the updated Zoning Ordinance. Staff is offering weekly “virtual office hours” for the zoning update project between January 6 and March 7, 2025, during which interested parties may sign up for one-on-one online appointments with Planning staff to ask questions and/or provide feedback about the draft updated Zoning Ordinance.

A community workshop was held on January 9, 2025, at the Milpitas Community Center. The workshop was simultaneously broadcast online via Zoom, and community members had the choice of attending virtually or in person. Despite widespread announcements and outreach about this workshop, only five members of the community attended in person, and none attended online. Comments from attendees were documented and will be considered when the draft updated Zoning Ordinance is revised in preparation for adoption hearings. Please refer to the attached community workshop summary (Attachment D) for more detail regarding comments received.

The Zoning Advisory Group (ZAG), comprised of members of several City boards and commissions, held its fifth and final meeting on January 16, 2025. An overview of the draft Zoning Ordinance was provided, along with a detailed summary of how comments from ZAG members throughout the zoning update project have been incorporated into the draft ordinance. Attachment E, the ZAG meeting summary, includes further information about discussion items during the meeting.

A study session with the Planning Commission was held on February 12, 2025. Comments from the Commissioners included support for reducing permit levels for many project types; a request for clarification about whether required parking spaces must be covered (i.e., in a garage), especially for single-family dwellings; questions about how Transportation Demand Management plans will be reviewed and evaluated, and whether objective criteria will be used to measure their effectiveness; and a comment that the proposed requirement for a projection/recess of at least 40 square feet at the primary entrance to a single-family dwelling may not be feasible for smaller single-family lots.

The public review period for the draft updated Zoning Ordinance continues through March 7, 2025. Staff is seeking comments from the public, the Planning Commission, and the City Council at the study sessions as well as through the other means provided, including website comment form, email, and virtual office hours.

POLICY ALTERNATIVE(S):

This is an informational item for Council feedback and is one of several sessions for providing Council with the progress of the Comprehensive Zoning Ordinance Update project.

FISCAL IMPACT:

This is an informational item. As such, there is no fiscal impact.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This study session does not constitute a “project” within the meaning of Public Resources Code Section 21065 and/or the California Environmental Quality Act (CEQA) Guidelines Section 15060(c)(2), 15262, and/or 15378. No environmental analysis pursuant to CEQA is required at this time. Appropriate CEQA analysis will occur prior to the formal adoption of proposed Zoning Ordinance amendments.

RECOMMENDATION:

Receive an overview of the Public Review Draft of the full updated Zoning Ordinance (Phase 2 of the Comprehensive Zoning Ordinance Update) and provide comments.

ATTACHMENT(S):

- a) Public Review Draft Zoning Ordinance
- b) Acronym Sheet for Draft Zoning Ordinance
- c) Public Review Draft Zoning Map
- d) Community Workshop Summary
- e) Zoning Advisory Group Meeting Summary

City of Milpitas

Comprehensive Zoning Ordinance

PUBLIC REVIEW DRAFT

December 2024



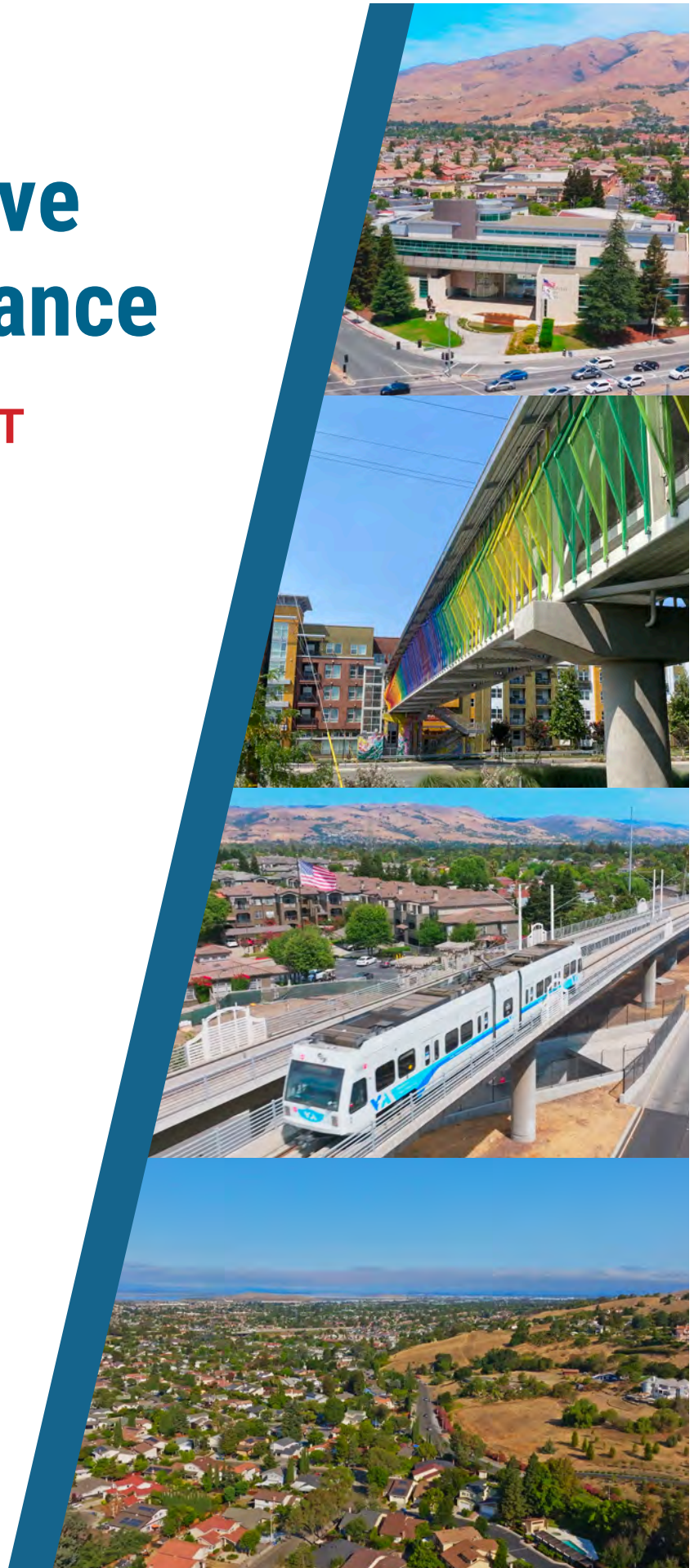
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City of Milpitas
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City of Milpitas

PART A: GENERAL

Public Review Draft

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Chapter A.2 Title and Purpose

Sections:

- A.2.010 Title
- A.2.020 Authority
- A.2.030 Purpose
- A.2.040 Applicability
- A.2.050 Relationship to the General Plan
- A.2.060 Zoning Map
- A.2.070 Severability

A.2.010 Title

Title XIII of the City of Milpitas Municipal Code shall be known and cited as the “Milpitas Zoning Ordinance” and shall be referred to herein as this “Title.”

A.2.020 Authority

This Title is adopted in accordance with the authority vested in the City of Milpitas, including by the California Constitution and the City’s zoning and police powers, and consistent with the authority established in the Planning and Zoning Law (California Government Code section 65000 et seq.), California Environmental Quality Act (California Public Resources Code section 2100 et seq.), and California Health and Safety Code.

A.2.030 Purpose

This Title is enacted in order to promote the public health, safety, comfort, and general welfare, to enable appropriate and orderly development, and to ensure social and economic stability within the various zones established by the provisions of this Title. More specifically, this Title is adopted to achieve the following objectives:

- A. Provide standards for the orderly growth and development of the city, and guide and control the use of land to provide a safe, harmonious, attractive, and sustainable community;
- B. Achieve the arrangement of land uses depicted in the Milpitas General Plan, consistent with the goals and policies of the General Plan;
- C. Enhance the appearance of the city and promote high-quality design;
- D. Preserve and enhance the quality of life and character of residential neighborhoods;
- E. Stabilize and conserve the value of property;
- F. Provide adequate light, air, and reasonable access;
- G. Incorporate sustainability practices and ensure climate resiliency;

- H. Promote economic growth and the creation of jobs;
- I. Facilitate the appropriate location of community facilities, institutions, transportation, and parks and recreation areas;
- J. Allow for public participation in government decision-making regarding land use and development in a manner consistent with state law; and
- K. Define the duties and power of administrative bodies and officers responsible for administering and implementing this Title.

A.2.040 Applicability

- A. **Applicability to Property.** This Title shall apply, to the extent permitted by law, to all property within the corporate limits of the City, including all uses, structures, and land owned by any private person, firm, corporation or organization, or local, state, or federal agency, unless exempted consistent with Subsection A.2.040.I (Exemptions).
- B. **Minimum Requirements.** The provisions of this Title shall be minimum requirements for the promotion of public health, safety, and general welfare. Where this Title provides for more discretion on the part of a City official or body (i.e., a Review Authority), that discretion may be exercised to impose more stringent requirements than set forth in this Title as may be necessary to promote orderly land use development and the purposes of this Title.
- C. **Compliance with Regulations.** No land shall be used, and no structure shall be constructed, reconstructed, maintained, occupied, enlarged, altered, demolished, or moved in any zone, except in compliance with all the provisions, including development and performance standards, of this Title, and any permits issued, unless exempted consistent with Subsection A.2.040.I (Exemptions). The temporary or transitory nature of a use does not exempt it from this requirement.
- D. **Conflicting Regulations.** The regulations of this Title and requirements or conditions imposed in accordance with this Title shall not supersede any other regulations or requirements adopted or imposed by the City Council (Council), the State of California, or any federal agency that has jurisdiction by law over uses and development authorized by this Title. All uses and development authorized by this Title shall comply with all other such regulations and requirements. Where conflict occurs between the provisions of this Title and any other regulation or requirement, the more restrictive provision shall control.
- E. **Private Agreements.** This Title shall not interfere with or annul any recorded easement, covenant, or other agreement now in effect, provided that where this Title imposes greater restriction than imposed by an easement, covenant, or agreement, this Title shall control. The City shall not be responsible for monitoring or enforcing private agreements.
- F. **Prior Zoning Ordinance.** The provisions of this Title supersede all prior ordinances codified in Milpitas Municipal Code Chapter XI-10 (Zoning) and any amendments. No provisions of this Title shall validate any land use or structure established, constructed, or maintained in violation of the prior Zoning Ordinance, unless such validation is specifically authorized by this Title and is in compliance with all other regulations.

G. Effect on Previously Approved Projects and Projects in Progress.

1. ***Previously Approved Land Use Authorization.*** This Title shall not interfere with, repeal, or annul any previously granted land use authorization. All allowances, requirements, and conditions of approval of previous land use authorizations shall apply unless the applicable Review Authority specifically repeals the allowance, requirement, or condition consistent with this Title.
2. ***Land Use Authorization in Process.*** An application for a discretionary land use authorization that has been accepted by the Department as complete for processing prior to the adoption of this Title may be processed according to the requirements of this Title or the prior Zoning Ordinance (Chapter XI-10) upon written request from the project applicant. The written request shall be made no later than 30 days after the effective date of the adoption of this Title. If the request is to apply the prior Zoning Ordinance (Chapter XI-10), at least one action must be taken by the Review Authority within 210 days of the effective date of the adoption of this Title. The same process shall be followed for amendments to this Title.

H. Application During Local Emergency. The Council may authorize a deviation from any provision of this Title during a local emergency declared and ratified consistent with California Government Code section 8630 et seq. The Council may authorize a deviation by resolution without notice or public hearing.**I. Exemptions.**

1. This Title shall not apply to the City, including any buildings, improvements, lots, or premises owned, leased, operated, or controlled by the City, any development project by the City, or any business or service performed or offered by the City. This exemption does not apply other than to the City, including those leasing premises from the City.
2. Any governmental agency other than the City shall be exempt from the provisions of this Title only to the extent that such property may not be lawfully regulated by the City according to applicable law.

A.2.050 Relationship to the General Plan

This Title implements the goals and policies of the Milpitas General Plan by regulating the use of land and structures within the city. This Title and the General Plan shall be consistent with one another. Any permit, license, or approval issued in accordance with this Title must be consistent with the General Plan and all applicable specific plans. In any case where there is a conflict between this Title and the General Plan, the General Plan shall control.

A.2.060 Zoning Map

- A. Zoning Map and this Title.** The designations, locations, and boundaries of the base zones and overlays established in this Title shall be shown on the Zoning Map of the City. The Zoning Map as amended or changed from time to time, together with all notations, references, data, and other information, is adopted and made a part of this Title. Any amendment or rezoning of a property or properties from one zone to another zone shall constitute an amendment to this Title and shall be so referenced in the Zoning Map amendment.

- B. **Time Limit.** If in accordance with the provisions of this Title, changes are made to zone boundaries, zone classifications, or other matters set forth on the Zoning Map, such changes shall be entered on the Zoning Map within 30 days following the effective date of the change.
- C. **Uncertainty of Boundaries.** Refer to Section A.4.020.C (Interpretation of Zone Boundaries) if the boundaries of any zone(s) shown on the Zoning Map are uncertain.
- D. **Maintenance of Zoning Map.** The Zoning Map shall be kept on file in the office of the Planning Director and shall be maintained in electronic format by the City, as authorized by the Director.

A.2.070 Severability

If any Section, sentence, clause, phrase, word, portion, or provision of this Title is held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect, impair, or invalidate any other Section, sentence, clause, phrase, word, portion, or provision of this Title which can be given effect without the invalid provision. The invalidation of the application of any Section, sentence, clause, phrase, word, portion, or provision of this Title to a particular property or structure, or any particular properties or structures, by any court of competent jurisdiction shall not affect the application of such Section, sentence, clause, phrase, word, portion or provision to any other property or structure not specifically included in said invalidation.

Chapter A.4 Rules of Interpretation

Sections:

- A.4.010 Purpose
- A.4.020 General Interpretation
- A.4.030 Interpreting Language and Numbers

A.4.010 Purpose

This Chapter provides the specific rules that explain how to interpret this Title and how to perform calculations and measurements that are required to implement this Title.

A.4.020 General Interpretation

A. Interpretation of this Title.

1. **Intent.** No matter how carefully constructed, this Title will require interpretation in its day-to-day administration. In adopting this Title, it is the intent of the City to interpret and administer this Title in a reasonable fashion consistent with the public interest of the residents of the city.
2. **Director Interpretation.** Where there is uncertainty regarding the interpretation of any provision of this Title or its application to a specific site, the Director shall determine the interpretation of the provision consistent with this Subsection.
 - a. An interpretation may be initiated by the Director, by an applicant consistent with Subsection D.2.040.B.1 (Applicant), or by any interested party.
 - b. An interpretation initiated by an applicant shall be processed in compliance with Chapter D.2 (Procedures) as applicable.
 - c. The Director's determination shall be issued in writing.
 - d. The determination of the Director may be appealed in accordance with the provisions of Section D.2.040.N (Appeals).
 - e. Nothing shall limit the authority of the Director to revise, reconsider, or otherwise modify or rescind any interpretation previously made.
3. **Controlling Provisions.** In their interpretation and application, the provisions of this Title shall be held to be the minimum requirements guided by the following:
 - a. Where this Title imposes a greater restriction than is imposed or required by other rules, regulations, or ordinances or easements, covenants, agreements, or entitlements, the provisions of this Title shall control.
 - b. Where other rules, regulations, or ordinances or easements, covenants, agreements, or entitlements impose greater restrictions or more specific standards than those of this Title, the greater restriction or more specific standard shall control.

- c. Where provisions of this Title are in conflict, the more specific regulations shall apply over the more general; where provisions of this Title remain in conflict, the more restrictive provisions shall apply.
- B. **Conflict between Text and Figure.** In the event of a difference or conflict between the text and a figure, illustration, heading, caption, diagram, or graphic, the text shall control.
- C. **Interpretation of Zone Boundaries.** Where there is uncertainty regarding the location of a zone boundary or other feature shown on the Zoning Map, the following rules shall be used to resolve the uncertainty:
 - 1. Review of the legal description of the lot or lots referenced by the assessor's parcel number of any prior rezoning and/or the existing Zoning Map.
 - 2. Unless otherwise clearly indicated on the Zoning Map, zone boundaries shall coincide with property lines and centerlines of alleys, lanes, streets, highways, streams, and/or railroads.
 - 3. Where a public street is officially vacated or abandoned, the property that was formerly in the street shall be included within the zone of the adjoining property on either side of the centerline of the vacated or abandoned street.
 - 4. For parcels containing two or more zones, the location of the zone boundary shall be determined by the Director, and the applicable regulations for each zone shall apply based on the zone boundary.
 - 5. Where the location of the zone boundaries cannot be determined by the above rules, the boundaries shall be located by using the scale on the Zoning Map.
- D. **References to Other Laws.**
 - 1. Where this Title references applicable provisions of other laws (e.g., the California Government Code, Subdivision Map Act, Public Resources Code, etc.), the reference shall be construed to be to the applicable law provisions as they may be amended from time to time.
 - 2. Unless otherwise indicated, all references are to California and local laws (e.g., the California Government Code, California Subdivision Map Act, California Public Resources Code).
- E. **Calendar Days.** All references to days are to calendar days, unless otherwise indicated. If a deadline falls on a weekend or holiday, or a day when the City offices are closed, the deadline shall be extended to the close of business on the next working day.
- F. **Calendar Year.** All references to years are to calendar years, unless otherwise indicated.
- G. **Determination of Similar Use.**
 - 1. Each zone establishes a list of primary uses and accessory uses which are permitted, permitted with a Minor Conditional Use Permit or permitted with a Conditional Use Permit, see Section D.4.030 (Use Permits), or not allowed. Occasionally, uses may be proposed which are not specifically listed in the use tables in Part XIII-B (Zone Regulations).
 - 2. The Director may administratively determine when an unlisted use is proposed in a zone that the proposed use is similar to an appropriate use category where the uses are clearly

similar in character to those uses listed, consistent with the purposes of the zone and General Plan, and not detrimental to the public health, safety, or welfare. A use determined to be similar shall apply to the zone uniformly regardless of location.

3. When a proposed, but unlisted, use is determined to be similar to a listed use, the proposed use will be treated in the same manner as the listed use in determining what approvals are required and what standards and requirements of this Title apply.

A.4.030 Interpreting Language and Numbers

- A. **Interpretation of Words and Conjunctions.** Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
 1. “And” indicates that all connected words or provisions shall apply.
 2. “And/or” indicates that the connected words or provisions may apply singularly or in any combination.
 3. “Including” or “includes” indicates “including, but not limited to.” Any listing or examples that follow the word “including” or “includes” connotes an illustrative list or set of examples, one purposefully capable of enlargement, and does not imply that the list or examples are exhaustive or otherwise limit any preceding or subsequent words or phrases.
 4. “Or” indicates that compliance with any of the series of connected words or provisions is sufficient.
 5. “Either...or” indicates that the connected words or provisions shall apply singularly, but not in combination.
 6. The words “shall,” “should,” “will,” “must,” “is to,” and “are to” are always mandatory and not discretionary, except when applied to the City, including its officers, officials, employees, or agents, in which case these words are directory only and not mandatory.
 7. “May” is permissive and discretionary.
 8. Unless the context clearly indicates otherwise, words in the present and future tense are interchangeable.
 9. Unless the context clearly indicates otherwise, words in the singular and plural are interchangeable.
- B. **Undefined Terms.** The Director shall make an interpretation for any definition not expressly identified in this Title.
- C. **Fractions.** Whenever this Title requires consideration of distances, parking spaces, dwelling units, or other aspects of development or the physical environment expressed in numerical quantities, and the result of a calculation contains a fraction of a whole number, the results will be rounded as follows:
 1. **General Rounding.** Fractions of one-half or greater shall be rounded up to the nearest whole number, and fractions of less than one-half shall be rounded down to the nearest whole number, except as otherwise provided.

2. ***Exception for State Affordable Housing Density Bonus.*** For projects eligible for bonus density in accordance with California Government Code section 65915 or any successor statute, any fractional number of permitted bonus density units shall be rounded up to the next whole number.

Chapter A.6 Rules of Measurement

Sections:

- A.6.010 Purpose
- A.6.020 General Provisions
- A.6.030 Measuring Lot Width and Depth
- A.6.040 Measuring Average Slope and Natural Land Slope
- A.6.050 Measuring Distances
- A.6.060 Measuring Setbacks
- A.6.070 Measuring Floor Area
- A.6.080 Determining Floor Area Ratio
- A.6.090 Measuring Height and Number of Stories
- A.6.100 Measuring Signs

A.6.010 Purpose

The purpose of this Chapter is to explain how various measurements referred to in this Title are determined.

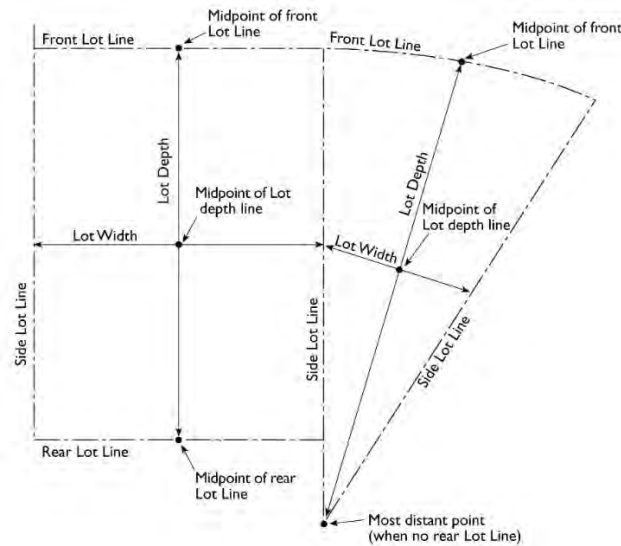
A.6.020 General Provisions

For all calculations, the applicant shall be responsible for supplying drawings illustrating the measurements that apply to a project. These drawings shall be drawn to scale and of sufficient detail to allow easy verification upon inspection by the Director.

A.6.030 Measuring Lot Width and Depth

- A. **Lot Width.** Lot width is the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines. The Director shall determine lot width for irregular lots.
- B. **Lot Depth.** Lot depth is measured along a straight line drawn from the midpoint of the front property line of the lot to the midpoint of the rear property line or to the most distant point on any other lot line where there is no rear lot line.

FIGURE A.6.030-1: MEASURING LOT WIDTH AND DEPTH



A.6.040 Measuring Average Slope and Natural Land Slope

Measuring average slope and natural land slope apply within the “H” Hillside Combining District and is determined as described in Section B.22.030 (Maximum Allowable Densities and Minimum Lot Sizes).

A.6.050 Measuring Distances

- A. **Measurements are Shortest Distance.** When measuring a required distance, such as the minimum distance between a structure and a lot line, the measurement is made at the closest or shortest distance between the two objects.
- B. **Distances are Measured Horizontally.** When determining the dimensions for setbacks and structures, all distances are measured along a horizontal plane from the appropriate line, edge of building, structure, storage area, parking area, or other object. These dimensions are not measured by following the topography or slope of the land.
- C. **Measurements Involving a Structure.** Measurements involving a structure are made to the closest structural support element (e.g., a building support pillar, a building support column, etc.) of the structure. Structures or portions of structures that are entirely underground are excluded from the measured dimension.
- D. **Measurements of Minimum Distance.** When a specified land use is required to be located a minimum distance from another land use, the minimum distance is measured in a straight line from all points along the lot line of the subject property, in all directions.
- E. **Measurement of Vehicle Queuing or Travel Areas.** Measurement of the minimum dimensions for stacking lanes or the setback to a garage entrance are measured on the center of the vehicle travel area. For example, curving driveways and travel lanes are measured along the center arc of the driveway or travel lane.

A.6.060 Measuring Setbacks

- A. **General Setback Measurement.** A line defining a required setback is parallel to and at the specified distance from the corresponding front, side, or rear lot line as defined in Chapter E.2 (Definitions of Terms). If not otherwise described in this Title, the Director shall determine setback measurements for irregular lots.
- B. **Setbacks Abutting Planned Street Expansions.** If a property abuts an existing or proposed street for which the existing right-of-way is narrower than the right-of-way ultimately required for the street, the required setback shall be established from the future right-of-way rather than the property line.

A.6.070 Measuring Floor Area

The floor area of a building is measured as the sum of the gross horizontal areas of all floors of a building or other enclosed structure, measured from the exterior face of exterior walls or from the centerline of a shared wall separating two buildings.

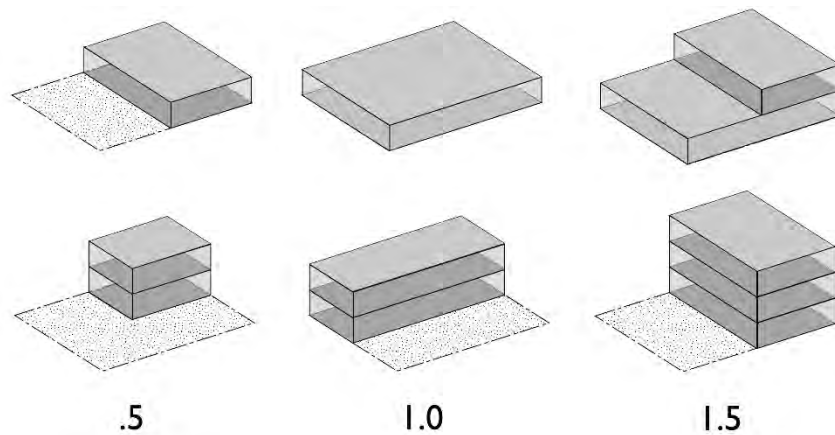
- A. **Included in Floor Area.**
 - 1. All habitable space (as defined in the Building Code) including, but not limited to, all living space (bedrooms, bathrooms, kitchens, hallways, interior walkways, corridors, common space, etc.) that is below the roof and within the outer surface of the main walls of principal or accessory buildings or the centerlines of party walls separating such buildings or portions of buildings.
 - 2. If no walls exist, the area covered by the roof excluding two feet on each side of the structure to allow for a standard roof projection.
 - 3. In the case of a multi-story building that has covered or enclosed stairways, stairwells, or elevator shafts, the horizontal area of such features shall be counted only once at the floor level of their greatest area of horizontal extent.
- B. **Excluded from Floor Area.** Floor area does not include the following:
 - 1. Mechanical, electrical, and communication equipment rooms that do not exceed two percent of the building's gross floor area;
 - 2. Bay windows or other architectural projections where the vertical distance between the lowest surface of the projection and the finished floor is 30 inches or greater;
 - 3. Porches where at least one of the longest dimensions is unenclosed;
 - 4. Accessory structures (e.g., shed) with a gross floor area of up to 120 square feet;
 - 5. Areas that qualify as usable open space;
 - 6. Areas used for off-street parking spaces or loading spaces, driveways, ramps between floors of a multi-level parking garage, and maneuvering aisles that are located below the finished grade of the property;
 - 7. Parking areas located beneath the finished floor of habitable space where the vertical distance between the finished floor of habitable space and finished grade is less than six feet; and

8. Nonresidential gross floor area excludes arcades, porticoes, and similar open areas that are located at or near street level and are accessible to the general public, but are not designed or used as sales, display, storage, service, or production areas.

A.6.080 Determining Floor Area Ratio

To calculate the Floor Area Ratio (FAR), gross building floor area is divided by the total site area, and FAR is typically expressed as a decimal. For example, if the gross floor area of all buildings on a site is 20,000 square feet, and the site area is 10,000 square feet, the FAR is expressed as 2.0.

FIGURE A.6.080-1: DETERMINING FLOOR AREA RATIO

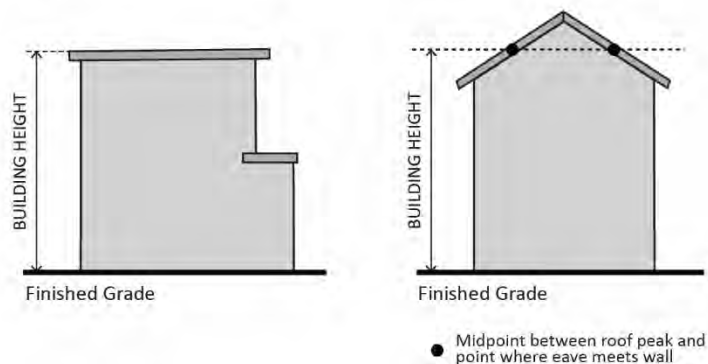


A.6.090 Measuring Height and Number of Stories

A. Measuring Building Height.

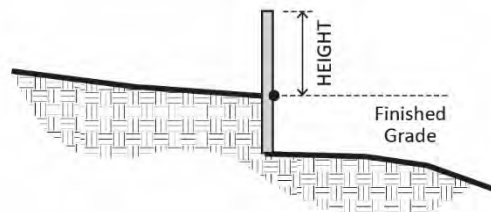
1. **General Measurement.** The height of a building is measured as the vertical distance from finished grade adjacent to the building to the highest point on the roof above. For a sloped, gable, hipped, or gambrel roof, height is measured to the midpoint between the highest point on the ridge and where the eave meets the building wall.

FIGURE A.6.090-1: MEASURING BUILDING HEIGHT



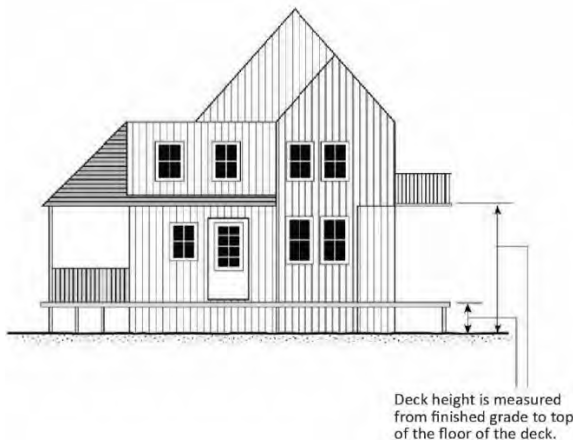
2. **Measuring Building Height in the “H” Hillside Combining District.** Measuring building height within the “H” Hillside Combining District is determined as described in Section B.22.040 (Height Regulations).
- B. **Measuring the Number of Stories.** In measuring the height of a building in stories the following measurement rules shall apply:
1. A basement shall be counted as a full story where more than 50 percent of its height is above the average level of the adjoining ground.
 2. An interior balcony or mezzanine shall be counted as a full story if its floor area exceeds one-third of the total area of the nearest full floor directly below it or if it is enclosed on more than two sides.
 3. An attic is not considered a story provided it is unconditioned, unfinished, and less than seven feet at its highest point with an average height not exceeding four feet.
- C. **Measuring Other Structures.**
1. **Measuring Height of Fences and Walls.** The height of a fence or wall is measured from the finished grade to the top of fence or wall at any point (including barbed-wire tops). Where the finished grade is a different elevation on either side of the fence or wall, the height may be measured from the side having the highest elevation.

FIGURE A.6.090-2: MEASURING HEIGHT OF FENCES AND WALLS



2. **Measuring Height of Decks.** Deck height is measured from finished grade to the top of the floor of the deck directly above finished grade below.

FIGURE A.6.090-3: MEASURING HEIGHT OF DECKS



A.6.100 Measuring Signs

The methods for measuring signs (e.g., height, area, etc.) are described in Subsection C.8.040.D (Rules of Measurement).

City of Milpitas

PART B: ZONE REGULATIONS

Public Review Draft

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Chapter B.2 Zones

Sections:

- B.2.010 Purpose
- B.2.020 Zones Established
- B.2.030 Category Includes All Aspects of the Zone
- B.2.040 Zoning of Annexed Areas

B.2.010 Purpose

This Chapter establishes the zones applied to property within Milpitas.

B.2.020 Zones Established

The following zones are established and shall be shown on the official Zoning Map.

Table B.2.020-A: Zones Established		
Abbreviation	Zone Name	General Plan Land Use Designation
Residential Zones		
R1	Single-Family Zone	Low Density Residential (LDR), Medium Density Residential (MDR)
R2	One and Two-Family Zone	Medium Density Residential (MDR)
R3	Multi-Family Zone	High Density Residential (HDR)
R4	Multi-Family Very High Density Zone	Very High Density Residential (VHDR)
MHP	Mobile Home Park Zone	Mobile Home Park (MHP)
Commercial Zones		
C1	Neighborhood Commercial Zone	Neighborhood Commercial (NC)
C2	General Commercial Zone	General Commercial (GNC), Neighborhood Commercial (NC), Neighborhood Commercial Mixed Use (NCMU)
CO	Administrative and Professional Office Zone	General Commercial (GNC), Neighborhood Commercial (NC)
HS	Highway Service Zone	General Commercial (GNC), Neighborhood Commercial (NC)
Mixed Use Zones		
MXD	Mixed Use Zone	Neighborhood Commercial Mixed Use (NCMU)
MXD3	Very High Density Mixed Use Zone	Very High Density Mixed Use (VHDMU)
TC	Town Center Zone	Town Center (TC)
Industrial Zones		
M1	Light Industrial Zone	Manufacturing (MFG)

Part B: Zone Regulations

M2	Heavy Industrial Zone	Manufacturing (MFG)
MP	Industrial Park Zone	Industrial Park (INP)
BPRD	Business Park Research & Development Zone	Business Park/Research & Development (BPRD)
Metro Specific Plan Zones		
R3-Metro	Metro Multi-Family High Density Residential Zone	Milpitas Metro Specific Plan
R4-Metro	Metro Multi-Family Very High Density Residential Zone	Milpitas Metro Specific Plan
R5-Metro	Metro Urban Residential Zone	Milpitas Metro Specific Plan
MXD2-Metro	Metro High Density Mixed Use Zone	Milpitas Metro Specific Plan
MXD3-Metro	Metro Very High Density Mixed Use Zone	Milpitas Metro Specific Plan
BPRD-R-Metro	Metro Business Park Research and Development, Limited Residential Zone	Milpitas Metro Specific Plan
BPRD-Metro	Metro Business Park Research and Development Zone	Milpitas Metro Specific Plan
Milpitas Commercial Specific Plan Area		
See Chapter B.16 (Milpitas Commercial Specific Plan Area)		
Other Zones		
A	Agricultural Zone	All
I	Institutional Zone	Public Facilities (PF)
POS	Park and Open Space Zone	Permanent Open Space (POS)
Overlay Zones		
FC	Freeway Corridor Overlay Zone	n/a
S	Site and Architectural Overlay Zone	n/a
"H"	"H" Hillside Combining District	Hillside Very Low Density (HVL), Hillside Low Density (HLD), Hillside Medium Density (HMD)

B.2.030 Category Includes All Aspects of the Zone

Whenever the terms "residential zones," "commercial zones," "mixed use zones," "industrial zones," "Metro zones," "other zones," or "overlay zones" are used in this Title, they shall be deemed to refer to all and only the zones of that category, as found in Section B.2.010 (Zones Established), (e.g., the term "commercial zones" shall refer to the CO, C1, C2, and HS zones).

B.2.040 Zoning of Annexed Areas

Any area annexed to the City after the effective date of this amendment shall immediately upon such annexation be automatically classified as an Agricultural District with the "S" Overlay District ("A-S" Zone), unless said area is located east of the alignment of Piedmont Road, Evans Road, North Park Victoria Drive and Interstate 680 Freeway as shown on the adopted General Plan and more specifically defined as the

westerly boundary of the "Hillside Area" as defined in the General Plan, in which case said area shall be classified as Single-Family District—Hillside with the "H" Combining District (specifically "R1-H").

Chapter B.4 Residential Zones and Standards

Sections:

- B.4.010 Purpose
- B.4.020 Residential Zones Use Regulations
- B.4.030 Residential Zones Development Standards
- B.4.040 Residential Zones Supplemental Standards

B.4.010 Purpose

- A. **Single-Family (R1) Zone.** The Single-Family (R1) Zone is intended for single-family residential development, including clustered residences, and to stabilize and protect the residential character of these neighborhoods within the community.
- B. **One and Two-Family (R2) Zone.** The One and Two-Family (R2) Zone is intended for a mix of residential development types, and to stabilize and protect the residential character of these neighborhoods within the community.
- C. **Multi-Family (R3) Zone.** The Multi-Family (R3) Zone is intended for multi-family residential development, and to stabilize and protect the residential character of these neighborhoods within the community.
- D. **Multi-Family Very High Density (R4) Zone.** The Multi-Family Very High Density (R4) Zone is intended for higher intensity multi-family residential development, and to stabilize and protect the residential character of these neighborhoods within the community.
- E. **Mobile Home Park (MHP) Zone.** The Mobile Home Park (MHP) Zone is intended to promote the diversification of available housing opportunities within Milpitas through the establishment of standards for planned mobile home parks. This zone is further intended to encourage stable residential environments within individual mobile home parks and provide for transitions to surrounding areas.

B.4.020 Residential Zones Use Regulations

- A. Table B.4.020-A (Residential Zones Use Regulations) sets the land use regulations for residential zones. Land uses are defined in Chapter E.4 (Definition of Uses). In cases where a land use is not listed in the table, the Director shall make a determination regarding similar use consistent with Subsection A.4.020.G (Determination of a Similar Use).
- B. Land uses not listed in the table and not substantially like the uses below are prohibited unless the Planning Commission approves a Conditional Use Permit consistent with Subsection D.4.030 (Use Permits) and finds that use will not have adverse impacts or be more detrimental to the public welfare than any other use explicitly allowed, with or without a Conditional Use Permit, in the same zone.

C. All uses shall be conducted entirely within enclosed structures, unless specifically noted.

Table B.4.020-A: Residential Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Use	R1	R2	R3	R4	MHP	Additional Regulations
Agricultural Uses						
Animal Husbandry	MCS	-	-	-	-	Section C.10.060 (Animal Husbandry) For regulations related to the keeping of chickens in residential zones, see Section V-210-7.02-2(a)
Commercial Uses						
Eating and Drinking Establishment						
Mobile Food Vending (Individual Vehicle) ¹	P	P	P	P	P	Section C.10.170 (Mobile Food Vending)
Restaurant ²						
Restaurant, Full Service	-	-	C	MC	-	Section C.10.100 (Eating and Drinking Establishments)
Restaurant, Limited Service	-	-	C	MC	-	
Restaurant with Alcohol Service	-	-	MC ³	MC ³	-	
Entertainment and Recreation, Commercial						
Outdoor Sports and Recreation	C	C	C	C	-	n/a
Financial Institution ²						
Bank and Credit Union	-	-	C	MC	-	n/a
Food and Beverage Retail Sales ²						
Grocery Store, Large	-	-	-	C	-	n/a
Grocery Store, Small	-	-	C	MC	-	n/a
Home Occupation	P	P	P	P	P	Section C.10.130 (Home Occupations)

Part B: Zone Regulations

Table B.4.020-A: Residential Zones Use Regulations

“P” = Permitted Use | “MC” = Minor Conditional Use Permit approved by Zoning Administrator required | “MCS” = Minor Conditional Use Permit approved by Director required | “C” = Conditional Use Permit required | “-” = Not Allowed

Use	R1	R2	R3	R4	MHP	Additional Regulations
Lodging						
Bed and Breakfast	P	P	P	P	-	n/a
Short-Term Rental	See C.10.190 (Short-Term Rentals)					
Offices ²						
Business and Professional Office	-	-	C	C	-	n/a
Retail ²						
Retail, Limited	-	-	C	MC	-	n/a
Retail Store, General Merchandise	-	-	C	MC	-	n/a
Services						
Personal Services ^{2, 4}	-	-	C	MC	-	n/a
Vehicle-Related Uses						
Mobile Fueling ⁵	P/-	P/-	P/-	P/-	P/-	Milpitas Municipal Code Chapter V-300 (Fire Code)
Public, Institutional, and Recreational Uses						
Child Care						
Child Care Center	MC	MC	MC	MC	MC	Section C.10.140 (Large Family Child Care and Child Care Centers)
Large Family Child Care Home	P	P	P	P	P	Section C.10.140 (Large Family Child Care and Child Care Centers)
Small Family Child Care Home	P	P	P	P	P	n/a
Community Assembly						
Major	C	C	C	C	C	n/a
Minor	MCS	MCS	MCS	MCS	MCS	n/a

Table B.4.020-A: Residential Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Use	R1	R2	R3	R4	MHP	Additional Regulations
Community Garden	P	P	P	P	P	n/a
Park/Playground	P	P	P	P	P	n/a
Wireless Telecommunications Facility	See Section C.10.230 (Wireless Telecommunications Facilities).					
Residential Uses						
Accessory Dwelling Unit and Junior Accessory Dwelling Unit	P	P	P	P	P	Section C.10.030 (Accessory Dwelling Units and Junior Accessory Dwelling Units)
Boarding House	-	C	C	C	-	n/a
Court Dwelling	-	P	P	P	-	n/a
Two-Family Dwelling	-	P	-	-	-	n/a
Elderly and Long-Term Care	-	C	C	C	-	n/a
Group Living Accommodation	-	P	P	P	-	n/a
Live-Work Unit	-	-	C	C	-	Section C.10.150 (Live-Work Units)
Low Barrier Navigation Center	-	-	P	P	-	California Government Code § 65660
Mobile Home Park	-	-	-	-	MCS	Section C.10.180 (Mobile Home Parks)
Multi-Family Dwelling	-	-	P	P	-	n/a
Residential Care Facility	P	P	P	P	P	n/a
Single-Family Dwelling	P	P	-	-	P	Section C.10.210 (Single-Family Dwellings)
Supportive Housing	P	P	P	P	P	California Health and Safety Code § 50675.14
Transitional Housing	P	P	P	P	P	California Government Code § 65582
Unclassified Uses						
Accessory Use	P	P	P	P	P	For regulations related to animals, see Section V-210-7.02

Table B.4.020-A: Residential Zones Use Regulations						
"P" = Permitted Use "MC" = Minor Conditional Use Permit approved by Zoning Administrator required "MCS" = Minor Conditional Use Permit approved by Director required "C" = Conditional Use Permit required "-" = Not Allowed						
Use	R1	R2	R3	R4	MHP	Additional Regulations
						(Exceptions to Animals in Residential Areas)
Temporary Use	See Section C.10.220 (Temporary Uses and Structures)					

Table Notes:

¹ Mobile food vending may be permitted:

- In the public right-of-way in R1, R2, and R3 zones as part of an approved special event consistent with Section C.10.230 (Temporary Uses and Structures), and is not allowed on private property with a residential use in these zones.
- In the public right-of-way in the R4 Zone upon issuance of all required City and County permits consistent with Subsection C.10.170 (Mobile Food Vending), and may be permitted as part of an approved special event on private property with a residential use in the R4 Zone.
- In all residential zones, on private parcels with a current certificate of use and occupancy as a library/museum, hospital, educational institution, or community assembly use, provided that the mobile food vending use shall not operate more frequently than once per week and for no longer than three consecutive days.

² These uses must comply with the following:

- Activities must be conducted in ground floor spaces which are integral parts of a main buildings; however, incidental uses that serve only residents of the project are not limited to the ground floor;
- Uses must comprise less than or equal to 10,000 sf in gross floor area; and
- Uses must close no later than 10:00 P.M.

³ Must be in conjunction with a full service restaurant.

⁴ When located on the ground floor, retail sales of products related to the personal services provided must be offered at the front of the premises near the pedestrian entrance and must comprise at least 10% of the floor area of the business establishment.

⁵ Mobile fueling is permitted when fueling service is ordered by an individual vehicle owner and the amount of fuel dispensed as part of any individual order does not exceed 50 gallons. Mobile fueling for fleet vehicles is not permitted.

B.4.030 Residential Zones Development Standards

Table B.4.030-A (Residential Zones Development Standards) establishes the development standards for residential zones.

Table B.4.030-A: Residential Zones Development Standards										
ft = feet sf = square feet du = dwelling unit FAR = floor area ratio n/a = not applicable										
Standard	R1						R2	R3	R4	MHP
	R1-10	R1-6	R1-5	R1-4	R1-3	R1-2.5				
Lot Area, min	10,000 sf	6,000 sf	5,000 sf	4,000 sf	3,000 sf	2,500 sf	5,800 sf	8,000 sf	n/a	25 gross acres

Table B.4.030-A: Residential Zones Development Standards

ft = feet sf = square feet du = dwelling unit FAR = floor area ratio n/a = not applicable										
Standard	R1						R2	R3	R4	MHP
	R1-10	R1-6	R1-5	R1-4	R1-3	R1-2.5				
Lot Width, min. (ft)	80 ¹	55	50	40	30	30	55	70	n/a	n/a
Density (du/gross acre) ²	Min.: 3 Max.: 4	Min.: 3 Max.: 7	Min.: 3 Max.: 9	Min.: 3 Max.: 11	Min.: 3 Max.: 15	Min.: 3 Max.: 15	Min.: 7 Max.: 15	Min.: 16 Max.: 30 ³	Min.: 31 Max.: 40	Min.: 3 Max.: 7
Setback (ft)										
Front	Min.: 25 ⁴	Min.: 20	Min.: 20	Min.: 20 ⁵	Min.: 20 ⁵	Min.: 20 ⁵	Min.: 20	Min.: 20	Min.: 8 Max.: 15 from back of sidewalk ^{6, 7}	Abuts public street, min.: 35
Interior side	One side, min.: 8 Total both sides, min.: 20 ⁸	Adjacent to garage, min.: 6 Total, min.: 13	Adjacent to garage, min.: 6 Total, min.: 10	One side, min.: 6	One side, min.: 5	One side, min.: 5	1 story, min.: One side: 4 Total both sides: 12 2+ stories, min: 6	1 story, min.: One side: 5 Total both sides: 12 2+ stories, min: 10	Min.: 10	Abuts resi- dential zone: 25 Abuts all other zones: 15
Street side	Min.: 10	Min.: 10	Min.: 10	Min.: 10	Min.: 10	Min.: 10	Min.: 10	Min.: 10	Min.: 8 Max.: 15, from back of sidewalk ^{6, 7}	Abuts public street, min.: 35
Rear	1 story, min.: 30 ⁹ 2+ stories, min.: 35 ⁹	1 story, min.: 25 2+ stories, min.: 25	Min.: 20	1 story, min.: 15 2+ stories, min.: 20	1 story, min.: 15 2+ stories, min.: 20	1 story, min.: 15 2+ stories, min.: 20	Min.: 25	Min.: 30	Min.: 10	Abuts resi- dential zone: 25 Abuts all other zones: 15
Primary Building Height, max.	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft; 2.5 stories ¹⁰	35 ft; 3.5 stories ^{10, 11}	60 ft; 4 stories ¹⁰	35 ft; 3 stories ¹⁰

Table B.4.030-A: Residential Zones Development Standards

ft = feet sf = square feet du = dwelling unit FAR = floor area ratio n/a = not applicable										
Standard	R1						R2	R3	R4	MHP
	R1-10	R1-6	R1-5	R1-4	R1-3	R1-2.5				
Accessory Building Height, max.	15 ft	15 ft	15 ft	15 ft	15 ft	15 ft	15 ft; 1.5 stories ¹⁰	25 ft; 2.5 stories ¹⁰	25 ft; 2.5 stories ¹⁰	25 ft; 2.5 stories ¹⁰
Open Space										
Per dwelling unit	n/a	n/a	n/a	n/a	n/a	n/a	n/a	150 sf per du, a minimum of 50% of the units must have 50 sf of private open space	150 sf per du, a minimum of 50% of the units must have 50 sf of private open space	200 sf patio per du
Per site	n/a	n/a	n/a	n/a	n/a	n/a	n/a	20%	25%	25%

Table Notes:

¹ For properties with slopes equal to or greater than 16%, but less than 26%, the minimum lot width shall be 200 ft. For properties with slopes equal to or greater than 26%, the minimum lot width shall be 300 ft.

² When determining the density of non-traditional housing configurations such as group living accommodations and single-room occupancy residences, three bedrooms may be counted as the equivalent of one unit.

³ The maximum density can be up to 40 dwelling units per gross acre where a Planned Unit Development has been approved, and the Council finds that sewer capacity and water availability will be sufficient to accommodate the proposed project density as well as other future Planned Unit Development downstream from the project site. Any improvements to the sewer or water system that would be required to accommodate any higher density proposals may be made conditions of project approval.

⁴ For properties with slopes equal to or greater than 16%, the minimum setback is 40 ft.

⁵ For properties, if access is provided to the side of garage via a curved driveway, the setback may be 15 ft.

⁶ The sidewalk shall be based on either existing sidewalk or an assumed 10-ft wide sidewalk, whichever is wider.

⁷ Where a public easement prevents a building from being located at its required minimum or maximum setback lines, the building shall be located as close to the back of the easement as possible.

⁸ For properties with slopes equal to or greater than 16% but less than 26%, the minimum setback shall be 20 ft on one side and a total of 45 ft for both sides. For properties with slopes equal to or greater than 26%, the minimum setback shall be 40 ft.

⁹ For properties with slopes equal to or greater than 16%, the minimum setback is 40 ft.

¹⁰ Height must comply with standards for both height in feet and number of stories.

¹¹ The height restriction can be waived where a Planned Unit Development has been approved at a density above 30 du per gross acre in compliance with the provisions of Section D.12 (Planned Unit Development).

B.4.040 Residential Zones Supplemental Standards

- A. **R1 Zone Front Yard Coverage.** For lots in the R1 Zone, a portion of the required front yard may be paved as follows.
1. **Width of Front Yard Paved Area.** The width of paved area in the required front setback must not exceed the width of the garage, or 50 percent of the lot width measured at the front property line, whichever is greater.
 2. **Calculating Front Yard Coverage.**
 - a. Patios within the required front setback are counted towards coverage limits.
 - b. Walkways that do not exceed six feet in width do not count towards coverage limits.
 3. **Hillside Front Yard Coverage.** For "H" Hillside Combining District properties, refer to Chapter B.22 ("H" Hillside Combining District) for additional requirements.
 4. **Parking in Front Yards.** For regulations pertaining to parking in the front yard, refer to Milpitas Municipal Code Chapter V-500 (Neighborhood Beautification).
 5. **Driveways on Lots with One or Two Dwelling Units.** See Section C.6.080 (Driveways on Residential Lots with One or Two Dwelling Units) for driveway standards.
- B. **Two-Unit Projects.**
1. **Purpose.** The purpose of this Subsection is to allow and appropriately regulate two-unit projects in compliance with California Government Code section 65852.21.
 2. **Application.**
 - a. Only individual property owners may apply for a two-unit project. "Individual property owner" means a natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title, and does not include any corporation or corporate person of any kind (partnership, LP, LLC, C corp., S corp., etc.) except for a community land trust (as defined by California Revenue and Tax Code section 402.1(a)(11)(C)(ii)) or a qualified nonprofit corporation (as defined by Revenue and Tax Code section 214.15).
 - b. An application for a two-unit project must be submitted on the City's approved form.
 - c. The applicant must obtain a Certificate of Compliance with the Subdivision Map Act for the lot and provide the Certificate with the application.
 - d. Only a complete application will be considered. The City will inform the applicant in writing of any incompleteness within 30 days after the application is submitted.
 - e. The City may establish a fee to recover its costs for adopting, implementing, and enforcing this Subsection, in compliance with applicable law. The Council may establish and change the fee by resolution. The fee must be paid with the application.

3. ***Approval.***

- a. An application for a two-unit project is approved or denied ministerially, by the Director, without discretionary review. The Director shall approve or deny the application within 60 days of the date the City received a complete application.
- b. The ministerial approval of a two-unit project does not take effect until the City has confirmed that the required documents, such as the deed restriction and easements, have been recorded with the Santa Clara County Clerk.
- c. The approval must require the owner and applicant to hold the City harmless from all claims and damages related to the approval and its subject matter.
- d. The approval must require the owner and applicant to reimburse the City for all costs of enforcement, including attorneys' fees and costs associated with enforcing the requirements of the Milpitas Municipal Code.

4. ***Location Requirements.*** A two-unit project must satisfy each of the following requirements:

- a. *Subdivision Map Act compliance.* The lot must have been legally subdivided in compliance with the Subdivision Map Act.
- b. *Single-family residential zone.* The two-unit project shall be located in a single-family residential zone. The R1 Zone is the only single-family residential zone where a two-unit project may be located.
- c. *Lot location.* The two-unit project shall be located on a lot that conforms with the applicable requirements of Milpitas Municipal Code Section XI-1-31.04-4 (Lot Location).
- d. *Not historic.* The two-unit project shall be located on a lot that conforms with the applicable requirements of Milpitas Municipal Code Section XI-1-31.04-5 (Historic Properties).
- e. *No impact on protected housing.* The two-unit project shall be located on a lot that conforms with the applicable requirements of Milpitas Municipal Code Section XI-1-31.04-7 (No Impact on Protected Housing).

5. ***Residential Unit Standards.***

- a. *Quantity.*
 - (i) No more than two dwelling units of any kind may be built on a lot that results from an urban lot split. For purposes of this paragraph, "unit" means a dwelling unit, including, but not limited to, a primary dwelling unit, a unit created under this Subsection, an ADU, or a JADU.
 - (ii) A lot that is not created by an urban lot split may have a two-unit project under this Subsection, plus any ADU or JADU that must be allowed in accordance with this Title and state law.

- b. *Unit size.*
 - (i) The total floor area of each primary dwelling that is developed on a resulting lot must be:
 - (a) Less than or equal to 800 square feet; and
 - (b) More than or equal to 500 square feet.
 - (ii) A primary dwelling that was legally established prior to the urban lot split and that is larger than 800 square feet is limited to the lawful floor area at the time of the urban lot split, and it may not be expanded.
 - (iii) A primary dwelling that was legally established prior to the urban lot split and that is smaller than 800 square feet may be expanded to 800 square feet after the urban lot split.
- 6. **Maximum Height.** The height of a two-unit project must comply with the R1 Zone building height standards.
- 7. **Setbacks.**
 - a. *General setbacks.* All setbacks must conform to those objective setbacks that are imposed through the R1 Zone, except for the following:
 - (i) *Existing structures.* No setback is required for an existing legally established structure or for a new structure that is constructed in the same location and to the same dimensions as an existing legally established structure.
 - (ii) *Minimum unit size.* The R1 Zone setbacks must yield to the degree necessary to avoid physically precluding the construction of up to two units on the lot or either of the two units from being at least 800 square feet in floor area; but in no event may any structure be less than four feet from a side or rear property line.
 - b. *Front setback area.* Dwellings constructed under this Subsection must be a minimum of 15 feet from the front property line. The front setback area must:
 - (i) Be kept free from any structure greater than three feet high;
 - (ii) Be at least 50 percent landscaped with drought-tolerant plants, as shown on a landscape plan consistent with Chapter C.4 (Landscaping Standards); and
 - (iii) Allow vehicular and fire-safety access to the front structure in compliance with Milpitas Municipal Code Title II (Building Regulations) and Title V (Public Health, Safety and Welfare).
- 8. **Parking.** Each new primary dwelling unit that is built on either an existing lot or a lot created through an urban lot split must have at least one off-street parking space per unit, except for the following:
 - a. *Proximity to transit.* No additional parking is required for any new primary dwelling unit located within one-half mile walking distance of:

- (i) A corridor with fixed-route bus service or the intersection of two or more major bus routes with frequency of service intervals of 20 minutes or less during the morning and afternoon peak commute hours; or
 - (ii) A site that contains an existing rail or bus rapid transit station; or
 - b. *Proximity to car-share service.* No additional parking is required for a new primary dwelling unit located within one block of a car-share vehicle location.
- 9. **Design Standards.** The objective design standards applicable to a single-family dwelling consistent with Section C.10.210 (Single-Family Dwelling) and the underlying zone shall apply to two-unit projects.
- 10. **Landscaping.** The landscape standards applicable to a single-family dwelling and the underlying zone shall apply to two-unit projects.
- 11. **Nonconforming Conditions.** A two-unit project may only be approved if all nonconforming zoning conditions are corrected unless the nonconformity is allowed by this Subsection. See Subsection B.4.040.B.7 (Setbacks) above.
- 12. **Utilities.**
 - a. Each primary dwelling unit on an existing lot or the lots resulting from an urban lot split must have a separate direct water connection to the water service provider.
 - b. Each primary dwelling unit on the resulting lots that is or that is proposed to be connected to an onsite wastewater treatment system must first have a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.
- 13. **Building and Safety.** All structures built on the lot must comply with all current local building standards. A project under this section is a change of use and subjects the whole of the lot and all structures to the City's current Building Code.
- 14. **Separate Conveyance.** Within a resulting lot, the following standards apply:
 - a. Primary dwelling units on a lot that is created by an urban lot split may not be owned or conveyed separately from each other.
 - b. Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an urban lot split.
 - c. All fee interest in a lot and all dwellings on the lot must be held equally and undivided by all individual property owners.
- 15. **Regulation of Uses.**
 - a. *Residential only.* Nonresidential uses, except for legal home-based businesses, are not permitted on any R1 Zone lot.
 - b. *No Short-Term Rentals.* No dwelling unit located on a lot created by an urban lot split may be rented for a period of less than 30 days.
- 16. **Owner Occupancy.** Unless the lot was created by an urban lot split, the individual property owners of a lot with a two-unit project must occupy one of the dwellings on the lot as the owners' principal residence and legal domicile.

17. **Notice of Construction.**

- a. At least 30 business days prior to starting any construction activities related to a structure on a lot created by an urban lot split, the property owner must provide written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:
 - (i) Notice that construction has been authorized;
 - (ii) The estimated start and end dates for construction;
 - (iii) The hours of construction;
 - (iv) Contact information for the project manager (for construction-related issues); and
 - (v) Contact information for the City's Building Safety and Housing Department.
- b. This notice requirement does not confer a right on the noticed persons or any others to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a two-unit project under this Chapter. This notice requirement is intended to foster neighborhood awareness and expectations.

18. **Deed Restriction.** The owner must record a deed restriction, acceptable to the City, that includes the following:

- a. Expressly prohibits any rental of any dwelling on the property for a period of less than 30 days;
- b. Expressly prohibits any nonresidential use of the lots created by the urban lot split;
- c. Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot; and
- d. States that the property is formed by an urban lot split and is therefore subject to the City's urban lot split regulations, including all applicable limits on dwelling size and development.

19. **Specific Adverse Impacts.**

- a. Without conflicting with any other provisions in this Subsection, the City may deny an application for a two-unit project if the Building Official makes a written finding, based on a preponderance of the evidence, that the project would have a "specific, adverse impact" on public health and safety and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, as defined in California Government Code section 65589.5(d)(2).
- b. "Specific adverse impact" has the same meaning as in California Government Code section 65589.5(d)(2): "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete" and does not include:

- (i) Inconsistency with the zoning ordinance or general plan land use designation; or
 - (ii) The eligibility to claim a welfare exemption under California Revenue and Taxation Code section 214(g).
 - c. The Building Official may consult with and be assisted by the Department and others as necessary in making a finding of specific, adverse impact.
- 20. **Remedies.** If a two-unit project violates any part of this Title or any other legal requirement:
 - a. The buyer, grantee, or lessee of any part of the property has an action for damages or to void the deed, sale, or contract.
 - b. The City may:
 - (i) Bring an action to enjoin any attempt to sell, lease, or finance the property.
 - (ii) Bring an action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
 - (iii) Pursue criminal prosecution punishable by imprisonment in county jail or state prison for up to one year and/or a fine of up to \$10,000.00. Criminal prosecution may also be punishable by a misdemeanor.
 - (iv) Record a notice of violation.
 - (v) Withhold any or all future permits and approvals.
 - (vi) Pursue all other administrative, legal, or equitable remedies that are allowed by law or the Milpitas Municipal Code.

Chapter B.6 Commercial Zones and Standards

Sections:

- B.6.010 Purpose
- B.6.020 Commercial Zones Use Regulations
- B.6.030 Commercial Zones Development Standards
- B.6.040 Commercial Zones Supplemental Standards

B.6.010 Purpose

- A. **Administrative and Professional Office (CO) Zone.** The Administrative and Professional Office (CO) Zone is intended to provide areas for medical, business, and professional offices, and medical and dental clinics.
- B. **Neighborhood Commercial (C1) Zone.** The Neighborhood Commercial (C1 Zone) is intended to provide for general commercial needs of neighborhood areas, primarily providing for day-to-day shopping needs, and to promote stable, attractive commercial development that complements the essential residential character of the neighborhood.
- C. **General Commercial (C2) Zone.** The General Commercial (C2 Zone) is intended to provide for general commercial needs of the community and includes areas with major commercial shopping centers and a wide range of commercial uses. The C2 Zone is also intended to promote stable, attractive commercial development, and while being primarily oriented to customers traveling via automobile, is intended to be accessible and designed to attract customers using all modes of transportation (e.g. pedestrians, bicyclists, transit users, etc.).
- D. **Highway Services (HS) Zone.** The Highway Services (HS Zone) is intended to provide for retail, commercial, service, transient residential uses, and other uses proximate to highways and major thoroughfares and primarily depended on highway travel.

B.6.020 Commercial Zones Use Regulations

- A. Table B.6.020-A (Commercial Zones Use Regulations) sets the land use regulations for commercial zones. Land uses are defined in Chapter E.4 (Definitions of Uses). In cases where a land use is not listed in the table, the Director shall make a determination regarding similar use consistent with Subsection A.4.020.G (Determination of a Similar Use).
- B. Land uses not listed in the table and not substantially like the uses below are prohibited unless the Planning Commission approves a Conditional Use Permit consistent with Subsection D.4.030 (Use Permits) and finds that use will not have adverse impacts or be more detrimental to the public welfare than any other use explicitly, with or without a Conditional Use Permit, in the same zone.

Part B: Zone Regulations

C. All uses shall be conducted entirely within enclosed structures, unless specifically noted.

Table B.6.020-A: Commercial Zones Use Regulations

“P” = Permitted Use | “MC” = Minor Conditional Use Permit approved by Zoning Administrator required | “MCS” = Minor Conditional Use Permit approved by Director required | “C” = Conditional Use Permit required | “-” = Not Allowed

Use	CO	C1	C2	HS	Additional Regulations
Commercial Uses					
Adult-Oriented Business	-	-	-	MCS	C.10.040 (Adult-Oriented Businesses)
Animal Care and Services					
Kennel	-	-	C	-	Milpitas Municipal Code Section V-210-11 (Permits for Animal Facilities and Animal Adoption Organizations)
Pet Day Care and Sales	-	P	P	P	
Veterinary Clinic	C	P	P	P	
Veterinary Hospital or Services	-	C	P	P	
Commissary or Catering	P	P	P	P	n/a
Drive-Through Facility	-	C	C	C	Section C.10.090 (Drive-Through Facilities)
Eating and Drinking Establishment					
Bar or Nightclub	-	-	C	C	Section C.10.100 (Eating and Drinking Establishments)
Microbreweries	-	-	C	C	
Mobile Food Park	MCS	MCS	MCS	MCS	Section C.10.170 (Mobile Food Vending)
Mobile Food Vending (Individual Vehicle)	P	P	P	P	
Restaurant					
Restaurant, Full Service	C ¹	P	P	P	Section C.10.100 (Eating and Drinking Establishments)
Restaurant, Limited Service	C	P	P	P	
Restaurant with Alcohol Service	-	MC	MC	MC	
Entertainment and Recreation, Commercial					
Commercial Athletic Facility	-	C	MCS	MCS	n/a
Indoor Entertainment	-	-	P	P	n/a
Indoor Sports and Recreation	-	C	P	P	n/a
Outdoor Entertainment	-	-	C	C	n/a
Outdoor Sports and Recreation	-	C	C	C	n/a
Financial Institution					
Bank and Credit Union	P	P	P	P	n/a

Table B.6.020-A: Commercial Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Use	CO	C1	C2	HS	Additional Regulations
Check Cashing Business	-	-	MCS	MCS	n/a
Pawnbroker	-	-	MCS	MCS	n/a
Food and Beverage Retail Sales					
Alcoholic Beverage Sales	C ¹	C	C	C	n/a
Convenience Store	-	C	C	C	n/a
Grocery Store, Large	-	P	P	p	n/a
Grocery Store, Small	-	P	P	p	n/a
Home Occupation	-	-	-	P	Section C.10.130 (Home Occupations)
Hospital	C	-	C	C	n/a
Lodging					
Hotel	-	-	P	P	n/a
Motel	-	-	C	P	n/a
Medical Support Laboratory	P	C	C	C	n/a
Offices					
Business and Professional Office	P	p	p	p	n/a
Medical Office/Clinic	P	P	P	-	n/a
Retail					
Firearms Dealer	-	-	C	C	n/a
Large Format Retail	-	-	P	P	n/a
Nursery and Garden Center	-	-	P	P	n/a
Retail, Limited	MCS	P	P	P	n/a
Retail Store, General Merchandise	-	P	P	p	n/a
Smoke/Tobacco Shop	-	C	C	C	n/a
Services					
Business Support Services	-	-	P	P	n/a
Maintenance and Repair Services	-	-	P	P	n/a
Massage Establishment	-	-	MC	MC	Section C.10.160 (Massage Establishments)
Massage Establishment, Accessory	-	-	MCS	MCS	Section C.10.160 (Massage Establishments)
Personal Services ²	-	P	P	P	n/a

Part B: Zone Regulations

Table B.6.020-A: Commercial Zones Use Regulations

“P” = Permitted Use | “MC” = Minor Conditional Use Permit approved by Zoning Administrator required | “MCS” = Minor Conditional Use Permit approved by Director required | “C” = Conditional Use Permit required | “-” = Not Allowed

Use	CO	C1	C2	HS	Additional Regulations
Repair/Cleaning/General Services, Small	-	P	P	P	n/a
Vehicle-Related Uses					
Auto Broker	MCS	MCS	MCS	-	Section C.10.070 (Auto Broker)
Commercial Fueling Facility	-	-	-	C	n/a
Fleet-Based Service	-	-	MCS	P	n/a
Mobile Fueling ³	P/-	P/-	P/-	P/-	Milpitas Municipal Code Chapter V-300 (Fire Code)
Service Station	C	C	P	P	Section C.10.190 (Service Stations and Car Washes)
Vehicle Rental	-	-	P	P	n/a
Vehicle Repair and Maintenance					
Major	-	-	C	MCS	n/a
Minor	-	-	MCS	P	n/a
Vehicle Sales and Leasing	-	-	C	C	n/a
Vehicle Washing	-	-	C	C	Section C.10.190 (Service Stations and Car Washes)
Industrial Uses					
Custom and Artisan Manufacturing	-	-	MCS	-	n/a
Data Center	C	-	-	-	n/a
Mini-Storage or Self-Storage	-	-	C	C	n/a
Recycling Facility					
Collection Facility	-	-	MCS	P	n/a
Public, Institutional, and Recreational Uses					
Child Care					
Child Care Center	MC	MC	MC	MC	Section C.10.140 (Large Family Child Care and Child Care Centers)
Civic/Government	P	P	P	-	n/a
Community Assembly					
Major	C	C	C	C	n/a
Minor	P	P	P	p	n/a
Community Garden	P	P	P	P	n/a

Table B.6.020-A: Commercial Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Use	CO	C1	C2	HS	Additional Regulations
Educational Institution					
Trade and Vocational School	C	-	P	P	n/a
Farmers' Market	-	MCS	MCS	MCS	Section C.10.120 (Farmers' Markets)
Funeral Parlor and Mortuary	-	-	C	C	n/a
Instruction Services					
Group	MCS	MCS	MCS	MCS	n/a
Private/Small Group	P	P	P	P	n/a
Library/Museum	-	P	P	-	n/a
Park/Playground	P	P	P	P	n/a
Public Utility	-	-	-	C	n/a
Resilience Hub	P	P	P	-	n/a
Transportation Passenger Terminal/Facility	-	-	C	C	n/a
Wireless Telecommunications Facility	See Section C.10.230 (Wireless Telecommunications Facilities).				
Residential Uses					
Emergency Shelter	-	-	P	P	Section C.10.110 (Emergency Shelters)
Single-Room Occupancy Residences	-	-	-	C	Section C.10.220 (Single-Room Occupancy Residences)
Unclassified Uses					
Accessory Use	P	P	P	P	n/a
Parking Lot ⁴	MCS	MCS	MCS	P	n/a
Parking Structure ⁴	C	C	MCS	P	n/a
Temporary Use	See Section C.10.220 (Temporary Uses and Structures)				

Table Notes:

¹ When intended to serve the occupants and patrons of the primary use and conducted from within the building. Entrance to the use must be provided internally or within the building, and no exterior display of advertising is allowed.

² When located on the ground floor, retail sales of products related to the personal services provided must be offered at the front of the premises near the pedestrian entrance and must comprise at least 10% of the floor area of the business establishment.

³ Mobile fueling is permitted when fueling service is ordered by an individual vehicle owner and the amount of fuel dispensed as part of any individual order does not exceed 50 gallons. Mobile fueling for fleet vehicles is not permitted.

⁴ Applies to parking lots or structures that are primary uses, as defined in Part XIII-E (Definitions).

B.6.030 Commercial Zones Development Standards

Table B.6.030-A (Commercial Zones Development Standards) establishes the development standards for commercial zones.

Table B.6.030-A: Commercial Zones Development Standards				
ft = feet sf = square feet du = dwelling unit FAR = floor area ratio n/a = not applicable				
Standard	CO	C1	C2	HS
Lot Area, min.	n/a	n/a	10,000 sf	Fronting major street: 1.5 acres Fronting all other streets: 20,000 sf
Lot Width, min.	n/a	n/a	100 ft	Fronting major street: 250 ft Fronting all other streets: 125 ft
Density (du/gross acre) ¹	n/a	n/a	n/a	n/a
Setbacks, min. (ft)				
Front	10	0	0	Major street: 50 All other streets: 0
Interior side	10	0; 15 when abutting a residential zone	0; 15 when abutting a residential zone	0; 15 when abutting a residential zone
Street side	10	0	0	0
Rear	10 ft; when abutting a residential zone, not less than the residential zone's required setback	0; 15 when abutting a residential zone	0; 15 when abutting a residential zone	0; 15 when abutting a residential zone
FAR, max.	0.5	0.75	0.5	0.5
Primary Building Height, max.	35 ft; 3 stories ²	35 ft; 3 stories ²	35 ft; 3 stories ^{2, 3, 4}	35 ft; 3 stories ^{2, 3}
Accessory Building Height, max.	25 ft; 2 stories ²	25 ft; 2 stories ²	30 ft; 2.5 stories ²	30 ft; 2.5 stories ²
Open Space				
Per dwelling unit	n/a	n/a	n/a	n/a
Per site	n/a	n/a	n/a	n/a

Table Notes:

¹ When determining the density of non-traditional housing configurations such as group living accommodations and single-room occupancy residences, three bedrooms may be counted as the equivalent of one unit.

² Height must comply with standards for both height in feet and number of stories.

³ For property within 500 ft of the R1 or R2 zones, maximum height shall be limited to 30 ft and 2.5 stories.

⁴ The Planning Commission may allow building height up to 75 ft or 6 stories with Site Development Permit approval consistent with Subsection D.4.020 (Site Development Permits) provided that the fourth floor and above are stepped-back from the ground-floor street-facing building façade by a minimum of 8 ft. In deciding whether to grant additional building height, the Planning Commission shall consider site conditions, design elements, and other factors including but not limited to: width of abutting right-of-way; proximity of the site to R1, R2, and R3 zones; building setbacks in relation to proposed building height above 35 ft; and upper story step-backs.

B.6.040 Commercial Zones Supplemental Standards

Reserved.

Chapter B.8 Mixed Use Zones and Standards

Sections:

- B.8.010 Purpose
- B.8.020 Mixed Use Zones Use Regulations
- B.8.030 Mixed Use Zones Development Standards
- B.8.040 Mixed Use Zones Supplemental Standards

B.8.010 Purpose

- A. **Mixed Use (MXD) Zone.** The Mixed Use (MXD) Zone is intended to encourage a compatible mix of residential, retail, entertainment, office, and commercial service uses within a pedestrian-oriented streetscape.
- B. **Very High Density Mixed Use (MXD3) Zone.** The Very High Density Mixed Use (MXD3) Zone is intended to provide very-high density housing, retail, and employment uses.
- C. **Town Center (TC) Zone.** The purpose and intent of this zone is to provide for an area that supports a wide range of administrative, business, entertainment, dining, and cultural activities in the geographic center of Milpitas to suit the varying lifestyles of residents and visitors alike. The area is easily accessible via the City's transportation network.

B.8.020 Mixed Use Zones Use Regulations

- A. Table B.8.020-A (Mixed Use Zones Use Regulations) sets the land use regulations for mixed use zones. Land uses are defined in Chapter E.4 (Definitions of Uses). In cases where a land use is not listed in the table, the Director shall make a determination regarding similar use consistent with Subsection A.4.020.G (Determination of a Similar Use).
- B. Land uses not listed in the table and not substantially like the uses below are prohibited unless the Planning Commission approves a Conditional Use Permit consistent with Subsection D.4.030 (Use Permits) and finds that use will not have adverse impacts or be more detrimental to the public welfare than any other use explicitly, with or without a Conditional Use Permit, in the same zone.
- C. All uses shall be conducted entirely within enclosed structures, unless specifically noted.

Table B.8.020-A: Mixed Use Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Use	MXD	MXD3	TC	Additional Regulations
Commercial Uses				
Animal Care and Services				
Pet Day Care and Sales	MCS	MCS	P	Milpitas Municipal Code Section V-210-11 (Permits for Animal Facilities and Animal Adoption Organizations)
Veterinary Clinic	P	P	P	

Table B.8.020-A: Mixed Use Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Use	MXD	MXD3	TC	Additional Regulations
Commissary or Catering	MCS	MCS	MC	n/a
Drive-Through Facility	-	-	C	Section C.10.090 (Drive-Through Facilities)
Eating and Drinking Establishment				
Bar or Nightclub	C	C	C	Section C.10.100 (Eating and Drinking Establishments)
Microbreweries	MC	MC	C	
Mobile Food Park	MCS	MCS	MC	Section C.10.170 (Mobile Food Vending)
Mobile Food Vending (Individual Vehicle)	P	P	P	
Restaurant				
Restaurant, Full Service	P	P	P	Section C.10.100 (Eating and Drinking Establishments)
Restaurant, Limited Service	P	P	P	
Restaurant with Alcohol Service	P ^{1, 2}	P ^{1, 2}	C	
Entertainment and Recreation, Commercial				
Commercial Athletic Facility	P	P	C	n/a
Indoor Entertainment	C	C	C	n/a
Indoor Sports and Recreation	C	C	P	n/a
Outdoor Entertainment	C	C	C	n/a
Outdoor Sports and Recreation	C	C	C	n/a
Financial Institution				
Bank and Credit Union	P ¹	P ¹	P	n/a
Check Cashing Business	MCS ¹	MCS ¹	MC	n/a
Pawnbroker	C ³	C ³	-	n/a
Food and Beverage Retail Sales				
Alcoholic Beverage Sales	C ¹	C ¹	C	n/a
Convenience Store	MCS ¹	MCS ¹	MC	n/a
Grocery Store, Large	MCS	MCS	P	n/a
Grocery Store, Small	P	P	P	n/a
Home Occupation	P	P	P	Section C.10.130 (Home Occupations)
Hospital	C ³	C ³	C	n/a
Lodging				
Bed and Breakfast	P	P	P	n/a
Hotel	P	P	C	n/a

Part B: Zone Regulations

Table B.8.020-A: Mixed Use Zones Use Regulations

“P” = Permitted Use | “MC” = Minor Conditional Use Permit approved by Zoning Administrator required | “MCS” = Minor Conditional Use Permit approved by Director required | “C” = Conditional Use Permit required | “-” = Not Allowed

Use	MXD	MXD3	TC	Additional Regulations
Motel	P	P	C	n/a
Short-Term Rental	P	P	C	n/a
Medical Support Laboratory	P	P	C	n/a
Office				
Business and Professional Office	P	P	P	n/a
Medical Office/Clinic	P	P	P	n/a
Retail				
Large Format Retail	C	C	P	n/a
Retail, Limited	P	P	P	n/a
Retail Store, General Merchandise	P	P	P	n/a
Smoke/Tobacco Shop	-	-	C	n/a
Services				
Business Support Services	P	MCS	MC	n/a
Massage Establishment	MC	MC	MC	Milpitas Municipal Code III-6 (Massage Establishments and Practitioners); Section C.10.160 (Massage Establishments)
Massage Establishment, Accessory	MCS	MCS	MCS	
Personal Services ⁴	P ¹	P ¹	P	n/a
Repair/Cleaning/General Services, Small	P	P	P	n/a
Auto Broker	MCS	MCS	MCS	Section C.10.070 (Auto Broker)
Fleet-Based Service	-	-	C	n/a
Mobile Fueling	P/- ⁵	P/- ⁵	-	Milpitas Municipal Code Chapter V-300 (Fire Code)
Service Station	C	C	C	Section C.10.190 (Service Stations and Car Washes)
Vehicle Rental ⁶	MCS	MCS	-	n/a
Vehicle Sales and Leasing ⁶	C	C	-	n/a
Industrial & Research and Development Uses				
Custom and Artisan Manufacturing	MCS	MCS	MC	n/a

Table B.8.020-A: Mixed Use Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Use	MXD	MXD3	TC	Additional Regulations
Public, Institutional, and Recreational Uses				
Child Care				
Child Care Center	MC	MC	C	Section C.10.140 (Large Family Child Care and Child Care Centers)
Large Family Child Care Home	P	P	C	Section C.10.140 (Large Family Child Care and Child Care Centers)
Small Family Child Care Home	P	P	P	n/a
Community Assembly				
Major	C ³	C ³	C	n/a
Minor	MCS ³	MCS ³	MC	n/a
Community Garden	P	P	P	n/a
Educational Institutions				
College/University, Private	C ³	C ³	C	n/a
School, Private	C ³	-	-	
School, Public	C ³	-	-	
Trade and Vocational School	C ³	C ³	C	n/a
Farmers’ Market	MCS	MCS	C	Section C.10.120 (Farmers’ Market)
Instruction Services				
Group	P	-	MCS	n/a
Private/Small Group	P	P	P	n/a
Park/Playground	P	P	P	n/a
Public Utility	C	C	C	n/a
Transportation Passenger Terminal/Facility	C	C	C	n/a
Wireless Telecommunications Facility	See Section C.10.230 (Wireless Telecommunications Facilities)			
Residential Uses				
Accessory Dwelling Unit and Junior Accessory Dwelling Unit	P	P	-	Section C.10.030 (Accessory Dwelling Units and Junior Accessory Dwelling Units)
Boarding House	C	C	-	n/a
Court Dwelling	P	P	-	n/a
Elderly and Long-Term Care	C	MCS	-	n/a

Table B.8.020-A: Mixed Use Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Use	MXD	MXD3	TC	Additional Regulations
Emergency Shelter	-	P	-	Section C.10.110 (Emergency Shelters)
Group Living Accommodation	C	C	-	n/a
Live-Work Unit	MCS	MCS	-	Section C.10.150 (Live-Work Units)
Low Barrier Navigation Center	P	P	-	California Government Code § 65660
Multi-Family Dwelling	P	P	-	n/a
Residential Care Facility	P	P	-	n/a
Single-Room Occupancy Residences	P	P	-	Section C.10.220 (Single-Room Occupancy Residences)
Supportive Housing	P	P	-	California Government Code § 65582
Transitional Housing	P	P	-	California Government Code § 65582
Unclassified Uses				
Accessory Use	P	P	-	n/a
Parking Lot ⁷	MCS	MCS	-	n/a
Parking Structure ⁷	MCS	MCS	C	n/a
Temporary Use	See Section C.10.230 (Temporary Uses and Structures)			

Table Notes:

¹ These uses may be allowed provided they are: no more than 50,000 sf in gross floor area; not open past 10:00 p.m.; and conducted entirely within a building, except for approved outdoor seating areas.

² Must be in conjunction with a full service restaurant.

³ These uses shall not be located within 1,000 ft of the same use. Churches and religious institutions are exempt from this spatial requirement. Trade and vocational schools (if not found objectionable due to noise, odor, vibration or other similar health, safety and welfare basis) are also exempt.

⁴ When located on the ground floor, retail sales of products related to the personal services provided shall be offered at the front of the premises near the pedestrian entrance and shall comprise at least 10% of the floor area of the business establishment.

⁵ Mobile fueling is permitted when fueling service is ordered by an individual vehicle owner and the amount of fuel dispensed as part of any individual order does not exceed 50 gallons. Mobile fueling for fleet vehicles is not permitted.

⁶ Excluding long-term parking and storage of vehicles for rent, sale, or lease, must be fully enclosed within a building.

⁷ Applies to parking lots or structures that are primary uses, as defined in Part XIII-E (Definitions).

B.8.030 Mixed Use Zones Development Standards

Table B.8.030-A (Mixed Use Zones Development Standards) establishes the development standards for mixed use zones.

Table B.8.030-A: Mixed Use Zone Development Standards			
ft = feet sf = square feet du = dwelling unit FAR = floor area ratio n/a = not applicable			
Standard	MXD	MXD3	TC
Lot Area, min.	n/a	n/a	n/a
Lot Width, min.	n/a	n/a	n/a
Residential Density (du/gross acre) ¹	Min.: 21 ² Max.: 30	Min.: 41 ³ Max.: 75 ³	n/a
Setbacks (ft) ^{4, 5}			
Front	Min.: 8 Max.: 15 from back of sidewalk ⁶	Min.: 12 Max.: 20	Min.: 20 (35 along E. Calaveras Blvd.)
Interior side	Ground Level Commercial Area, min.: 0 All other areas, min.: 10	Min.: 10; 15 when abutting a residential zone; 20 for portions of buildings over 60 ft or four stories tall	Min.: 0 (15 when abutting a residential zone)
Street side	Min.: 8 Max.: 15 from back of sidewalk ⁶	Min.: 12 Max.: 20	Min.: 20 (35 along E. Calaveras Blvd.)
Rear	Min.: 10	Min.: 15; 20 when abutting a residential zone; 30 for portions of buildings over 60 ft or four stories tall	Min.: 0 (15 when abutting a residential zone)
FAR, max.	0.75 for nonresidential and mixed-use projects	1.5 for nonresidential and mixed-use projects ^{7, 8}	0.85
Primary Building Height, max.	45 ft; 3 stories ⁹	150 ft; 12 stories ^{9, 10}	35 ft; 3 stories ^{9, 11, 12}
Accessory Building Height, max.	25 ft; 2 stories ⁹	30 ft; 2.5 stories ^{9, 10}	n/a
Open Space			
Per dwelling unit	150 sf per du, a minimum of 50% of the units must have 50 sf of private open space	150 sf per du, a minimum of 50% of the units must have 50 sf of private open space	n/a

Table B.8.030-A: Mixed Use Zone Development Standards

ft = feet sf = square feet du = dwelling unit FAR = floor area ratio n/a = not applicable			
Standard	MXD	MXD3	TC
Per site	25%	25%	n/a

Table Notes:

- ¹ When determining the density of non-traditional housing configurations such as group living accommodations and single-room occupancy residences, three bedrooms may be counted as the equivalent of one unit.
- ² The minimum density may be reduced for parcels less than 20,000 sf if the Review Authority finds that it is impractical or infeasible to achieve the minimum density and the project is consistent with the City's Housing Element.
- ³ Density may be averaged over contiguous parcels. Units with four bedrooms shall be counted as 1.5 units when calculating density.
- ⁴ Where a public easement prevents a building from being located at its required minimum or maximum setbacks, the building shall be located as close to the back of the easement as possible.
- ⁵ A building's first floor may be recessed from the maximum front and/or street side setback line for the purposes of an arcade, or a small gathering/dining or special entry area. An arcade shall have a minimum height of 8 ft and a minimum width of 8 ft. Other recessed areas may have maximum depth of 10 ft and may not exceed 40% of the building's street facing elevation. An entry door area up to 9 ft wide may be recessed up to 4 ft from the back of the sidewalk.
- ⁶ The sidewalk shall be based on either existing sidewalk or an assumed 10-ft wide sidewalk, whichever is wider.
- ⁷ An FAR of up to 2.5 for nonresidential buildings may be approved by the Review Authority with a Site Development Permit, in compliance with Subsection D.4.020 (Site Development Permits).
- ⁸ There are no FAR or density limits for hotels. Retail, restaurant, childcare, or commercial services uses on the ground floor do not count toward the FAR calculation.
- ⁹ Height must comply with standards for both height in feet and number of stories.
- ¹⁰ The Planning Commission may allow building height up to 20 stories with Site Development Permit approval consistent with Subsection D.4.020 (Site Development Permits).
- ¹¹ For property within 500 ft of the R1 or R2 zones, maximum height shall be limited to 30 ft and 2.5 stories.
- ¹² The Planning Commission may allow building height up to 75 ft or 6 stories with Site Development Permit approval consistent with Subsection D.4.020 (Site Development Permits) provided that the fourth floor and above are stepped-back from the ground-floor street-facing building façade by a minimum of 8 ft. In deciding whether to grant additional building height, the Planning Commission shall consider site conditions, design elements, and other factors including but not limited to: width of abutting right-of-way; proximity of the site to R1, R2, and R3 zones; building setbacks in relation to proposed building height above 35 ft; and upper story step-backs.

B.8.040 Mixed Use Zones Supplemental Standards

- A. **Building Orientation.** All buildings shall be oriented towards the street. Primary building entrances shall be oriented toward the street.
- B. **Front and Street Side Setbacks.**
 1. Trellises, canopies, and fabric awnings may project up to five feet into minimum front and street side setback areas and public rights-of-way, provided they are not less than eight feet above the sidewalk.
 2. In the MXD Zone, balconies, bay windows, porches, stoops, trellises, canopies, and awnings may project into the minimum setback areas provided at least 60 percent of the required setback area is landscaping.

- C. **Landscaping.** All required front and street setback areas shall be landscaped or paved to allow for outdoor seating, display of goods, or street furniture.
- D. **Utilities.**
1. Utilities shall be placed in underground or subsurface conduits consistent with Section C.2.150 (Underground Utilities).
 2. Utilities shall be screened consistent with Subsection C.2.140.D (Equipment Screening).
 3. Public utility distribution meters, vaults and similar installations shall be consolidated in a single area whenever possible and located away from highly visible areas such as street corners and public open spaces.
 4. Backflow preventors shall be located within landscaped setback areas and painted black or dark green to minimize visual impact. Where no landscaped setback areas exist the backflow preventors shall be incorporated into the front of the building to minimize visual obtrusiveness.
 5. Refuse and recycling containers shall not be visible from a public or private street. Such containers shall be stored either within the parking facility of the building or within a vehicular accessway with screening designed to meet the requirements of this Subsection.
 6. Trash enclosure walls shall incorporate building materials and colors that match the architecture of the building and be well landscaped.
 7. All telecommunications antennas shall be building facade or roof mounted and screened consistent with Subsection C.2.140.D (Equipment Screening).
 8. On Main Street only telecommunication facilities that are disguised to appear as a part of the building architecture (i.e., "stealth" antennas) may be used.
- E. **TC Zone Setbacks for Residential Projects.** Setbacks for residential projects in the TC Zone shall be determined through a Site Development Permit, except for the Calaveras Boulevard setback.

Chapter B.10 Industrial Zones and Standards

Sections:

- B.10.010 Purpose
- B.10.020 Industrial Zones Use Regulations
- B.10.030 Industrial Zones Development Standards
- B.10.040 Industrial Zones Supplemental Standards

B.10.010 Purpose

The purpose of the industrial zones are as follows:

- A. **Light Industrial (M1) Zone.** The Light Industrial (M1) Zone is reserved for the construction, use, and occupancy of buildings and facilities for office, research, limited and light manufacturing, and other uses compatible with the Zone.
- B. **Heavy Industrial (M2) Zone.** The Heavy Industrial (M2) Zone is reserved for the construction, use, and occupancy of buildings and facilities for office, research, general manufacturing, warehousing and distribution, and other uses compatible with the Zone.
- C. **Industrial Park (MP) Zone.** The Industrial Park (MP) Zone is intended to accommodate, in a park-like setting, a limited group of research, professional, packaging and distribution facilities and uses that are not associated with noise, odor, and similar impacts.
- D. **Business Park Research and Development (BPRD) Zone.** The purpose of the Business Park Research and Development (BPRD) Zone is to designate specific areas of the city as important employment centers, especially for jobs in the high-tech industry. The BPRD Zone is intended to accommodate business parks, high-intensity office buildings, advanced manufacturing, and other light industrial uses, and to enable the integration and growth of research and development, office, warehouse, and light manufacturing uses on consolidated sites with supportive ancillary uses such as restaurants, health/fitness centers, limited retail, and child care facilities.

B.10.020 Industrial Zones Use Regulations

- A. Table B.10.020-A (Industrial Zones Use Regulations) sets the land use regulations for industrial zones. Land uses are defined in Chapter E.4 (Definitions of Uses). In cases where a land use is not listed in the table, the Director shall make a determination regarding similar use consistent with Subsection A.4.020.G (Determination of a Similar Use).
- B. Land uses not listed in the table and not substantially like the uses below are prohibited unless the Planning Commission approves a Conditional Use Permit consistent with Subsection D.4.030 (Use Permits) and finds that use will not have adverse impacts or be more detrimental to the public welfare than any other use explicitly, with or without a Conditional Use Permit, in the same zone.

C. All uses shall be conducted entirely within enclosed structures, unless specifically noted.

Table B.10.020-A: Industrial Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Use	M1	M2	MP	BPRD	Additional Regulations
Commercial Uses					
Adult-Oriented Business	MCS	-	-	-	Section C.10.040 (Adult-Oriented Businesses)
Animal Care and Services					
Kennel	P	-	-	-	Milpitas Municipal Code Section V-210-11 (Permits for Animal Facilities and Animal Adoption Organizations)
Veterinarian Clinic	P	-	P	-	
Veterinarian Hospital	P	-	P	-	
Commissary or Catering	P	-	P	MCS	n/a
Drive-Through Facility	C	-	C	-	Section C.10.090 (Drive-Through Facilities)
Eating and Drinking Establishment					
Mobile Food Vending (Individual Vehicle)	P	P	P	P	Section C.10.170 (Mobile Food Vending)
Restaurant					
Restaurant, Full Service	C	-	C	C ¹	Section C.10.100 (Eating and Drinking Establishments)
Restaurant, Limited Service	C	-	C	MC ¹	
Restaurant with Alcohol Service	C ²	-	C ²	C ^{1, 2}	
Entertainment and Recreation, Commercial					
Commercial Athletic Facility	C	-	C	MCS ^{1, 3}	n/a
Indoor Entertainment	C	-	C	-	n/a
Indoor Sports and Recreation	C	-	C	MCS ^{1, 3}	n/a
Financial Institution					
Bank and Credit Union	C	-	P	-	n/a
Food and Beverage Retail Sales					
Alcoholic Beverage Sales	-	-	-	C ¹	n/a
Convenience Store	C	-	C	-	n/a
Lodging					
Hotel	C	-	C	-	n/a

Part B: Zone Regulations

Table B.10.020-A: Industrial Zones Use Regulations

“P” = Permitted Use | “MC” = Minor Conditional Use Permit approved by Zoning Administrator required | “MCS” = Minor Conditional Use Permit approved by Director required | “C” = Conditional Use Permit required | “-” = Not Allowed

Use	M1	M2	MP	BPRD	Additional Regulations
Motel	C	-	C	-	n/a
Medical Support Laboratories	P	-	P	MCS	n/a
Offices					
Medical Office/Clinic	P	-	P	MCS	n/a
Retail					
Retail, Limited	C	-	C	MC ¹	n/a
Retail Store, General Merchandise	C	-	C	-	n/a
Services					
Business Support Services	P	-	P	MCS ³	n/a
Maintenance and Repair Services	P	-	-	-	n/a
Personal Services	C	-	C	C	n/a
Repair/Cleaning/General Services, Small	P	-	-	-	n/a
Vehicle-Related Uses					
Auto Broker	MCS	MCS	MCS	-	Section C.10.070 (Auto Broker)
Commercial Fueling Facility	C	C	-	-	n/a
Fleet-Based Service	MCS	P	-	-	n/a
Mobile Fueling ⁴	P/C	P/C	P/C	P/C	Milpitas Municipal Code Chapter V-300 (Fire Code)
Service Station ⁵	C	C	C	-	Section C.10.190 (Service Stations and Car Washes)
Vehicle Repair and Maintenance					
Major	C	C	-	-	n/a
Minor	C	P	C ⁵	-	n/a
Vehicle Sales and Leasing	C	C	C ⁶	-	n/a
Vehicle Storage	-	P	-	-	n/a
Vehicle Washing	-	C	C	-	Section C.10.190 (Service Stations and Car Washes)

Table B.10.020-A: Industrial Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Use	M1	M2	MP	BPRD	Additional Regulations
Industrial & Research and Development Uses					
Advanced Manufacturing	P	P	P	P	n/a
Construction Yard and Equipment Rental ⁷	-	P	-	-	n/a
Custom and Artisan Manufacturing	P	MCS	P	MCS	n/a
Data Center	P	-	P	P	n/a
Food and Beverage Processing and Preparation	P	P	-	-	n/a
Freight and Trucking Yard ⁷	-	P	-	-	n/a
Industry, General	P	P	MC	MC	n/a
Industry, Heavy	-	P	-	MC/- ⁸	n/a
Industry, Light	P	P	P	MCS	n/a
Mini-Storage or Self-Storage	C	C	-	-	n/a
Parcel Hub	P	MCS	P	C	n/a
Recycling Facility					
Collection Facility	P	P	P	C	n/a
Intermediate Processing Facility	MCS	P	-	-	n/a
Primary Processing Facility	C	C	-	-	n/a
Research and Development	P	MCS	P	P	n/a
Salvage and Wrecking	-	C	-	-	n/a
Warehousing and Distribution	P	P	P	P/C ⁹	California Government Code § 65302.02 and 65098 et seq. California Health and Safety Code § 40458.5 and 40522.7
Wholesale Sales	P	P	P	P	n/a
Public, Institutional, and Recreational Uses					
Child Care					
Child Care Center	-	-	MC ³	MC ³	Section C.10.140 (Large Family Child Care Centers and Child Care Centers)

Table B.10.020-A: Industrial Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Use	M1	M2	MP	BPRD	Additional Regulations
Community Assembly					
Major ¹⁰	-	-	C	-	Section B.10.040.A (Community Assembly in Industrial Zones)
Minor ¹⁰	C	-	C	-	
Educational Institutions					
College/University, Private	-	-	-	C	n/a
Trade and Vocational School	C	-	C	C	n/a
Farmers' Market	-	-	C	MCS	Section C.10.120 (Farmers' Market)
Public Utilities	P	P	P	-	n/a
Transportation Passenger Terminal/Facility ⁷	C	C	-	-	n/a
Residential Uses					
Caretaker's Residence	C	C	-	-	n/a
Unclassified Uses					
Accessory Use	P	P	P	P	n/a
Parking Lot ¹¹	P	P	MCS	MCS	n/a
Temporary Uses	Section C.10.230 (Temporary Uses and Structures)				

Table Notes:

¹ Limited to accessory uses that support primary employment-generating uses on the same site. Accessory commercial uses such as restaurants and convenience retail shall be located on the ground floor and in an area of the development where they can be directly accessed by the public.

² Maximum 8,000 gross square feet in size.

³ Must be in conjunction with a full service restaurant.

⁴ Mobile fueling is permitted when fueling service is ordered by an individual vehicle owner and the amount of fuel dispensed as part of any individual order does not exceed 50 gallons. Mobile fueling for fleet vehicles may be permitted subject to approval of a Conditional Use Permit. Refer also to the California Fire Code as amended by Milpitas Municipal Code Chapter V-300 (Fire Code).

⁵ Entrances to the services bays shall not be open to the street, but shall be so designed to face the rear or interior side property line.

⁶ Dealerships shall be on a property of at least three acres. Boat and camper sales are prohibited. Vehicle rental and repair must be accessory to a dealership.

⁷ When conducted wholly within a completely enclosed building or within an area enclosed on all sides with a solid wall or fence (e.g., chain link with slats) not less than eight feet in height.

⁸ Consistent with the intent and purpose of the BPRD Zone to support emerging industries within the high-tech sector, manufacturing and assembling of electric vehicles and other zero-emission vehicles, and/or component parts for such vehicles, may be permitted in this zone through approval of a Minor Conditional Use Permit in accordance with Subsection D.4.030 (Use

Permits). Heavy industrial uses, including manufacturing and assembling of conventional and hybrid vehicles with internal combustion engines, are not permitted in the BPRD Zone.

⁹ Warehousing and distribution facilities up to 200,000 square feet are permitted in the BPRD Zone. Warehousing and distribution facilities that exceed 200,000 square feet may be allowed through the approval of a Conditional Use Permit, in accordance with Subsection D.4.030 (Use Permits). In addition to the general required findings for a Conditional Use Permit, the following special finding must be made for approval to be granted for a warehousing and distribution facility greater than 200,000 square feet: That the proposed use will support the continued operations and/or growth of business in the high-tech sector, contributing to economic activity and employment opportunities in the Business Park Research and Development Zone.

¹⁰ Shall be accessory or ancillary to the primary use or associated with business or industrial uses.

¹¹ Applies to parking lots or structures that are primary uses, as defined in Part XIII-E (Definitions).

B.10.030 Industrial Zones Development Standards

Table B.10.030-A (Industrial Zones Development Standards) establishes the development standards for residential zones.

Table B.10.030-A: Industrial Zones Development Standards				
ft = feet sf = square feet du = dwelling unit FAR = floor area ratio n/a = not applicable				
Standard	M1	M2	MP	BPRD
Lot Area, min. (sf)	n/a	n/a	n/a	25,000 sf
Lot Width, min. (ft)	n/a	n/a	100	100 ft
Setbacks, min. (ft)				
Front	Along major street: 35 from face of curb Along non-major street: 25 from face of curb		35	10
Interior side	n/a		10	None; 20 ft where abutting residential zone
Street side	Along major street: 35 from face of curb Along non-major street: 25 from face of curb		35	10
Rear	n/a		20	None; 20 ft where abutting residential zone
FAR	Max.: 1.0			Min.: 0.35 Max.: 2.5
Primary Building Height, max.	50 ft; 3 stories ¹			80 ft; 5 stories ¹
Accessory Building Height, max.	35 ft			

Table B.10.030-A: Industrial Zones Development Standards

ft = feet sf = square feet du = dwelling unit FAR = floor area ratio n/a = not applicable				
Standard	M1	M2	MP	BPRD
Open Space				
Per site	n/a	n/a	n/a	See Section B.10.040.D.4 (Site Design for Large Projects)

Table Notes:

¹ Height must comply with standards for both height in feet and number of stories.

B.10.040 Industrial Zones Supplemental Standards

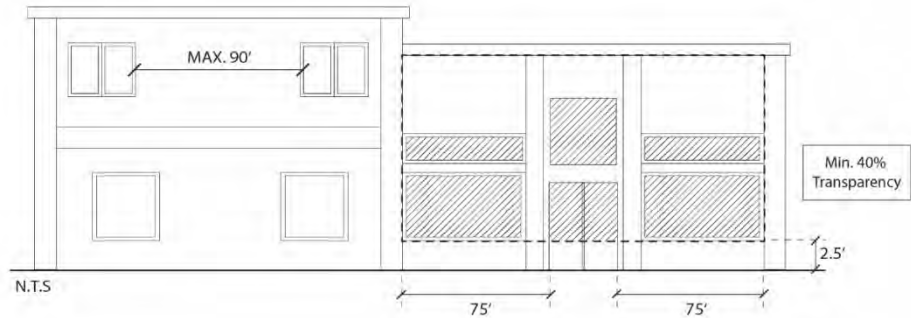
A. Community Assembly in Industrial Zones.

1. Community assembly is prohibited in the Heavy Industrial (M2) Zone and Business Park Research and Development (BPRD) Zone. When any community assembly use is established in the Light Industrial (M1) or Industrial Park (MP) zones, the community assembly use shall be subject to the following requirements:
 - a. Applicant shall submit a review of potential hazardous site conditions and potential exposure of site users to these conditions. At a minimum, a Phase I Environmental Site Assessment (ESA) shall be performed for each proposed community assembly use. Each individual project shall comply with the recommendations of the Phase I Environmental Site Assessment (which may include conducting Phase II sampling and implementing the recommendations of the Phase II ESA that may include cleanup of hazardous materials) and demonstrate that exposure of site users to hazardous materials conditions would be below established thresholds prior to approval of the Conditional Use Permit. In addition, an Accidental Release Assessment (ARA) shall be performed to determine if unacceptable safety risks may result from the proposed change in use. The ARA shall review and evaluate any and all Risk Management Plans prepared for facilities in the vicinity under the California Accidental Release Prevention (CalARP) program. The environmental professional preparing the ARA shall determine, based on Alternative Release Scenarios, whether the proposed new community assembly use would result in unacceptable safety risks due to proximity of uses handling or emitting acutely hazardous materials. If unacceptable risks are identified, the proposed use shall not be allowed.
 - b. Applicant shall submit a further noise study. The noise study shall demonstrate that ambient noise conditions within the vicinity of the proposed assembly use do not exceed the City's "normally acceptable" Noise Compatibility Standard of 70 dBA Ldn. In the event that existing conditions exceed the "normally acceptable" standard the proposed community assembly use may be required to install noise insulating materials to achieve the interior noise standard. Also as a condition of approval, proposed community assembly uses shall be required to sign a disclosure of acknowledgment that they agree to operate within an existing

industrial area and may be subject to noise levels that exceed the City of Milpitas's Noise Compatibility Standards for noise-sensitive uses.

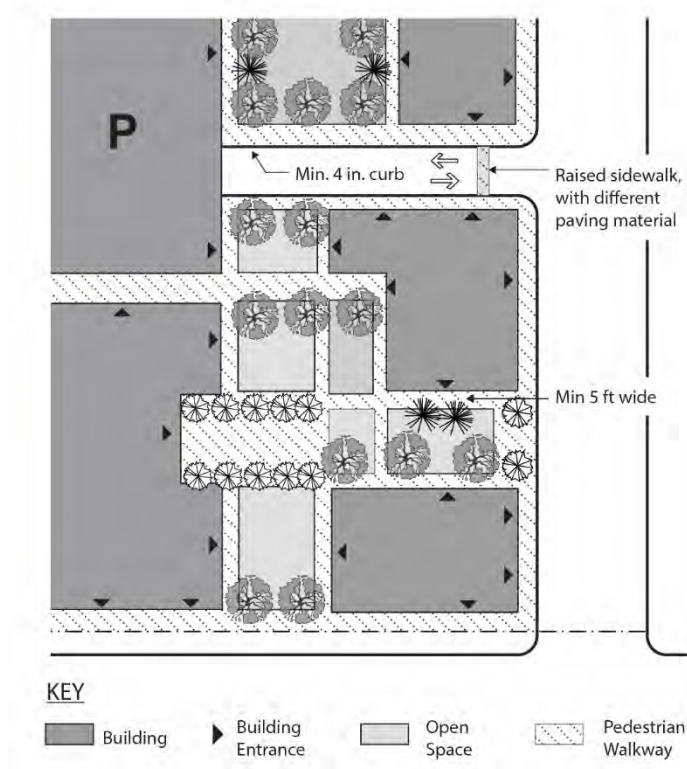
- c. No community assembly use shall install or otherwise use exterior public address systems or other noise generating equipment that exceeds the 70 dBA noise standard.
 2. No new structure shall be constructed within the M1 or MP zones for use as community assembly and no more than 50 percent of the square footage of any existing structure within the M1 or MP zone shall be converted to use as community assembly.
 3. No exterior modifications to any existing structure within the M1 or MP zone shall be permitted if such modifications would materially alter the structure's appearance or future use as an industrial building.
- B. **All Uses in the BPRD Zone.** All uses and activities in the BPRD Zone must take place within an enclosed building.
- C. **Special Development Standards in All Industrial Zones.** Where any industrial zone abuts a residential zone, the following standards shall apply:
1. Industrial buildings and any outdoor storage shall be located at least 100 feet from the nearest property line of any residential zone.
 2. Outdoor storage areas shall not be within any required front or street side setback area and must be screened with a solid wall or opaque fence consistent with Section C.2.140 (Screening Standards).
- D. **Special Design Standards in the BPRD Zone.**
1. ***Building Entrances.***
 - a. At least one building entrance must be provided along the primary street frontage.
 - b. The primary building entrance must incorporate a projection, recess, or combination of projection and recess at least 40 square feet in area and with a minimum depth of five feet.
 2. ***Façade Design and Articulation.***
 - a. Facades within 20 feet of a front or street side property line shall include windows, doors, other openings, or glazed areas for at least 40 percent of the building wall area located between 2.5 feet above the level of the sidewalk and the underside of the roof structure for portions of the façade within 75 feet of the street-facing main entry.
 - b. No street-facing façade may run in a continuous plane for more than 90 feet without an opening.

FIGURE B.10.040-1: FAÇADE DESIGN AND TRANSPARENCY



- c. All building facades must incorporate window trim and/or window recesses, architectural features, changes in material, changes in texture, or similar design elements that add visual interest to the facade. This includes a varied palette of materials, textures, and colors that emphasize details and changes in plane.
3. ***Pedestrian and Bicycle Circulation.***
 - a. A system of pedestrian walkways shall connect all primary building entrances on a site to each other, to on-site vehicle and bicycle parking areas, and to any on-site open space areas, pedestrian amenities, and transit stops. Walkways may be located within public utility easement areas provided they are publicly accessible.
 - b. Walkways between the primary building entrance and sidewalk shall be the shortest practical distance, generally no more than 125 percent of the straight-line distance.
 - c. Walkways shall be hard-surfaced and paved with materials that are visually distinct from vehicular access areas in terms of composition, texture, and/or color.
 - d. Where a required walkway crosses a driveway, parking area, or loading area, it must be clearly identifiable through a raised crosswalk, a different paving appearance, material, or similar method.
 - e. Where a required walkway is parallel and adjacent to a vehicle travel area, it must be raised or separated from the vehicle travel lane by a raised curb at least four inches high, bollards, or other physical barrier.

FIGURE B.10.040-2: ON-SITE CIRCULATION



4. **Site Design for Large Projects.** Projects over 80,000 gross square feet must provide the following:
- Landscaped areas and usable outdoor common open space equal to a cumulative 10 percent of the site area that:
 - Provides gathering space or opportunities for active or passive recreation and benches or other seating.
 - Provides amenities that enhance the comfort, aesthetics, or usability of the space, including but not limited to trees and other landscaping, shade structures, drinking fountains, water features, or public art.
 - Is separated from on-site parking areas by a minimum of six feet.
 - May include on-site stormwater treatment areas and landscaped areas.
 - A minimum of 400 square feet of outdoor eating facilities for the use of employees. Outdoor eating areas shall have a minimum dimension of 12 feet and shall include tables, seating and covering to provide protection from sun and weather conditions. Employee eating areas must be contiguous with required on-site public open space or provided in a separate area. This area may be included as part of the open space requirement.

- (i) Stormwater detention facilities incorporated into the site landscaping. Refer also to Milpitas Municipal Code Subsection VIII-5-3 (Provisions for New and Rehabilitated Landscapes).
- (ii) A lighting, landscaping, and signage design concept for common areas. Refer also to Section C.2.070 (Lighting and Illumination) for general lighting standards and to Chapter C.8 (Signs).

5. ***Parking and Loading.***

a. ***Parking location.***

- (i) Required parking spaces shall be located on the same lot as the use they serve.
- (ii) Parking areas shall be set back from adjacent buildings and streets as follows:
 - (a) *From streets.* Where parking is located between a building and street, a landscaped setback at least 10 feet wide must be provided between the parking area and adjacent right-of-way. Parking for trucks and large vehicles must be set back at least 40 feet from the street.
 - (b) *From on-site buildings.* Parking areas must be separated from the front and side exterior walls of on-site buildings by walkways at least five feet in width.
- (iii) On-site parking shall not be located within a required setback.

b. ***Parking design.***

- (i) *Access.* Driveways shall not exceed 35 feet in width, except that driveways providing large truck access to truck bays shall not exceed 40 feet in width. All driveways must be located a minimum of 50 feet from the boundary of an abutting residential or open space zone.
- (ii) *Screening.* Parking and loading areas shall be screened from view from public streets and properties in abutting residential, mixed-use, or commercial zones, according to the following standards.
 - (a) *Height.* Screening of parking lots from adjacent public streets shall be a minimum of three feet in height. Screening of parking lots along interior lot lines that abut residential or open space districts shall be a minimum of six feet in height.
 - (b) *Design.* Screening should generally be opaque, but may have some degree of transparency depending on method used (e.g., plant material), and must consist of one or any combination of the methods listed below:
 - (1) *Walls.* Low-profile walls consisting of brick, stone, stucco, or other quality durable material and including a decorative cap or top finish as well as edge detail at wall ends.

- (2) *Fences.* An openwork design fence of wood wrought iron, or similar high-quality, durable material combined with plant materials. This option does not include the use of chain-link or vinyl fencing.
 - (c) *Planting.* Plant materials consisting of compact evergreen plants. Such plant materials must achieve a minimum height of two feet within 18 months after initial installation.
 - (d) *Berms.* Berms planted with grass, ground cover, or other low-growing plant materials.
- c. *Loading areas.* Truck docks, loading areas, and service areas within 100 feet of a public street shall not be visible from the public street. The outermost point of the truck docks, loading, and service areas are not permitted within 50 feet of the boundary of a residential zone.

Chapter B.12 Metro Specific Plan Zones and Standards

Sections:

- B.12.010 Purpose
- B.12.020 Metro Specific Plan Zones Use Regulations
- B.12.030 Metro Specific Plan Zones Development Standards
- B.12.040 Metro Specific Plan Zones Supplemental Standards

B.12.010 Purpose

- A. **Metro Multi-Family High Density Residential (R3-Metro) Zone.** The purpose of the R3-Metro Zone is to create and enhance high-density residential areas characterized by a mix of multi-family unit types and small-scale neighborhood businesses where appropriate. The R3-Metro Zone implements the Multi-Family High Density Residential (MFH) land use designation as described in the Metro Specific Plan.
- B. **Metro Multi-Family Very High Density Residential (R4-Metro) Zone.** The purpose of the R4-Metro Zone is to create and enhance very high-density residential areas characterized by low- and mid-rise multi-family residential buildings and compatible commercial uses where appropriate. The R4 Zone is intended to provide for higher-density residential "villages" structured around transit stations, streets, creek side open spaces, trails and parks. The R4-Metro Zone implements the Multi-Family Very High Density Residential (VHD) land use designation as described in the Metro Specific Plan.
- C. **Metro Urban Residential (R5-Metro) Zone.** The purpose of the R5-Metro Zone is to create and enhance very high-density residential areas characterized by high-rise residential buildings and compatible commercial uses structured around transit stations. The R5-Metro Zone implements the Urban Residential (URR) land use designation as described in the Metro Specific Plan.
- D. **Metro High Density Mixed Use (MXD2-Metro) Zone.** The purpose of the MXD2-Metro Zone is to create and enhance areas with a mix of retail, restaurant, entertainment, and commercial service uses on the ground floor and residential or office uses on upper stories, while maintaining a pedestrian-oriented streetscape. It is intended that the required active ground floor uses will ensure neighborhood-oriented retail and services are provided within walking distance of high-density residential development. The MXD2-Metro Zone implements the Residential Retail Mixed Use (RRMU) land use designation as described in the Metro Specific Plan.
- E. **Metro Very High Density Mixed Use (MXD3-Metro) Zone.** The purpose of the MXD3-Metro Zone is to create and enhance urban areas characterized by a mix of very-high density housing, retail and employment uses. The MXD3-Metro Zone implements the Boulevard Very High Density Mixed Use (BVMU) land use designation as described in the Metro Specific Plan.
- F. **Metro Business Park Research and Development, Limited Residential; (BPRD-R-Metro) Zone.** The purpose of the BPRD-R-Metro Zone is to designate specific areas of the city as important employment centers, especially for jobs in the high-tech industry, with limited, integrated residential development. The BPRD-R-Metro Zone is intended to accommodate business parks, high-intensity office buildings, advanced manufacturing, other light industrial uses, and limited residential uses. It also enables the integration and growth of research and development, office,

and light manufacturing uses on consolidated sites with supportive ancillary uses, typically on the ground floor, such as restaurants, health/fitness centers, limited retail, and child care facilities. The BPRD-R-Metro Zone implements the Business Park Research and Development, Limited Residential (BPRD-H) land use designations as described in the Metro Specific Plan.

- G. **Metro Business Park Research and Development (BPRD-Metro) Zone.** The purpose of the BPRD-Metro Zone is to designate specific areas of the city as important employment centers, especially for jobs in the high-tech industry. The BPRD-Metro Zone is intended to accommodate business parks, high-intensity office buildings, advanced manufacturing, and other light industrial uses, and to enable the integration and growth of research and development, office, and light manufacturing uses on consolidated sites with supportive ancillary uses, typically on the ground floor, such as restaurants, health/fitness centers, limited retail, and child care facilities. The BPRD-Metro Zone implements the Business Park Research and Development (BPRD) land use designation as described in the Metro Specific Plan.

B.12.020 Metro Specific Plan Zones Use Regulations

- A. Table B.12.020-A (Metro Specific Plan Zones Use Regulations) sets the land use regulations for Metro Zones. Land uses are defined in Chapter E.4 (Definitions of Uses). In cases where a land use is not listed in the table, the Director shall make a determination regarding similar use consistent with Subsection A.4.020.G (Determination of a Similar Use).
- B. Land uses not listed in the table and not substantially like the uses below are prohibited unless the Planning Commission approves a Conditional Use Permit consistent with Subsection D.4.030 (Use Permits) and finds that use will not have adverse impacts or be more detrimental to the public welfare than any other use explicitly, with or without a Conditional Use Permit, in the same zone.
- C. All uses shall be conducted entirely within enclosed structures, unless specifically noted.

Table B.12.020-A: Metro Specific Plan Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2- Metro	MXD3- Metro	BPRD-R- Metro	BPRD- Metro	Additional Regulations
Commercial Uses								
Animal Care and Services								
Pet Day Care and Sales	-	-	-	MCS	MCS	-	-	Milpitas Municipal Code Section V-210-11 (Permits for Animal Facilities and Animal Adoption Organizations)
Veterinary Clinic	-	-	-	P	P	-	-	
Commissary or Catering	-	-	-	MCS	MCS	-	-	n/a
Eating and Drinking Establishment								
Bar or Nightclub	-	-	-	C	C	-	-	Section C.10.100 (Eating and Drinking Establishments)
Microbreweries	-	-	-	MC	MC	-	-	
Mobile Food Park	-	-	-	MCS	MCS	-	-	

Part B: Zone Regulations

Table B.12.020-A: Metro Specific Plan Zones Use Regulations

“P” = Permitted Use | “MC” = Minor Conditional Use Permit approved by Zoning Administrator required | “MCS” = Minor Conditional Use Permit approved by Director required | “C” = Conditional Use Permit required | “-” = Not Allowed

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2- Metro	MXD3- Metro	BPRD-R- Metro	BPRD- Metro	Additional Regulations
Mobile Food Vending (Individual Vehicle)	P	P	P	P	P	P	P	Section C.10.170 (Mobile Food Vending)
Restaurant								
Restaurant, Full Service	C ¹	C	C	P/C ²	P/C ²	C ³	C ³	Section C.10.100 (Eating and Drinking Establishments)
Restaurant, Limited Service	MCS ¹	P	P	P/C ²	P/C ²	P ³	P ³	
Restaurant with Alcohol Service	C ¹	C	C	P/C ²	P/C ²	C ³	C ³	
Entertainment and Recreation, Commercial								
Commercial Athletic Facility	-	-	-	MCS	MCS	MCS ³	MCS ³	n/a
Indoor Entertainment	-	-	-	C	C	-	-	n/a
Indoor Sports and Recreation	-	-	-	P	P	MCS ³	MCS ³	n/a
Outdoor Entertainment	-	-	-	C	C	-	-	n/a
Financial Institution								
Bank and Credit Union	-	MCS ⁴	MCS ⁴	P	P	MCS ³	MCS ³	n/a
Check Cashing Business	-	MCS ⁴	MCS ⁴	P	P	MCS ³	MCS ³	n/a
Pawnbroker ⁵	-	-	-	C	C	-	-	n/a
Food and Beverage Retail Sales								
Alcoholic Beverage Sales	-	-	-	P/C ²	P/C ²	C ³	C ³	n/a
Convenience Store	MCS ⁴	MCS ⁴	MCS ⁴	MCS	MCS	-	-	n/a
Grocery Store, Small	P ⁴	P ⁴	P ⁴	P	P	-	-	n/a
Home Occupation	P	P	P	P	P	P	-	Section C.10.130 (Home Occupations)
Hospital	-	-	-	C	C	-	-	n/a
Lodging								
Bed and Breakfast	P	P	P	P	P	-	-	n/a
Hotel	-	-	-	P	P	P	P	n/a
Short-Term Rental	Section C.10.200 (Short-Term Rentals)							
Medical Support Laboratory	-	-	-	P	P	MCS	MCS	n/a

Table B.12.020-A: Metro Specific Plan Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2- Metro	MXD3- Metro	BPRD-R- Metro	BPRD- Metro	Additional Regulations
Offices								
Business and Professional Office	C	C	C	P	P	P	P	n/a
Medical Office/Clinic	-	-	-	P	P	MCS	MCS	n/a
Retail								
Retail, Limited	C ^{1,4}	P ⁴	P ⁴	P	P	P ³	P ³	n/a
Retail Store, General Merchandise	C ^{1,4}	P ⁴	P ⁴	P	P	-	-	n/a
Services								
Business Support Services	-	-	-	MCS	MCS	MCS ³	MCS ³	n/a
Massage Establishment	-	-	-	MC ⁶	MC ⁶	C ³	C ³	Milpitas Municipal Code III-6 (Massage Establishments and Practitioners); Section C.10.150 (Massage Establishments)
Personal Services	MCS ^{4,7}	MCS ^{4,7}	MCS ^{4,7}	P ⁷	P ⁷	C	C	n/a
Repair/Cleaning/General Services, Small	-	-	MCS ⁴	P	P	-	-	n/a
Vehicle-Related Uses⁸								
Auto Broker	-	-	-	MCS	MCS	-	-	Section C.10.070 (Auto Broker)
Mobile Fueling ⁹	P/-	P/-	P/-	P/-	P/-	P/-	P/-	Milpitas Municipal Code Chapter V-300 (Fire Code)
Vehicle Rental	-	-	-	MCS ¹⁰	MCS ¹⁰	-	-	n/a
Industrial Uses								
Advanced Manufacturing	-	-	-	-	-	P ¹¹	P ¹¹	n/a
Custom and Artisan Manufacturing ¹²	-	-	-	MCS	MCS	MCS	MCS	n/a
Industry, General ¹³	-	-	-	-	-	MCS	MCS	n/a
Industry, Light ¹³	-	-	-	-	-	MCS	MCS	n/a
Parcel Hub	-	-	-	-	-	-	MCS	n/a
Research and Development	-	-	-	-	-	P ¹¹	P ¹¹	n/a
Wholesale Sales	-	-	-	-	-	MCS	MCS	n/a

Part B: Zone Regulations

Table B.12.020-A: Metro Specific Plan Zones Use Regulations

“P” = Permitted Use | “MC” = Minor Conditional Use Permit approved by Zoning Administrator required | “MCS” = Minor Conditional Use Permit approved by Director required | “C” = Conditional Use Permit required | “-” = Not Allowed

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2- Metro	MXD3- Metro	BPRD-R- Metro	BPRD- Metro	Additional Regulations
Public, Institutional, and Recreational Uses								
Child Care								
Child Care Center	MC	MC	MC	MC	MC	MC ³	MC ³	Section C.10.140 (Large Family Child Care and Child Care Centers)
Large Family Child Care Home	P	P	P	P	P	P	-	Section C.10.140 (Large Family Child Care and Child Care Centers)
Small Family Child Care Home	P	P	P	P	P	P	-	n/a
Community Assembly								
Major	MCS	MCS	MCS	MCS ⁵	MCS ⁵	-	-	n/a
Minor	MCS	MCS	MCS	MCS ⁵	MCS ⁵	-	-	n/a
Community Garden	P	P	P	P	P	P	P	n/a
Educational Institutions								
College/University, Private	-	-	-	C ⁵	C ⁵	P	P	n/a
Trade and Vocational School	-	-	-	C ⁵	C ⁵	C	C	n/a
Farmers’ Market	MCS	MCS	MCS	MCS	MCS	MCS	MCS	Section C.10.120 (Farmers’ Market)
Instruction Services								
Group	MCS ⁴	MCS ⁴	MCS ⁴	MCS	MCS	-	-	n/a
Private/Small Group	MCS ⁴	MCS ⁴	MCS ⁴	P	P	-	-	n/a
Park/Playground	P	P	P	P	P	P	P	n/a
Transportation Passenger Terminal/Facility ⁸	C	C	C	C	C	-	-	n/a
Residential Uses¹⁴								
Accessory Dwelling Units and Junior Accessory Dwelling Units	P	P	P	P	P	P	-	Section C.10.030 (Accessory Dwelling Units and Junior Accessory Dwelling Units)
Boarding House	C	C	C	C	C	-	-	n/a
Court Dwellings	P	P	P	P	P	-	-	n/a
Group Living Accommodations	C	C	C	C	C	C	-	n/a

Table B.12.020-A: Metro Specific Plan Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2- Metro	MXD3- Metro	BPRD-R- Metro	BPRD- Metro	Additional Regulations
Live-Work Unit	C	C	C	MCS	MCS	MCS	-	Section C.10.150 (Live-Work Units)
Low Barrier Navigation Center	-	P	P	P	P	P	-	California Government Code § 65660
Multi-Family Dwelling	P	P	P	P	P	P	-	n/a
Residential Care Facility	P	P	P	P	P	P	-	n/a
Single-Room Occupancy Residences	MCS	MCS	MCS	MCS	MCS	-	-	Section C.10.220 (Single-Room Occupancy Residences)
Supportive Housing	P	P	P	P	P	P	-	California Government Code § 65582
Transitional Housing	P	P	P	P	P	P	-	California Government Code § 65582
Unclassified Uses								
Accessory Use	P	P	P	P	P	P	P	n/a
Parking Lot ¹⁵	-	-	-	C	C	C	C	n/a
Temporary Use	See Section C.10.230 (Temporary Uses and Structures)							

Table Notes:

¹ All activities must be conducted in spaces which are integral parts of a main building.

² A Conditional Use Permit is required when not located on the ground floor facing a public street designated as an Activity Street by the Metro Specific Plan Figure 4-6.

³ Limited to accessory use that supports primary employment-generating uses on the same site. Accessory commercial uses such as restaurants and limited retail shall be located on the ground floor and where they can be directly accessed by the public.

⁴ These uses may be allowed provided they are: no more than 10,000 sf in gross floor area; not open past 10:00 p.m.; and conducted entirely within a building, except for approved outdoor seating areas.

⁵ These uses may be allowed provided the boundary of the parcel on which they are located is not within 1,000 ft of the parcel boundary of one or more of the following uses: community assembly; school, private or public; or trade and vocational schools.

⁶ Allowed when an accessory use to any permitted or conditionally permitted medical office, medical clinic, chiropractor practice, acupuncture practice, physical therapist, fitness and athletic facility, health care facility (such as hospitals, nursing homes, and sanitariums), or an accredited school, college, or university. Massage services, limited to massage of the head, neck, shoulders, hands, and feet may be allowed when an accessory use to any permitted or conditionally permitted beauty salon, barbershop, or healing art practices. This Section shall not exempt any person or business from complying with all the provisions of Milpitas Municipal Code Chapter III-6 (Massage Establishments and Practitioners).

⁷ When located on the ground floor, retail sales of products related to the personal services provided shall be offered at the front of the premises near the pedestrian entrance and shall comprise at least 10% of the floor area of the business establishment.

⁸ These uses may be allowed provided the boundary of the parcel on which they are located is not within 1,000 ft of the parcel boundary of one or more of the following uses: any vehicle-related use; transportation passenger terminal/facility without outdoor storage of vehicles; or pawnbroker.

⁹ Mobile fueling is permitted when fueling service is ordered by an individual vehicle owner and the amount of fuel dispensed as part of any individual order does not exceed 50 gallons. Mobile fueling for fleet vehicles is not permitted.

Part B: Zone Regulations

- ¹⁰ The vehicle rental agency, excluding the rental vehicles, must be fully enclosed within a building.
- ¹¹ A Conditional Use Permit is required for storage space that exceeds 25,000 sf, and in no case may storage space exceed 300,000 sf.
- ¹² All operations must be conducted completely within an enclosed building.
- ¹³ Disinfecting and extermination businesses are not allowed in any Metro zone.
- ¹⁴ Residential units are not allowed on the ground floor facing any right-of-way designated as an Activity Street or Neighborhood Street by the Metro Specific Plan Figure 4-6, unless allowed by Subsection B.12.040.A (Housing Element Rezone Sites). Other residential spaces such as lobbies and common areas are permitted on the ground floor facing an Activity Street in accordance with Table B.12.020-A (Metro Specific Plan Zone Use Regulations).
- ¹⁵ Applies to parking lots or structures that are primary uses, as defined in Part XIII-E (Definitions).

B.12.030 Metro Specific Plan Zones Development Standards

- A. **Standards Within The Metro Specific Plan Area.** For all sites within the Metro Specific Plan Area, the following Metro Specific Plan development standards and the supplemental standards in Section B.12.040 apply. When a standard is not listed within the Metro Specific Plan, the standards listed within this Title shall apply.
- B. **General Standards.** Table B.12.030-A (Metro Zones Development Standards) establishes the development standards for Metro zones.

Table B.12.030-A: Metro Zones Development Standards							
ft = feet sf = square feet du = dwelling unit FAR = floor area ratio n/a = not applicable							
Standard	R3-Metro	R4-Metro	R5-Metro	MXD2-Metro	MXD3-Metro	BPRD-R-Metro	BPRD-Metro
Lot Area, min. (sf)	8,000	n/a	n/a	n/a	n/a	n/a	n/a
Lot Width, min. (ft)	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Density, min. (du/gross acre) ¹	30	40	70	40	85	n/a	n/a
Density, max. (du/gross acre) ¹	40	85	120	85	250	n/a	n/a
Active Use	n/a	n/a	n/a	Ground floor retail and active uses required on 80% of frontages on any one blockface along any Activity Street as identified on the Metro Specific Plan Figure 4-6 (Circulation Network)			n/a
Setbacks (ft)							
Front	Min.: 20	Min.: 8 Max.: 20 from back of sidewalk	Min.: 12 Max.: 20 from back of sidewalk	Min.: 0 Max.: 20	Min.: 12 Max.: 20	Min.: 10 Max.: 20	Min.: 0
Interior side (min.)	1 story: Each side 5, total of 12 both sides	10	15; 20 for buildings over 3 stories	0; 10 when abutting residential use	10; 15 when abutting residential; 20	10	10

Table B.12.030-A: Metro Zones Development Standards

ft = feet | sf = square feet | du = dwelling unit | FAR = floor area ratio | n/a = not applicable

Standard	R3-Metro	R4-Metro	R5-Metro	MXD2-Metro	MXD3-Metro	BPRD-R-Metro	BPRD-Metro
	2-2.5 story: Each side 10, total 25 both sides 3-3.5 story: Each side 12, total 30 both sides		abutting residential uses	and for portions of buildings over 60 ft or 4 stories tall	for portions of buildings over 60 ft or 4 stories tall		
Street side	Min.: 10	Min.: 8 Max.: 15 from back of sidewalk	Min.: 12 Max.: 20 from back of sidewalk	Min.: 0	Min.: 12 Max.: 20	Min.: 10 Max.: 15	Min.: 0
Rear (min.)	1 story: 30 2-2.5 story: 35 3-3.5 story: 40	10	15; 20 feet for buildings over 3 stories abutting residential uses	10; 15 when abutting a residential zone; 20 for portions of building over 60 ft or 4 stories tall	15; 20 when abutting a residential zone; 30 ft for portions of building over 60 ft or 4 stories tall	10	10
Creek/ Drainage Channel Setback	Min.: 25 from top of bank or from any maintenance road or required setback, whichever is greater						
FAR, min.	n/a	n/a	n/a	Mixed use: 1.0	Mixed use: 2.5	Mixed use: 1.0 Nonresidential use: 1.0	1.0
FAR, max.	n/a	n/a	n/a	Mixed use: 2.5	Mixed use: 5.0	Mixed use: 5.0	2.5-4.0 ²
Primary Building Height	Max.: 75 ft	Min.: 35 ft Max.: 75 ft	Max.: 75 ft and 6 stories	Max.: 85 ft ³	Max.: 275 ft ⁴	Max.: 275 ft or 18 stories	Max.: 8 stories
Accessory Building Height	Max.: 25 ft or 2.5 stories						
Open Space							
Per dwelling unit	Min. 100 sf per residential unit, which may be private or common open space						

Table B.12.030-A: Metro Zones Development Standards

ft = feet sf = square feet du = dwelling unit FAR = floor area ratio n/a = not applicable							
Standard	R3-Metro	R4-Metro	R5-Metro	MXD2-Metro	MXD3-Metro	BPRD-R-Metro	BPRD-Metro
Per site	Nonresidential projects: Min. 10% of site area Residential and mixed-use projects: Min. 30% of the total open space provided on-site; min dimension 10 ft Mixed-use projects: Min. 5% of the total open space provided on-site must be publicly accessible ⁵ Nonresidential projects: Min. 25 contiguous sf of publicly accessible open space per 10,000 sf nonresidential floor area						

Table Notes:

¹ When determining the density of non-traditional housing configurations such as group living accommodations and single-room occupancy residences, three bedrooms may be counted as the equivalent of one unit.

² Maximum allowed FAR is based on the following sliding scale:

- 2.5 for properties farther than 3,000 ft from the Milpitas Transit Center;
- 3.0 for properties within 3,000 ft from the Milpitas Transit Center;
- 3.5 for properties within 2,000 ft from the Milpitas Transit Center;
- 4.0 for properties within 1,000 ft from the Milpitas Transit Center.

³ Within 60 ft of adjacent existing residentially zoned parcels, building height shall be stepped down to a maximum of 10 ft higher than the maximum allowed height of the adjacent parcel.

⁴ The base or podium of a building may reach 85 ft in height, and a tower with a maximum area of 25% of the base footprint may reach 275 ft in height.

⁵ Required publicly accessible open space may include one or more of the following types of public open spaces: park, plaza, garden, public sitting area.

B.12.040 Metro Specific Plan Zones Supplemental Standards

A. **Housing Element Rezone Sites.** Milpitas 2023-2031 Housing Element rezone sites within the Metro Specific Plan are sites R-11 to R-29, which all provide lower-income housing capacity (see Milpitas 2023-2031 Housing Element Table E-14 and Figures E-4 and E-5). Consistent with Subsection C.2.030.B (Housing Element Sites), on these rezone sites (sites R-11 to R-29), the following shall apply:

1. Owner-occupied and rental multi-family housing uses shall be allowed by right (i.e., without any discretionary review) when at least 20 percent of the units will be affordable to lower income households.
2. 100 percent residential use is allowed.
3. A minimum of 50 percent of the floor area in mixed-use projects must be occupied by residential use(s).

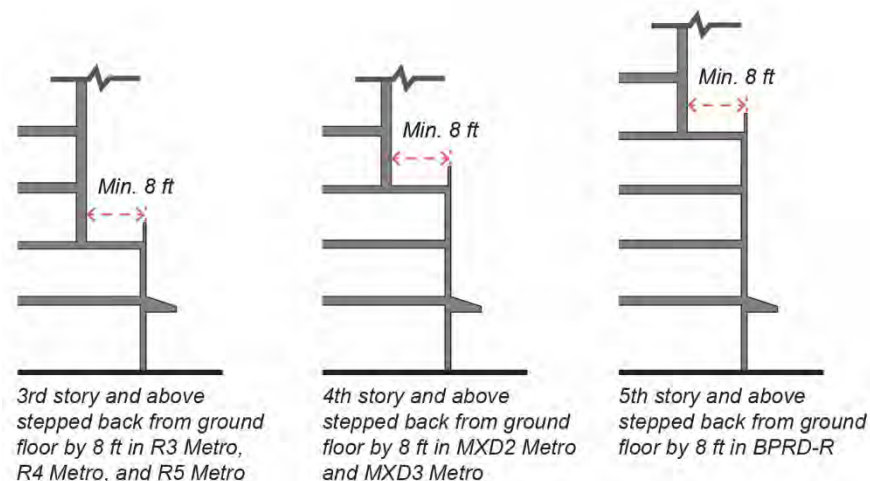
B. **Block Length.**

1. Blocks may not exceed 700 feet in length.
2. Blocks more than 500 feet in length must incorporate a mid-block pedestrian and bicycle through connection.

C. **Building Articulation.**

1. In the R3-Metro, R4-Metro and R5-Metro zones, the third floor and above must be stepped-back from the ground-floor street-facing building façade by a minimum of eight feet.
2. In the MXD2-Metro and MXD3-Metro zones, the fourth floor and above must be stepped-back from the ground-floor street-facing building façade by a minimum of eight feet.
3. In the BPRD-R Zone, the fifth floor and above must be stepped-back from the ground-floor street-facing building façade by a minimum of eight feet.

FIGURE B.12.040-1: BUILDING STEP-BACK



4. Nonresidential building façades over 80 feet in length shall break up long street walls through at least two of the following features: recesses a minimum six feet in depth; awnings; colonnades; projections a minimum four feet in depth; step-backs a minimum six feet in depth; window reveals; cornice treatment; and changes in color and material.
 5. Nonresidential building height must vary such that the building has at least one change in height of at least one story. This may be achieved through changes in pitch, plane, orientation, a change in the number of stories, differentiated forms, projections and recesses, and/or special architectural features such as towers.
- D. **Ground Floor Commercial Design Standards.** On retail mixed use streets, and in any other areas with ground floor retail, restaurant, and commercial service uses, the following standards apply:
1. Ground floor spaces shall be a minimum of 60 feet in depth for a minimum of 50 percent of the space, and a minimum of 40 feet in depth for any remaining space.
 2. **Floor to Ceiling Height.**
 - a. *Retail.* Minimum 18 feet floor-to-floor and a minimum 14 feet clear.
 - b. *Office.* Minimum 14 feet.
 3. **Building Entrances.** There shall be at least one entrance per 100 feet of building frontage and the main entrance may not face a parking lot.

4. **Wall Plane Articulation.** Windows, doors, columns, and other features shall be recessed or project forward, such that there is a six-inch difference between wall and window surfaces and a total of at least eighteen inches from the window to the outermost plane of a wall or column.
5. **Floor Elevation.** Ground floor elevation shall be no more than two feet above or below the sidewalk level.

E. **Building Materials.**

1. **Ground Floor Materials.** All ground floor exterior materials shall be durable, quality materials, such as glass, concrete, precast concrete, aluminum and high quality metal panels, composite panels, stone, and stucco.
2. **Nonresidential Building Materials.** Primary building materials in all nonresidential construction shall store carbon (e.g., wood, calcium carbonate-based cementitious substances, synthetic limestone).
3. **Glass Materials.** Glass types shall be clear glass, frit glass, sandblasted glass, spandrel glass, or channel glass. Glazing should provide a high degree of light transmittance and be non-reflective.
4. **Roofing Materials.** Roof design and materials shall include vegetated roofs, high-albedo built-up roofs, high albedo single-ply roofing, metal, terracotta tile, concrete tile, composite concrete tile, skylights, solar collectors, and photovoltaics.
5. **Window Materials.** Vinyl-frame windows and doors are prohibited. Wood-framed windows must have metal or fiberglass cladding on the exterior. Metal-frame windows must be thermally broken.

F. **Unit Design.**

1. A minimum of 10 percent of units in any single residential project shall be designed to be accessible to all users using the principles of Universal Design.
2. Public plazas shall be constructed with ADA-compliant ramps and tactile warning strips at the crosswalks. Equipment and facilities such as tables, trash cans, restrooms, and drinking fountains should allow for universal access, including people of all ages and ability levels.

G. **Landscaping and Site Design.**

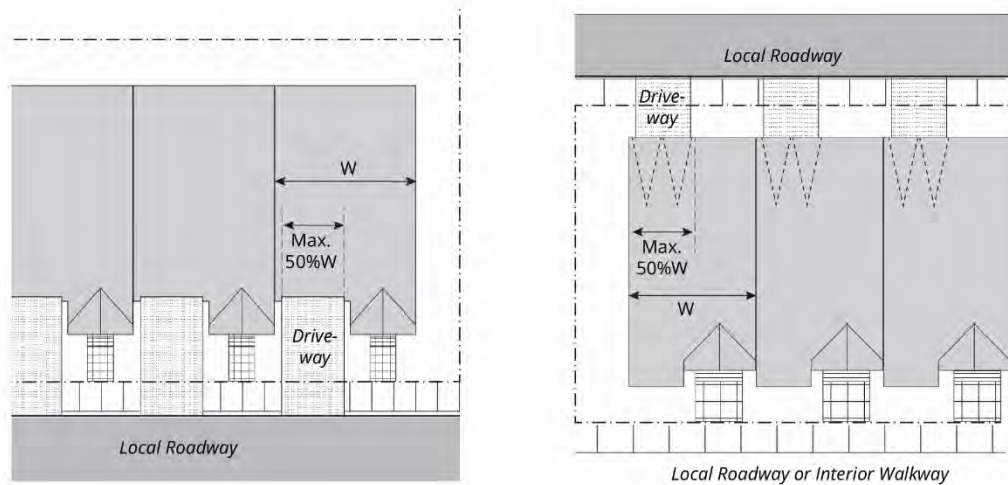
1. All development projects shall include on-site vegetated stormwater treatment and landscaping and shade trees at a rate of one tree per 5,000 square feet of the residential building footprint and one tree for every 10,000 square feet of developed lot area for nonresidential or mixed-use development.
2. Where a creek runs under a site, the applicant must coordinate with the Department to daylight the waterway as part of the site design.
3. All applicants shall also reference the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 Stormwater Handbook.

- H. **Refuse Enclosures and Utility Equipment.** Refuse and recycling container enclosures and utility equipment (mechanical, electrical, and plumbing) may not be located within the front setback. Public utilities are excluded from this requirement. Additionally, the requirements of Section C.2.120 (Refuse and Recycling Areas) apply.
- I. **Parks and Publicly Accessible Open Spaces.**
1. All development projects shall dedicate land for parks if a park is shown on the subject property on Figure 2-16 (Existing and Proposed Parks) of the Metro Specific Plan.
 2. Privately-owned public open space must remain accessible and open to the public during business hours. Private single-access gates are prohibited.
 3. The Recreational Value System as described in the Metro Specific Plan Section 2.8 (Parks and Public Spaces Framework) shall be used to ensure park improvements provide a diversity of active, contemplative, and social gathering experiences.
 4. Parks must be bordered by a public right-of-way such as a street, trail or railroad, on at least three sides, and must be clearly visible and accessible from all abutting rights-of-way.
 5. Small neighborhood-serving parks less than one-quarter acre must be located a minimum 500 feet from Montague Expressway, the Great Mall Parkway, or any rail line.
 6. Seating shall be provided in all publicly-accessible open spaces. Seating may include both moveable and fixed seating as well as seat walls, steps, boulders, and other multi-use objects and must be placed along pathways and within or near gathering spaces.
- J. **Common and Private Open Spaces.**
1. Private open spaces may take the form of balconies, patios, gardens, porches, decks, or roof decks.
 2. Usable open space surfaces may be any combination of lawn, garden, flagstone, wood planking, concrete, or other dust-free surfacing, and may not exceed 10 percent slope.
 3. Universal access shall be provided to all rooftop amenities. An accessible path to a publicly accessible restroom on an adjacent floor or at the rooftop level shall be provided for any common outdoor open space on the rooftop.
 4. A minimum of 10 percent of common rooftop open spaces shall be landscaped using green roofs or planters.
- K. **Parking Design.** Where parking is required or proposed, it must comply with the following:
1. **Parking Location.** Off-street parking must be located in:
 - a. Ground-floor “tuck-under” individually secured garages;
 - b. Shared garages (podium or underground); or
 - c. Above-ground structures “wrapped” with habitable uses.
 2. **Tandem Parking.** Tandem parking may be provided consistent with Chapter C.6 (Parking and Loading).

3. **Ground-Level Visibility.**

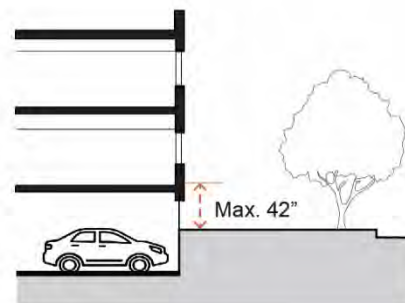
- a. *Individually secured garages.* Individually secured garages shall be accessed from a shared rear or side drive aisle where such abuts the property. Where individual garages are accessed from the right-of-way, garages shall occupy no more than 50 percent of the frontage of each unit.

FIGURE B.12.040-2: INDIVIDUAL GARAGES



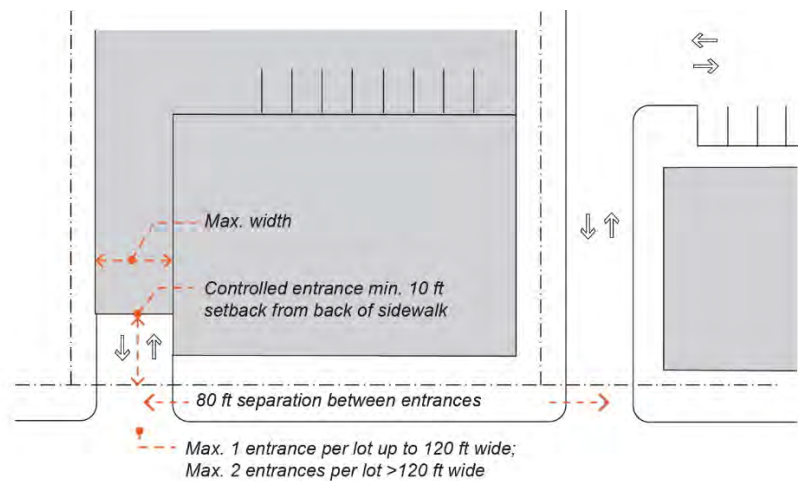
- b. *Structured Parking.* Structured parking may not be located along the ground-level building frontage unless the parking is:
- (i) Recessed a minimum of four feet from the rest of the building façade and screened with a living wall or textured or decorative screening; or
 - (ii) Designed such that the parking area is located in a basement, where the vertical distance from grade to the finished floor directly above the parking area is a maximum of 42 inches.

FIGURE B.12.040-3: STRUCTURED PARKING GROUND LEVEL



4. **Upper-level Visibility.** All upper-level street-facing structured parking must be screened from view from the right-of-way by at least one of the following features:
 - a. Regular openings designed to resemble windows of habitable spaces that do not reflect the sloping floor lines of interior parking ramps on the facade;
 - b. A trellis or living wall; or
 - c. Textured or decorative screening.
5. **Vehicle Access.** Parking must comply with the following standards:
 - a. A maximum of one driveway to shared parking is permitted on street frontages up to 120 feet in length; a maximum of two shared driveways are permitted on street frontages exceeding 120 feet in length.
 - b. Controlled entrances to shared parking facilities (i.e., gates, doors, etc.) shall be located a minimum of 10 feet from the back of sidewalk.
 - c. Vehicular entrances to parking areas shall be a minimum of 80 horizontal feet from vehicular entrances to parking areas on adjacent properties.
 - d. Mechanical parking lifts are allowed in all structured parking configurations.

FIGURE B.12.040-4: PARKING ACCESS



6. **Parking Separation.** Parking for residential units shall be physically separated from parking for nonresidential uses through a controlled fence, gate, or other barrier.

L. **Pedestrian and Bicycle Circulation.**

1. A system of pedestrian walkways shall connect all primary buildings entrances on a site to each other, to on-site automobile and bicycle parking areas, and to any on-site open space areas, pedestrian amenities, and transit stops.
2. Walkways shall be the shortest practical distance between the primary building entrance and sidewalk, generally no more than 125 percent of the straight-line distance.
3. Walkways must link the entrances with on-site open spaces, on-site services, and other internal facilities.

4. Walkways shall be a minimum of five feet wide, hard-surfaced, and paved with permeable materials.
5. Where a required walkway crosses a driveway, parking area, or loading area, it must be clearly identifiable through a raised crosswalk, a different paving material, or similar method.
6. Where a required walkway is parallel and adjacent to a vehicle travel area, it must be raised or separated from the vehicle travel lane by a raised curb at least four inches high, bollards, or other physical barriers.

M. Utilities.

1. Utilities shall be placed in underground or subsurface conduits consistent with Section C.2.150 (Underground Utilities).
2. Utilities shall be screened consistent with Section C.2.140.D (Equipment Screening).
3. Public utility distribution meters, vaults and similar installations shall be consolidated in a single area whenever possible and located away from highly visible areas such as street corners and public open spaces.
4. Backflow preventors shall be located within landscaped setback areas and painted black or dark green to minimize visual impact. Where no landscaped setback areas exist the backflow preventors shall be incorporated into the front of the building to minimize visual obtrusiveness.
5. Refuse and recycling containers shall not be visible from a public or private street. Such containers shall be stored either within the parking facility of the building or within a vehicular accessway with screening designed to meet the requirements of this Subsection.
6. Trash enclosure walls shall incorporate building materials and colors that match the architecture of the building and be well landscaped.
7. All telecommunications antennas shall be building facade or roof mounted and screened consistent with Section C.2.140.D (Equipment Screening).
8. On Main Street only telecommunication facilities that are disguised to appear as a part of the building architecture (i.e., "stealth" antennas) may be used.

N. BPRD-Metro and BPRD-R-Metro Zones.

1. ***BPRD Zone Supplemental Standards Apply.*** All nonresidential development in the BPRD-R-Metro and BPRD-Metro zones must additionally comply with the standards of Subsection B.10.040.D (Special Design Standards in the BPRD Zone). Where standards of this Section B.12.040 applicable to the BPRD-Metro and BPRD-R-Metro zones conflict with those of Subsection B.10.040.D, the more restrictive standard applies.
2. ***Loading Dock and Doors.*** In the BPRD-R-Metro and the BPRD-Metro zones, a maximum of two loading docks are allowed for any single project and must be located out of view from the primary abutting right-of-way.

Chapter B.14 Reserved.

Chapter B.16 Milpitas Commercial Specific Plan Area

Sections:

- B.16.010 Introduction
- B.16.020 Existing Setting
- B.16.030 Land Use Plan
- B.16.040 Infrastructure, Grading and Construction
- B.16.050 Administration

B.16.010 Introduction

- A. **Specific Plan Area.** The Milpitas Commercial Specific Plan area is an approximately 14.56 acre-site located in the City of Milpitas, in Santa Clara County, California on the northernmost southeast corner of North McCarthy Boulevard and Ranch Drive (Ordinance 38-799, Figures 1 and 2). Regional access to the Specific Plan area is provided from Interstate 880 (I-880) and State Route 237 (SR-237). The Specific Plan area is bounded by Ranch Drive and the McCarthy Center office complex to the north; stores and parking areas in the McCarthy Ranch Marketplace to the south; Ranch Drive and I-880 to the east; and North McCarthy Boulevard and undeveloped land to the west. The undeveloped land to the west of the Specific Plan area is designated for Industrial Park uses by the City of Milpitas General Plan and is entitled for an office park campus (The Campus at McCarthy Ranch). Coyote Creek is located west of the undeveloped land with Coyote Creek Trail, a Class I bicycle/pedestrian trail, paralleling the east side of the creek. Single-family residences are located east of I-880 and are protected by a sound wall along the I-880 frontage.
- B. **Purpose of the Specific Plan.** A specific plan is a combination policy statement and implementation tool that can be used to address the unique needs of a particular area of a city or county. As a result, emphasis is on concrete standards and development criteria for use in the submission and review of subsequent development plans and permits. The California Government Code permits the use of specific plans to regulate site development, including permitted uses such as density, building size, and placement. Specific plans also govern the landscaping and roadways, as well as the provision of infrastructure and utilities. Since the development guidelines established in a specific plan focus on the unique needs of a specific area, specific plans allow for greater flexibility than is possible with conventional zoning.

The purpose of the Milpitas Commercial Specific Plan is to assist in the development of the site in a manner that will benefit local shoppers, the general public, and the City of Milpitas. The Specific Plan accomplishes these purposes by providing for the efficient use of land, ensuring compatibility between existing and proposed land uses, and establishing environmental and development standards and procedures to be met in development of the Specific Plan area. The customized development regulations contained in the Specific Plan address the unique characteristics of the site and surrounding properties, as well as the needs of the commercial land uses proposed for the site. These efforts are intended to foster greater economic development and design opportunities than could be achieved through the use of conventional zoning and development standards.

As used herein, the term "developer" shall mean the fee title holder of the Milpitas Commercial Specific Plan area.

C. **Project Objectives.** The objectives of the Milpitas Commercial Specific Plan are as follows:

1. Promote economic growth and development that is consistent with the policies of the City of Milpitas General Plan.
2. Provide development that maximizes the Specific Plan area's use potential in a manner consistent with the City of Milpitas General Plan.
3. Ensure development within the Specific Plan area complies with appropriate conditions and environmental mitigations for the benefit of the City, its residents and taxpayers.
4. Generate sales tax and property tax revenues to accrue to the various agencies within the Specific Plan area.
5. Enhance the commercial retail opportunities in the City of Milpitas and surrounding communities.

D. **Authority.** The Milpitas Commercial Specific Plan has been prepared in accordance with Government Code Sections 65450 et seq. and 66450 et seq. and will constitute the zoning for the Specific Plan area. Land use standards and regulations contained within this document shall govern future development within the boundaries of this Specific Plan.

The Milpitas Commercial Specific Plan provides a framework for development of the Specific Plan area. The Specific Plan provides guidance for the review of specific development proposals and is the City's reference document for determining permitted uses, intensity of use, and development standards and requirements. The Specific Plan defines objectives, as well as regulations and requirements for development of the Milpitas Commercial Specific Plan area.

E. **General Requirements.**

1. **General Plan Consistency.** Implementation of the Milpitas Commercial Specific Plan is intended to carry out the goals and policies contained in the City of Milpitas General Plan, as amended, in an orderly and attractive fashion. Development within the Milpitas Commercial Specific Plan area shall, therefore, be consistent with the provisions of the City of Milpitas General Plan.

The Milpitas Commercial Specific Plan implements the General Plan by:

- a. Encouraging development within the incorporated limits to fill in the urban fabric rather than providing costly expansion of urban services into outlying areas.
- b. Encouraging economic pursuits to strengthen and promote development; provide economic opportunities for all Milpitas residents within existing environmental, social, fiscal, and land use constraints; and maintain a balanced economic base that can resist downturns in any one economic sector.
- c. Providing opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.
- d. Fostering community pride and growth through beautification of existing and future development.
- e. Utilizing the City's adopted Level of Service standards in evaluating development proposals and capital improvements.
- f. Paying its share of street and other traffic improvements based on its impacts.

- g. Promoting measures that increase transit use, walking, and bicycling and that lead to improved utilization of the existing transportation system.
- h. Providing adequate circulation and off-street parking and loading facilities for trucks and restricting trucks to designated truck routes.
- i. Protecting and enhancing the quality of water resources and promoting conservation and efficiency in the use of water.
- j. Implementing the National Pollutant Discharge Elimination System (NPDES) requirements of the Regional Water Quality Control Board.
- k. Enhancing the visual impact of the gateways to Milpitas.
- l. Undertaking efforts to reduce the generation of waste, increase recycling and slow the filling of local and regional landfills.
- m. Minimizing threats to life and property from seismic hazards, geologic hazards, flooding, and dam inundation.
- n. Minimizing unnecessary, annoying, or injurious noise.
- o. Furthering the Land Use Guiding Principles by promoting a compact urban form and encouraging focused growth through infill opportunities in the incorporated City limits rather than in outlying areas.
- p. Improving the viability of transit, pedestrian and bicycle systems by promoting measures that increases use of those systems.
- q. Maintaining the architectural and landscape elements that contribute to the identity and history of the City by requiring new developments to be harmonious with older structures.
- r. Ensuring the conservation, development and use of natural resources by providing "smart growth" through infill development and promoting conservation and efficiency in energy and water use and reducing waste generation through increased recycling and less waste production.

2. ***Relationship Between Specific Plan Development Standards/Criteria and the City of Milpitas Municipal Code.*** The provisions of the Milpitas Commercial Specific Plan shall govern all development on the lands within the Specific Plan area. Any regulations or requirements not specifically covered herein shall be subject to the regulations and requirements of the City of Milpitas Municipal Code, design guidelines and engineering standards and other applicable regulations, in addition to all applicable local, state and federal ordinances, laws or regulations. Any operations on the Specific Plan area shall also be required to operate in accordance with all local, state and federal regulations. If any provision of this document conflicts with the regulations or requirements of the City of Milpitas Municipal Code, the provisions of this document shall govern.

The process for approving development under the Milpitas Commercial Specific Plan shall be set forth in Section B.16.050 (Administration).

3. Conformance with Uniform Building and Fire Codes. All construction within the Milpitas Commercial Specific Plan shall be in compliance with Title II "Building Regulations" and Title V-300 "Fire Code" of the Milpitas Municipal Code.

4. **Provision of Infrastructure.** Unless otherwise specifically approved as part of this Specific Plan, all off-site improvements under the control of the City shall be subject to the City of Milpitas regulations and requirements in effect at the time improvement plans are submitted. Other improvements not under the control of the City (e.g., electricity, natural gas, telephone) shall be subject to the regulations and requirements of the responsible agency.

Specific requirements for infrastructure improvements are set forth in Table B.16.050-A (Milpitas Commercial Specific Plan Environmental Performance Standards) of this Specific Plan. To ensure the cost-effective availability of current and adequate infrastructure and services during the development of the Specific Plan area, infrastructure plans may be modified upon approval of the City of Milpitas Chief Building Official, which pursuant to Section B.16.050 (Administration) of this Specific Plan, shall be ministerial, final and not subject to appeal and without the need to amend this Specific Plan.

5. **Severability.** If any term, provision, condition, requirement, or portion thereof of this Specific Plan is for any reason held invalid, unenforceable, or unconstitutional, the remainder of this Specific Plan or the application of such term, provision, condition, requirement, or portion thereof to circumstances other than those in which it is held to be invalid, unenforceable, or unconstitutional, shall not be affected thereby; and each other term, provision, condition, requirement, or portion thereof shall be held valid and enforceable to the fullest extent permitted by law.
6. **Costs.** The developer shall pay the costs of any code enforcement activities, including attorney's fees, resulting in the violation of any provisions of the Milpitas Municipal Code, including the Milpitas Commercial Specific Plan. The developer shall be responsible for the entire cost to implement the environmental performance standards in accordance with Section B.16.050.D.7 (Environmental Performance Standards) of this Specific Plan.
7. **Consent to Hold Harmless.** The developer shall as a requirement of any development within the Milpitas Commercial Specific Plan area, agree to indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void or annul, any action by the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body related to, in furtherance of this Specific Plan.

Furthermore, developer shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer is subject to that other governmental entity's approval and a condition of such approval is that city indemnify and defend such governmental entity. City shall promptly notify the developer of any claim, action or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the city, any agency, or instrumentality thereof, or any of its officers, officials, employees, or agents.

B.16.020 Existing Setting

A. Site Conditions And Existing Land Uses.**1. *Historical and Existing Land Uses.***

- a. *Existing Land Use.* The Specific Plan area is currently developed with a 131,725-square-foot retail store and associated parking.
- b. *Existing On-Site General Plan Land Use and Zoning.* The Specific Plan area is currently designated General Commercial by the City of Milpitas General Plan. The General Commercial land use designation is intended for a wide range of retail sales and personal and business services accessed primarily by the automobile. It includes commercial uses where shopping is conducted by people walking to several stores and uses of a single-purpose character served from an adjacent parked vehicle.

The Specific Plan area is currently designated General Commercial (C2) by the City of Milpitas Zoning Code. The C2 zoning district is intended to provide for a wide range of retail sales and personal and business services primarily oriented to the automobile customer and is intended to promote stable, attractive commercial development which will afford a pleasant shopping environment. This zone permits retail sales as of right. Grocery stores that are within one thousand (1,000) feet of a residential zone and Liquor Stores (Alcohol Beverage Sales) are conditionally permitted.

The Specific Plan area is also within the Site and Architectural Overlay District (S). The S zone is intended to promote orderly, attractive and harmonious development; recognize environmental limitations on development; stabilize land values and investments; and promote the general welfare by preventing the establishment of uses or erection of structures having qualities that would not meet the intent of the Zoning Code. The General Plan and Zoning designations are illustrated in Ordinance 38-799, Figures XI-10-11.07-3 and -4.

2. ***Surrounding Land Uses.*** Land uses surrounding the Milpitas Commercial Specific Plan area are characterized by office and Research and Development uses to the north, commercial uses to the south, Interstate 880 and residential uses to the east, and undeveloped but entitled land to the west. North of the Specific Plan area is the McCarthy Center office complex, a 68-acre complex with approximately one million square feet of office and Research and Development uses spread among nineteen (19) two-story buildings in a campus setting. To the south is the remainder of a commercial/retail development, McCarthy Ranch Marketplace, which includes Best Buy, Borders and PetSmart, small shops and restaurants, and small, freestanding restaurants such as Black Angus, Macaroni Grill and Applebees. To the east, east of I-880, are single-family residential uses that are protected by a sound wall located along the I-880 frontage. The undeveloped land to the west is approved for an office park campus (The Campus at McCarthy Ranch) and further west of the undeveloped land is Coyote Creek and Coyote Creek Trail, a Class I bicycle/pedestrian trail, that parallels the east side of the creek. The surrounding land uses are illustrated in Ordinance 38-799, Figure 5.

B. Existing Circulation.

1. ***Regional Circulation.*** Excellent regional access to the Specific Plan area is provided by I-880 and SR-237.

I-880 is a north-south highway known as the Nimitz Freeway that provides regional access throughout the East Bay. It stretches north to Interstate 980 in Oakland and south to San Jose where it becomes State Route 17. It generally is an eight-lane, divided freeway. In the vicinity of the Specific Plan area, I-880 provides six (6) lanes in each direction, including a High Occupancy Vehicle (HOV) lane in each direction. It accommodates approximately one hundred eighty-one thousand (181,000) vehicles per day. Access to and from the Specific Plan area is provided at the SR-237/North McCarthy Boulevard interchange.

SR-237 is an east-west regional highway located approximately three-tenths (0.3) miles south of the Specific Plan area that provides access throughout northern Santa Clara County. It connects Mountain View to the west and Milpitas to the east. It is a major arterial providing connectivity to I-880 and Interstate 680. East of I-880, SR-237 is known as Calaveras Boulevard. SR-237 is a six-lane highway with HOV lanes in both directions. In the vicinity of the Specific Plan, SR-237 accommodates approximately one hundred fifty-eight thousand (158,000) vehicles per day. Access to and from the Specific Plan area is provided at the SR-237/North McCarthy Boulevard interchange.

2. **Local Circulation.** Major roadways in and around the Specific Plan area are Dixon Landing Road, North McCarthy Boulevard, Ranch Drive and Tasman Drive. These roadways are defined as arterials or collectors. Arterials collect and distribute traffic from freeways and expressways to collector streets and vice versa. Collector streets, which constitute most of the roadways in and around the Specific Plan area, serve as connectors between arterial and local streets, providing direct access to the parcel. Major collectors are typically wide streets with four (4) to six (6) lanes of moving traffic. Minor collectors are smaller street with either less than four (4) lanes of moving traffic or less traffic.

Dixon Landing Road is an east-west major collector roadway connecting North McCarthy Boulevard to the west and North Milpitas Boulevard to the east. It is a major collector East of North Milpitas Boulevard where it becomes Dixon Road. It is a four-lane divided roadway, except for between Milmont Drive and Village Parkway, where it is a four-lane undivided roadway with a center two-way left-turn lane. The posted speed limit along Dixon Landing Road is forty (40) miles per hour (mph).

North McCarthy Boulevard is a major north-south collector roadway connecting Dixon Landing Road to the north and Montague Expressway to the south. South of the Montague Expressway it becomes O'Toole Avenue. It is a four-lane divided roadway primarily serving adjacent commercial uses north of SR-237 and office parks south of SR-237. The posted speed limit along North McCarthy Boulevard is thirty-five (35) mph north of Technology Drive and forty (40) mph south of Technology Drive.

Ranch Drive is an east-west minor collector roadway that intersects North McCarthy Boulevard at two (2) locations. Ranch Drive is the main access roadway to retail uses within the McCarthy Ranch Marketplace. It changes from a four-lane divided roadway, a four-lane undivided roadway, and a two-lane road with a center two-way left-turn lane between its southern and northern intersection with North McCarthy Boulevard. The posted speed limit along Ranch Drive is thirty (30) mph.

Tasman Drive is an east-west arterial roadway stretching from Sunnyvale to the west to I-880 to the east. East of I-880 it becomes Great Mall Parkway. It is a six-lane divided roadway near the Specific Plan area. Santa Clara Valley Transportation Authority operates light rail service along Tasman Drive, with tracks located in the center median of the roadway. The posted speed limit along Tasman Drive is forty (40) mph.

3. **Public Transit.** Santa Clara Valley Transportation Authority (VTA) provides bus and light rail services in Milpitas and throughout Santa Clara County. The Specific Plan area is served by Route 33 and Route 825.

Route 33 passes northbound on North McCarthy Boulevard directly adjacent to the Specific Plan area and loops clockwise around Ranch Drive, where it returns south and provides connections to many locations in Milpitas and San Jose. Route 825 is a shuttle service provided by VTA for connections to the Santa Clara Great America station. The Santa Clara Great America station serves the Altamont Commuter Express (ACE), a weekday commuter rail service between Stockton and San Jose, and the Amtrak Capitol Corridor, a daily intercity rail service between San Jose and the Sacramento Area.

Route 33 operates every thirty (30) minutes and Route 825 operates every seventy-five (75) minutes during the weekday commute peaks. Route 33 provides weekend service from 9 a.m. to 6 p.m. every thirty (30) minutes. Route 825 does not provide weekend service, as it is a limited service commuter route.

The nearest light rail station to the Specific Plan area is the I-880 station, located at the intersection of Tasman Drive and Alder Drive, approximately one and one-half (1.5) miles to the south.

4. **Bicycle Facilities.** The Specific Plan area is serviced by a bicycle lane running along North McCarthy Boulevard. The existing retail building provides bicycle racks and any future development shall upgrade and provide bike storage pursuant to Subsection B.16.040.B (Project Access) of this Specific Plan.

C. **Existing Physical Conditions.**

1. **Topography.** The Specific Plan area is located in the City of Milpitas, which is within the relatively flat floor of the Santa Clara Valley. The Santa Clara Valley is a broad, northwesterly trending, alluvial-filled basin between the Santa Cruz Mountains to the south and the Diablo Range to the northeast. The Specific Plan area is bounded by baylands to the west and foothills to the east, with urban development located in the plain between the two (2) features. The Mission Hills are the primary backdrop to the Milpitas area. Monument Peak at two thousand five hundred ninety-four (2,594) feet is the highest point in the Mission Hills above Milpitas.
2. **Hydrology.** The Specific Plan area is located within Coyote Creek watershed. The Coyote Creek watershed encompasses three hundred fifty (350) square miles and drains the Specific Plan area, City of Milpitas, the eastern portion of San Jose and the Coyote Valley.

Coyote Creek is approximately one-quarter (0.25) miles west of the Specific Plan area and spans the length of the Santa Clara Valley, originating at Anderson Reservoir near Morgan Hill and emptying into San Francisco Bay.

Downstream of the Specific Plan area, Coyote Creek splits into "New" and "Old" branches. New Coyote Creek is a man-made channel that skirts the south side of the Newby Island Sanitary Landfill, while Old Coyote Creek meanders around the east and north sides of the landfill.

The Specific Plan area has an existing stormwater collection system. Stormwater is collected via inlets located around the Specific Plan area and is then piped and discharged into the City of Milpitas's municipal storm drain system, which outlets into Coyote Creek. Storm drain lines are located within Ranch Drive and North McCarthy Boulevard.

The Specific Plan area is located within the Santa Clara Valley subbasin, which extends from Coyote Narrows at Metcalf Road in south San Jose to Santa Clara County's northern boundary. The subbasin is approximately twenty-two (22) miles long and fifteen (15) miles wide, with a surface area of two hundred twenty-five (225) square miles.

3. **Soils.** The Specific Plan area is a developed, urban area. The Specific Plan area was graded and engineered in the early 1990s with the development of the existing retail building. The soils were conditioned to support urban development and are considered stable soils and geologic units. The deep-surface soils beneath the Specific Plan area consist of approximately three hundred (300) feet of alluvium, which is regarded as a very stable geologic unit. The Quaternary age old alluvium consists of inter-layered, poorly sorted gravel, sand, silt and clay.
4. **Seismicity.** The Specific Plan area is located in an area with eight (8) active faults including the Hayward, Calaveras, San Andreas, San Gregorio-Seal Cove-Hosgri, Concord, Greenville, Las Positas, and Verona faults. The closest fault to the Specific Plan area is the Hayward fault, which is located approximately two and one-half (2.5) miles northeast. The Specific Plan area is also located in a moderate liquefaction susceptibility zone pursuant to the Liquefaction Susceptibility Map for the San Francisco Bay Area prepared by the United States Geologic Study (USGS) in cooperation with the California Geological Survey and William Lettis & Associates, Inc. The Specific Plan area is not located within an Alquist-Priolo zone and no faults or fault traces are located within the Specific Plan area.

The Specific Plan area may be exposed to moderate to severe ground shaking during an earthquake, particularly one that occurs on either the Hayward or Calaveras fault. To reduce the risk associated with ground shaking, development within the Specific Plan area will be required to demonstrate that structural design measures identified in a seismic hazards technical study prepared prior to construction and in accordance with the requirements of the Seismic Hazards Mapping Act have been incorporated into any design and/or building plans.

The Specific Plan area is located within a liquefaction hazard zone. To reduce the risk associated with liquefaction, development within the Specific Plan area will be required to demonstrate that abatement measures identified in a design-level geotechnical investigation prepared prior to construction have been incorporated into any design and/or building plans. Development will also be required to comply with all state and local seismic safety requirements including the California Building Standards Code and Milpitas Municipal Code, Title II.

The Specific Plan area is flat and is not located in an area identified as being susceptible to landslides.

5. **Hazardous Materials.** The Specific Plan area is a developed, active commercial area. It appears on four (4) environmental databases listing parcels with known or potentially hazardous conditions.

The first database is the Hazardous Waste Information System database which lists sites recorded on hazardous wastes manifests. This listing only indicates that hazardous materials were transported to or from the Specific Plan area; it does not indicate that contamination occurred. The second database is the Statewide Environmental Evaluation and Planning System database which lists sites with registered underground storage tanks (USTs). This database is no longer updated. The Specific Plan area did contain a 1,000 gallon waste oil underground storage tank. A Phase I Environmental Site Assessment ("Phase I")

prepared by Tait Environmental Services, dated April 25, 2009, concluded that no UST exists in the Specific Plan area today based on the site reconnaissance. The Phase I found no evidence or record of when or how the UST was removed. The third database is the California Hazardous Material Incident Report System which records reported hazardous material incidents or accidental releases or spills. An alleged incident of raw sewage bubbling up on the parking lot in the Specific Plan area was reported in 1997 by a caller to the Santa Clara County Health Department. No confirmation of this release exists. The final database is the Emergency Response Notification System which reports the release of oil and hazardous substances. No details about the listing exist, so it is unclear why the Specific Plan area is listed on this database.

Fluorescent lighting fixtures within the existing building within the Specific Plan area may contain polychlorinated biphenyls and mercury. The existing refrigeration units and rooftop HVAC units may also contain chlorofluorocarbons. The existing automobile service area utilizes several above-ground storage tanks (AST) that store petroleum hydrocarbons and a hazardous waste storage area. The existing building also has a hazardous waste storage area inside for spent absorbent material used to soak up spills of hazardous retail products and store maintenance products.

The Specific Plan area is located one and one-tenth (1.1) miles east of the San Jose/Santa Clara Water Pollution Control Plant which uses nineteen (19) percent aqueous ammonia, a hazardous material. Worst-case offsite release for aqueous ammonia is one-one hundredth (0.01) mile from the release point or only forty-five (45) feet from the plant's fence line. The Calpine Los Esteros Critical Energy Facility, a 180-megawatt natural gas power plant served by two (2) PG&E natural gas pipelines, is located six-tenths (0.6) miles southwest of the Specific Plan area. The plant began operation in 2003. Because of the localized nature of any releases of aqueous ammonia, and the recent age and clean-burning attributes of natural gas, the Specific Plan area is not susceptible to exposure of hazardous materials from surrounding land uses.

6. **Biological Resources.** Most of the Specific Plan area is covered with impervious surfaces. Mature ornamental trees and landscaping are located throughout the parking lot and along frontages with Ranch Drive and North McCarthy Boulevard. Horticultural low growing shrubs, tree rows and single planter trees are located in the parking areas and along the periphery of the existing building. The ornamental trees include species up to approximately twenty (20) feet in height and non-native shrubs of five (5) feet or less in height. There are no special-status plants or wildlife species with potential to occur within the Specific Plan area.

Based on the developed and disturbed condition of the Specific Plan area, only commonly observed wildlife species would be expected to occur in the area such as house sparrows, starlings, crows, opossums and small squirrels. Based on the lack of trees, shrubs, and aquatic resources, there is no indication of a wildlife community in the area. The area also does not contain features suitable for use as a wildlife movement corridor (e.g., open drainages). The Specific Plan area does support ornamental trees and shrubs trees that could potentially provide nesting habitat for small migratory songbirds. No open channels, natural drainage features, wetlands or waters of state or the United States exist within the Specific Plan area.

7. **Climate.** Temperatures in the Specific Plan area range from an average monthly high of 81.9 degrees Fahrenheit (°F) in July to an average monthly low of 40.8 °F in January. Average annual rainfall is 14.70 inches.

D. **Existing Utilities.**

1. **Water.** The Specific Plan area will receive water service from the City of Milpitas, which provides potable water supply and distribution to an approximately fifteen (15) square mile service area. Milpitas's water distribution systems includes two hundred three (203) miles of water main, one thousand seven hundred fifty-five (1,755) fire hydrants, five (5) water tanks totaling 15.64 million gallons of capacity, five (5) pump stations, sixteen (16) pressure regulator valves, and one (1) well. Milpitas purchases treated water from the San Francisco Public Utilities Commission and the Santa Clara Valley Water District, and receives recycled water from the San Jose/Santa Clara Water Pollution Control Plant. The City also maintains an emergency well system. The City's emergency well meets all drinking water standards and is permitted for unlimited use. A second emergency well is under design.

The San Francisco Public Utilities Commission receives approximately eighty-five percent (85%) of its water from the Hetch Hetchy Reservoir with the remaining fifteen (15%) percent coming from Alameda and Peninsula watershed. The Santa Clara Valley Water District receives its water from local groundwater aquifers, the Sierra Nevada Mountains via pumping stations in the Sacramento-San Joaquin River Delta, and a small amount from local surface water and recycled water. The annual yield from the Santa Clara Valley Water District is four hundred forty thousand eight hundred (440,800) acre-feet during a year during average weather conditions.

In 2010, the estimated water demand for Milpitas based on the City's Urban Water Management Plan was 14.06 million gallons per day. By 2030, the projected demand would be 17.10 million gallons per day with the estimated supply also at 17.10 million gallons per day. Based on these projections, demand would exceed supply under both single dry year and multiple dry year scenarios. The Urban Water Management Plan identifies various water shortage contingency strategies including voluntary and mandatory rationing and supplemental groundwater pumping. Development in the Specific Plan area will be required to install indoor water conservation measures such as low-flow or ultra-low-flow toilets and urinals, and sensor-activated faucets in restrooms prior to final certificate of occupancy issuance.

2. **Wastewater.** The San Jose/Santa Clara Water Pollution Control Plant provides wastewater treatment and disposal services to a three hundred (300) square-mile service area encompassing the cities of San Jose, Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Saratoga, and Monte Sereno. The plant, which is located in San Jose, west of Milpitas, has capacity to treat 167 million gallons of wastewater per day. The plant receives 116.6 million gallons per day, on average.

The City of Milpitas collects wastewater from approximately six thousand (6,000) acres within the City planning area, including the Specific Plan area. Effluent is transmitted through 172.5 miles of sewer main to the San Jose/Santa Clara Water Pollution Control Plant. Wastewater treatment services are governed by an agreement between the cities of San Jose and Santa Clara (as joint owners of the plant) and the City of Milpitas. The City of Milpitas pays a capital share in proportion to the City's capacity rights and the total plant capacity. In 2009, the City of Milpitas increased its capacity allocation from 13.5 million gallons per

day to 14.25 million gallons per day. Any development in the Specific Plan area will be required to pay a Treatment Plant Fee.

Existing development in the Specific Plan area is served by a lateral tie into a wastewater trunk line located in North McCarthy Boulevard from SR-237 to the Milpitas Pump Station located at Dixon Landing Road. The trunk line ranges in diameter from thirty-six (36) to forty-eight (48) inches.

3. **Water Quality.** The existing drainage within the Specific Plan area is discussed above in Subsection B.16.020.C.2 (Hydrology).

Coyote Creek and South San Francisco Bay are listed on the United State Environmental Protection Agency (EPA) 303(d) list of impaired water bodies. During construction, all work would be required to meet the National Pollution Discharge Elimination System (NPDES) requirements for stormwater quality. The contractor would also be required to implement Best Management Practices (BMPs) for erosion control. These requirements will be implemented through the preparation and approval of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP would ensure that construction would not violate any water quality standards.

During operations, all activities must comply with a City-approved stormwater management plan. Compliance with the stormwater management plan would ensure that operational activities within the Specific Plan area would not violate any water quality standards.

4. **Stormwater.** The City of Milpitas collects and disposes its stormwater via a storm drainage network consisting of catch basins, conveyance piping, pump stations, and outfalls to creeks. Storm drainage infrastructure within the City includes one hundred twenty-three (123) miles of piping, three thousand four hundred ninety (3,490) catch basins, approximately four and one-half (4.5) miles of drainage ditches and creeks, and thirteen (13) stormwater pump stations. The Santa Clara Valley Water District has jurisdiction over creeks, including Coyote Creek.

The Specific Plan area is served by existing storm drainage infrastructure (inlets and piping) that discharges runoff into the City's municipal storm drain system. The City's storm drain system includes lines located within Ranch Drive and North McCarthy Boulevard. The storm drain main within North McCarthy Boulevard ranges from twenty-four (24) to forty-eight (48) inches in diameter and discharges stormwater into Coyote Creek northwest of the Specific Plan area.

5. **Solid Waste Disposal.** Solid waste collection and recycling services are provided by Republic Services under contract with the City of Milpitas Public Works department. Solid waste from the City of Milpitas is landfilled at the Newby Island Landfill on Dixon Landing Road in San Jose, which has approximately 10.7 million cubic yards of remaining capacity. The Newby Island Landfill operator has applied to the City of San Jose to increase disposal capacity by 15 million cubic yards. Newby Island Landfill is permitted to accept up to four thousand (4,000) tons of Municipal Solid Waste (MSW) per day. The anticipated closure date of the Newby Island Landfill is 2025. The annual waste diversion rate in the City of Milpitas is steadily increasing and was sixty (60) percent in 2006.

Development on site shall be required to retain a qualified contractor to perform construction and demolition debris recycling and developer must document to the satisfaction of the City of Milpitas, that

construction and demolition debris was recycled. Development on the Specific Plan area will be required to provide on-site recycling facilities prior to obtaining certificate of occupancy permits.

6. **Natural Gas.** Natural gas service to the Specific Plan area will be provided by Pacific Gas and Electric Company (PG&E).
7. **Electricity.** Electricity service to the Specific Plan area will be provided by PG&E.
8. **Telephone.** Telephone service to the Specific Plan area will be provided by American Telephone & Telegraph (AT&T).

B.16.030 Land Use Plan

Any and all approvals, decisions, reviews or actions required under this section and required for development within the Milpitas Commercial Specific Plan area shall be ministerial, final, and not subject to appeal, and shall be processed pursuant to Section B.16.050 (Administration) of this Specific Plan, provided the proposed development is consistent with the conceptual site plan, elevations, colors and materials, and landscaping as depicted in Ordinance 38-799, Figures XI-10-11.07-6 through -9, of this Specific Plan and the conditions and requirements set forth in Ordinance 38-799, Figure XI-10-11.07-10, of this Specific Plan.

Development that is not consistent with the development standards set forth in the Milpitas Commercial Specific Plan and Ordinance 38-799, Figures XI-10-11.07-6 through -9, of this Specific Plan, and the conditions and requirements set forth in Ordinance 38-799, Figure XI-10-11.07-10, of this Specific Plan shall either require a Substantial Conformance Determination, as discussed below, or shall be processed under the procedures set forth for development in the General Commercial (C2) zone as set forth in the City of Milpitas Zoning Code. Development that has not commenced, which is defined as building permit issuance or completion of a foundation, within eighteen (18) months of approval of the Milpitas Specific Plan, shall be processed under the procedures set forth for development in the C2 zone as set forth in the City of Milpitas Zoning Code. The development standards shall be the same as those specified herein, but the process shall be consistent with the zoning code.

- A. **Land Use Concept.** The overall land use concept for the Milpitas Commercial Specific Plan is to revitalize, update and expand an existing retail facility to take advantage of the site's excellent regional access and visibility. It will improve the aesthetic and commercial landscape and provide for development of a full-service retail use to complement existing uses in the surrounding area. The land use concept will incorporate design elements that complement and are compatible with the architectural theme of the existing commercial landscape by creating an attractive and productive blend of retail uses. Access and parking within the Specific Plan area is intended to be designed with convenient vehicular, non-motorized vehicle and pedestrian access that blends and interconnects with the surrounding commercial area.

Ordinance 38-799, Figure XI-10-11.07-6, illustrates the Conceptual Site Plan for the Milpitas Commercial Specific Plan.

1. **Uses Allowed By Right.** Table B.16.030-A (Permitted Uses) below establishes the permitted uses for the Milpitas Commercial Specific Plan area. Ancillary and accessory uses, if proposed, will be reviewed concurrently with any application for development submitted. Ancillary and accessory uses that are not specifically listed as permitted may

be approved subject to determination of substantial conformance as set forth in Section B.16.050 (Administration) of this Specific Plan. All uses shall be fully enclosed unless otherwise indicated.

Table B.16.030-A: Permitted Uses**1. Commercial Uses**

Alcoholic beverage sales for offsite consumption (type 20 or 21 license)

Art/photography studio or gallery

Bookstore

Commercial services (i.e., establishments which provide non-medical services of a retail character to patrons which may involve the sale of goods associated with the service being provided, including, but not limited to, establishments such as: accountants, architects, dry-cleaners, floral shops, barber and beauty shops, interior decorators; Laundromats (self-service laundries), locksmiths, mailbox rentals, photocopy shops, shoe repair shops, tailors, and tuxedo rental shops)

Furniture sales

Grocery store (supermarkets) regardless of distance from residential zone(s)

Home improvement (hardware, blinds, interior decorating, etc.)

Household appliance store

Janitorial services

Newsstand (indoor and outdoor)

Nursery (flower or plant) provided all incidental equipment and supplies, including fertilizer and empty cans, are kept within a building or garden center.

Office supply sales (stationary, equipment)

Paint and wallpaper stores

Pet stores

Printing (newspaper, publishing)

Rentals (medical supplies, costumes, party equipment, office equipment)

Retail stores, general merchandise (i.e., retail trade establishments selling lines of merchandise, including, but not limited to: art supplies, antiques, bakeries (retail only), bicycles, candy stores, clothing and accessories, collectables, fabrics and sewing supplies, gifts (novelties and souvenirs), hobby materials, jewelry, luggage and leather goods, music stores, sporting goods and equipment, toys and games, variety stores; video rentals and sales)

Superstore-type uses including general merchandise, grocery, pharmacy and other uses permitted independently in the Specific Plan area ¹

Tanning salon

Thrift store

2. Entertainment and Recreation

Bowling alleys

Commercial athletic facilities - Indoor

3. Health and Veterinarian Uses

Animal grooming (no boarding)

Medical and dental office ²

Medical support laboratories

Table B.16.030-A: Permitted Uses

Optician and optometrist shop

Pharmacy or drug store

Veterinary clinic

4. Professional Offices, Financial Institutions and Related Uses

Automatic Teller Machines (freestanding)

Financial institutions (banks, savings and loans, check cashing, etc.)

General offices (administrative and business services, real estate, travel agencies, etc.)

5. Public, Quasi-Public and Assembly Uses

Trade and vocational school

Instruction - Private

Parking Facility - Storage Garage

6. Restaurants or Food Service

Catering establishment

Restaurants ³**7. Vehicle Related Uses**

Auto repair (tire, oil change, smog check, etc.)

Temporary Recreational Vehicles (RV) sales

Vehicle-oriented window service facility

8. Unclassified Uses

24-hour operations

Accessory structures (not including warehouses on the same site as a permitted use)

Temporary seasonal sales

Table Notes:¹ 24-hour operations permitted as-of-right.² Medical and dental office is defined as a building or place where (a) member(s) of the medical profession, dentists, chiropractors, osteopaths, acupuncturists, and physicians or occupational therapists provide diagnosis and treatment to the general public without overnight accommodation and shall include such uses as reception areas, offices, consultation rooms, pharmacy and x-ray providing that all such uses have access only from the interior of the building or structure.³ Does not include live entertainment, dancing, drive-thru or drive-in restaurants.**B. Site Development Standards.**

1. **Land and Structure Regulations.** Table B.16.030-B (Land and Structure Regulations) below establishes the land and structure regulations for the Milpitas Commercial Specific Plan area:

Table B.16.030-B: Land and Structure Regulations

Lot Area, minimum	10,000 square feet
Lot Width, minimum	100 feet
Maximum Floor Area Ratio	0.50

Minimum Yard Setbacks	Front: 0 feet Side Yard (interior): 0 feet; 15 feet when abutting R District Street Side Yard: 0 feet Rear Yard: 0 feet; 15 feet when abutting R District
Maximum Building Height	None
Maximum Building Square Footage	150,725 square feet

2. **General Design Concepts.** Within the Milpitas Commercial Specific Plan, general design concepts address the nature and function of the use, building, or feature being considered. Architectural design and details are to be integrated throughout the Specific Plan area and oriented to areas within public view. Design within the Milpitas Commercial Specific Plan shall meld function and form, not one to the exclusion of the other, and promote the harmonious appearance of structures in other commercial areas adjacent to the Specific Plan area, including the McCarthy Ranch Marketplace which is a commercial/retail development south of the Specific Plan area.

To facilitate design integrity between the uses within the Milpitas Commercial Specific Plan and other commercial uses surrounding the Specific Plan area, the following standards shall be adhered to:

- a. Design shall reflect the "California ranch" design theme of the McCarthy Ranch Marketplace, including "salt box" style metal roofs and canopies, faux wood siding, corrugated metal cladding, and the use of colors such as Colonnade Gray, Cool Old Zinc Gray and Countryland Red. Ordinance 38-799, Figures XI-10-11.07-7 and -8 included in this Specific Plan comply with these requirements.
- b. The Planning Director shall review and approve all final building plans and elevations to ensure substantial conformance with Ordinance 38-799, Figures XI-10-11.07-6, -7 and -8, of this Specific Plan. Substantial conformance shall be determined as set forth in Section B.16.050 (Administration) of this Specific Plan.
- c. Development within the Specific Plan area shall comply with the environmental performance standards set forth in Section B.16.050.D.7 (Environmental Performance Standards) of this Specific Plan. Developer shall bear all costs of implementing such environmental performance standards.
- d. Shipping containers shall be removed from the Specific Plan area or screened in accordance with Section C.2.140 (Screening Standards) to be completely enclosed within a building or behind a visually obscure solid wall or tight board fence a minimum six (6) feet in height and not located within any front or street side yard setbacks.
- e. No trees shall be removed until the City has approved a detailed landscape plan as set forth in Section B.16.030.B.3 (Site Development Standards) below.
- f. All development within the Specific Plan area shall comply with all applicable building codes and the requirements of the City, County, State and other responsible agencies.

Ordinance 38-799, Figures XI-10-11.07-7 and -8 illustrate the conceptual exterior elevations and conceptual colors and materials for the Specific Plan area. Development proposed that is consistent with Ordinance 38-799, Figures XI-10-11.07-7 and -8 shall be processed as a ministerial building permit and construction plan review as set forth in Section B.16.050 (Administration) of this Specific Plan.

3. **Site Development Standards.** Within the Milpitas Commercial Specific Plan area the following standards shall apply to certain types of development or uses.
 - a. **Alcoholic Beverage Sales.** Any business conducting alcohol sales in the Specific Plan area shall comply with all Department of Alcoholic Beverage Control licensing requirements pertaining to the sale of beer, wine and distilled spirits. Business operators shall be responsible for ensuring that all employees receive "Responsible Alcoholic Beverage Service" training as offered through programs established by the Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request.
 - b. **Food Preparation and Sales.** The owner of any establishment involved in the preparation or sale of food shall hold training sessions to instruct their employees on the proper procedures in the handling and disposal of food items; the general maintenance and use of the compactor; and any other procedures that would assist the business in complying with all state and local health and sanitation standards.

Prior to issuance of a certificate of occupancy, the owner of any establishment involved in the preparation or sale of food shall post signs (in English, Vietnamese, Chinese, Filipino and Spanish) inside the premises for all employees, which identify procedures for the food delivery and disposing of garbage.

The preparation and storage of food is not permitted outside of the establishment.

The owner of any establishment involved in the preparation or sale of food shall comply with best management practices for the handling and disposal of solid and food wastes, as permitted by and in compliance with local and state solid waste disposal regulations.

4. **Landscaping.** The quality environment envisioned for the Milpitas Commercial Specific Plan site will be established, in large part, by its landscape treatment. Landscaping is to be designed to highlight positive visual features, to screen negative ones, and to provide a cool, pleasant outdoor environment.

Landscaping currently exists along the existing building frontage with North McCarthy Boulevard and Ranch Drive and within the parking area. The existing retail building and Specific Plan area is almost entirely screened from view by this landscaping. New planter areas shall be installed along the south side of the existing retail building, but all other landscaping shall remain unchanged.

Prior to issuance of a building permit, a detailed landscape plan shall be submitted to the Planning Director for review, approval and implementation.

Prior to the issuance of grading or building permits, whichever comes first, the developer shall obtain a tree removal permit from the City of Milpitas for any trees to be removed with a trunk circumference of 37 inches or more measured at 4.5 feet above ground level. As set forth in Section B.16.050 (Administration) of this Specific Plan, landscape plan review and approval, and tree removal permit issuance, shall be non-discretionary, final actions that cannot be appealed.

The detailed landscape plan shall include and/or provide for the following:

- a. The location and screening of all transformers and utility devices including backflow preventers.
- b. The location and type of trees, shrubs and ground cover, including sizes and quantities. The legend shall also show tree canopy diameter at planting, five (5) years and ten (10) years.
- c. Plan details for all fence and wall structures. These shall be compatible in style and material with the proposed buildings.
- d. All planter areas shall be serviced by a sprinkler head or drip system.
- e. All trees removed with a trunk circumference of more than thirty-seven (37) inches or more measured at four and one-half (4.5) feet above ground level shall be replaced in accordance with the requirements of the City of Milpitas Tree Maintenance Protection Ordinance and as set forth in the required tree removal permit. All trees removed with a trunk circumference of less than thirty-seven (37) inches or more measured at four and one-half (4.5) feet above ground level, shall be replaced on-site with a similar tree species at no less than a 1:1 ratio. All replacement trees shall be planted within thirty (30) days of issuance of the final certificate of occupancy.
- f. All approved landscaping shall be permanently maintained and replaced in kind as necessary to provide a permanent, attractive and effective appearance.

The approved detailed landscape plan shall be incorporated into the development proposed. All required landscaping shall be planted and in place prior to issuance of a certificate of occupancy.

Ordinance 38-799, Figure XI-10-11.07-9 illustrates the preliminary planting plan for the Specific Plan area. Ordinance 38-799, Figure XI-10-11.07-11 is a colored conceptual site plan that shows all the existing and preliminary planting pursuant to the preliminary planting plan for the Specific Plan area.

Any detailed land use plan or tree removal permit submitted as part of a development proposed that is consistent with Ordinance 38-799, Figure XI-10-11.07-9 shall be processed as a ministerial building permit and/or construction plan review as set forth in Section B.16.050 (Administration) of this Specific Plan.

5. On-Site Circulation, Parking, and Loading.

- a. *On-Site Circulation.* The on-site circulation standards within the Milpitas Commercial Specific Plan will ensure the efficient and safe passage of vehicles and pedestrians to and from the various commercial uses within the Specific Plan area.

On-site circulation within the Specific Plan area shall adhere to the following requirements:

- (i) All ingress and egress routes shall be maintained clear of storage, delivery trucks or other obstructions at all times.
- (ii) The circulation system shall include adequate directional signs for entrances, exits, parking areas, loading areas, and other uses.
- (iii) On-site driveways shall be permitted to provide common access between the Specific Plan area and adjacent properties.
- (iv) Site lines required for safe automobile movement shall be kept clear.

- (v) On-site pedestrian walkways should provide direct, safe, and adequate movement paths between parking areas and building entrances.
 - (vi) Truck deliveries shall enter via the northern driveway along Ranch Drive and immediately turn right and travel westbound towards the loading dock. Trucks exiting the site would retrace their path to the northern Ranch Drive driveway.
- b. **Parking.** Prior to issuance of a building permit, the developer shall prepare and submit a site plan to the City of Milpitas that demonstrates that off-street parking provided on-site complies with the parking provisions of the Milpitas Commercial Specific Plan. As set forth in Section B.16.050 (Administration) of this Specific Plan, review and approval of the site plan shall be a non-discretionary, final action that cannot be appealed. The intent of this action is to ensure compliance with the provision of the Milpitas Commercial Specific Plan.

The number of required parking spaces in the Specific Plan area is set forth in Table B.16.030-C (Number of Parking Spaces Required) below. Gross floor area, as used in this Specific Plan, means the total of all floors measured from the interior faces of the building, but not including areas for parking, basements, shaft enclosures, or unroofed inner courts unless any outdoor areas are used for retail purposes.

Table B.16.030-C: Number of Parking Spaces Required

Use	Minimum Parking Spaces Required
1. Commercial Uses	
Commercial services ¹	1 per 200 square feet
Furniture and appliance stores and other bulky item retail	1 per 350 square feet
General Retail and Convenience Stores, including grocery stores	1 per 200 square feet
Plant nursery	1 per 200 square feet
Superstore-type uses including general merchandise, grocery, pharmacy and other uses permitted independently in the Specific Plan area	1 per 200 square feet
2. Entertainment and Recreation	
Arcade and Amusement	1 per 200 square feet
Bowling Alleys	6 per alley or lane
Indoor Commercial Athletic Facilities	1 per 150 square feet
3. Health and Veterinarian Uses	
Medical and dental office	1 per 225 square feet
Veterinary clinic and Animal Grooming	1 per 250 square feet
4. Professional Offices, Financial Institutions and Related Uses	
Automatic Teller Machines (freestanding)	2 per machine
Financial institutions (banks, savings and loans, check cashing, etc.)	1 per 180 square feet
Offices, administrative and business services	1 per 240 square feet

Table B.16.030-C: Number of Parking Spaces Required

Use	Minimum Parking Spaces Required
5. Public, Quasi-Public and Assembly Uses	
Trade and vocational school	1 per 200 square feet
Instruction - Private	1 per instructional area or classroom, whichever is greater. No fewer than 3 spaces
6. Restaurants or Food Service	
Restaurant - Sit Down	1 per 39 square feet of dining area
Restaurant - Take Out	1 per 2.5 seats (indoor/outdoor) plus 1 per 60 square feet GFA for the ordering or take-out area
7. Vehicle Related Uses	
Auto repair (tire, oil change, smog check, etc.)	3 per service bay

Table Notes:

¹ Commercial services shall have the same definition as that set forth in Table B.16.030-A (Permitted Uses).

Off-street parking configurations within the Specific Plan area shall adhere to the following requirements:

- (i) Shared Parking within the Specific Plan area shall be as set forth in the City of Milpitas Zoning Code Section C.6.060.A (Shared Parking).
- (ii) Up to forty (40) percent of the required parking stalls may be designed as compact stalls to accommodate compact cars. Compact parking stalls shall be dispersed throughout the parking lot and not concentrated to discourage oversized vehicles from using the stalls. Each stall shall be legibly marked "compact stall" or "small car" on the stall surface.
- (iii) Parking spaces for the disabled shall comply in all respects with the requirements of the California Code of Regulations (State Building Code) or Federal law, where such prevails over State law.
- (iv) Parking spaces shall be unobstructed in operation, shall not be used for vehicle repair work of any kind unless within a building, and shall not be reduced below the required size as long as the primary use remains, unless an equivalent number of spaces is provided for said use in another approved location.
- (v) The sale or storage of merchandise in parking areas may be allowed pursuant to the provisions and requirements set forth in Figure 10 and as set forth in Section B.16.030.B.5 (On-Site Circulation, Parking, and Loading) of this Specific Plan.
- (vi) All parking areas shall be kept clean and free of dirt, oil, mud or trash; pavement and striping shall be maintained in a continuous state of good repair.
- (vii) All parking areas and access driveways shall have a smoothly graded, stabilized and dustless surface with adequate drainage so that injury will

not be caused to adjacent properties. Bumper guards or curbs shall be provided in order to define parking spaces or limits of paved areas.

- (viii) Parking stalls and drive aisle dimensions shall comply with Table C.6.080-A (Parking Space Minimum Dimensions) of the City of Milpitas Zoning Code.
- (ix) All open automobile parking areas which abut upon a public street right-of-way shall provide landscaping to a depth of at least ten (10) feet of said street right-of-way and of any adopted plan line, with openings for walkway or drive purposes. Each landscaped planter in said parking facility shall be contained with a six (6) inch raised concrete curb (extruding curbing not permitted). Installation of an irrigation system shall be provided for in each planter area.
- (x) Lighting shall be provided in the parking area pursuant to Section B.16.030.B.9 (Lighting) of this Specific Plan and shall be designed, located and arranged so as to reflect the light away from any street and any adjacent premises.
- (xi) Directional signs are permitted in parking areas pursuant to Section B.16.030.B.7 (Signage) of this Specific Plan.
- (xii) Vehicles may overhang two (2) feet into any landscape area or private walkway if the walkway is a minimum six (6) feet in width, but in no event shall the overhang be permitted within any public right-of-way.

c. *Loading.*

- (i) Each loading berth shall have vehicular access to the street, without passing over other parking stalls.
- (ii) Loading areas shall be designed to provide for backing and maneuvering on site and not from or within a public street. Direct loading from a public street shall not be permitted.
- (iii) Loading bays shall be sealed with rubber gaskets to reduce noise impacts to adjacent areas.

6. ***Outdoor Storage/Sales.*** Outdoor storage and sales shall be permitted in the Milpitas Commercial Specific Plan area, pursuant to the requirements set forth below.

- a. Outdoor storage of material shall be completely enclosed within a building or behind a visually obscure solid wall or tight board fence a minimum six (6) feet in height and not located within any front or street side yard setbacks.
- b. Temporary seasonal sales such as Christmas tree or pumpkin sales lots may be permitted provided they do not reduce available parking to below the required parking ratio for the primary use on the site. Temporary seasonal sales shall not engage in the sale of any merchandise not directly associated with the holidays with which the seasonal sales are associated. Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use. Temporary seasonal sales shall be approved by Planning Department staff pursuant to Section B.16.050

(Administration) of this Specific Plan, provided the above requirements are met, and shall be limited to forty-five (45) days of operation per calendar year.

- c. Outdoor sales, including temporary tent sales and periodic temporary RV sales, shall be allowed as pursuant to the provisions and requirements set forth in Ordinance 38-799, Figure 10 and this Section.
 - d. Ingress and egress for emergency vehicles shall be maintained at all times within the sales and storage area.
7. **Signage.** Signage and graphics will be an important element within the Milpitas Commercial Specific Plan area. The intent of the sign program is to provide for maximum sign exposure for uses within the Specific Plan area in a manner that will complement the overall image of the area while preserving and enhancing the aesthetic, vehicle and pedestrian traffic safety and convenience, and environmental values of the surrounding area.

Developer shall be required to prepare and submit a sign program to the City of Milpitas for review and approval before building permit issuance. Developer shall implement the approved sign program into any proposed development in the Specific Plan area. As set forth in Section B.16.050 (Administration) of this Specific Plan, any review and approval of a sign program shall be a non-discretionary, final action that cannot be appealed. The intent of the review is to ensure compliance with the signage requirements of the Milpitas Commercial Specific Plan. Changes in existing sign copy and relocation of existing signs that do not change the existing sign area shall be deemed to be consistent with the signage requirements of the Specific Plan and shall not require any additional approvals.

The following sets forth the requirements for signs in the Milpitas Commercial Specific Plan area:

- a. **Definitions.** The definitions stated in Part XIII-E are incorporated herein.
- b. **Maximum Sign Area.** The maximum permissible sign area in the Specific Plan area shall conform to the following area:
 - (i) The total aggregate area of all signs permitted on any building site or property shall not exceed one (1) square foot of sign for each two (2) lineal feet of building perimeter on the subject parcel or not exceed two (2) square feet of sign for each one (1) lineal foot of public street frontage, at the developer's discretion.
 - (a) For buildings or uses containing more than one (1) business, the allowable sign area as defined in Section (1) above shall be distributed to each business proportionately to the floor area of the subject business to the total floor area for all leasable structures on the parcel or site; or, distributed to each business proportionately to the building façade of the subject business by one (1) square feet of sign area per one (1) lineal feet of adjacent building façade oriented towards a property line of a site or common parking area.
 - (b) Public street frontage with non-access rights or no immediate direct access, such as flood control channels, but excluding

landscaped planter areas, shall not be included in computing public street frontage for purposes of sign area calculations.

- (c) Any square footage of a sign shall be deducted from the total maximum permissible sign area allowed for the site, unless otherwise specified or exempted in this Specific Plan.

The following signs shall not count towards the maximum sign area allocations: Ancillary Service Signs; Blade Signs; City Identification Signs; Flag Signs; Menu Board Sign for Drive Through; one "open/closed" Window Sign; and Temporary Signs. Based on public street frontage the maximum allowable sign area is 2,806 square feet in the Specific Plan area.

c. *General Sign Requirements.*

- (i) The sign shall relate to the architectural design of the building. An attractive scale between the sign, the building and the immediate surrounding buildings and signs shall be maintained.
- (ii) Signs should be an integral part of the design of the storefronts of mixed-use buildings.
- (iii) To the extent feasible, a sign shall be graphic with design emphasis on simplicity, style, trademark, business identification and symbol. Wording shall be an integral part of the overall design.
- (iv) Signage shall not obstruct pedestrian circulation.
- (v) While bilingual signs are allowed, the size of English lettering should be at least equal to the size of letters of another language.
- (vi) The business name and address shall be displayed on the tenant space if located in a multi-tenant building or on the building or property for a single occupant building.
- (vii) All signs shall be erected only upon the site occupied by the persons or business sought to be identified or advertised by such signs.
- (viii) Lighting - All lighting sources shall be adequately diffused or shielded; bare lighting sources, such as neon, bare fluorescent tubes, incandescent bulbs, light emitting diodes (LED) and similar devices are not permitted.
- (ix) Construction - The sign's supporting structure shall be as small in density and as simple as is structurally safe; sign letters and materials should be professionally designed and fabricated; multiple signing on a single-faced building shall be reviewed for coordination of all signs architecturally and aesthetically; exposed transformers are prohibited; exposed conduit and tubing must be mitigated so that they are inconspicuous.
- (x) Materials - Sign faces should be constructed of non-brittle, non-yellowing Polycarbonate material or superior; signs should be constructed using high-quality materials such as metal, plastic, stone and wood; impact resistive plastic shall be used on all internally illuminated signs utilizing plastic sign faces. Whenever a plastic internally illuminated sign face, advertising copy or message becomes damaged and is to be replaced,

said sign face shall be replaced with a sign face constructed of impact resistive plastic.

d. *Standards for Specific Types of Permanent Signs.*

- (i) Ancillary Service Signs must be affixed to building, wall or window, and shall be smaller in scale to the tenant signs.
- (ii) Architectural Signs shall constitute an integral part of a roof or marquee and must have a minimum clearance of ten (10) feet from the ground.
- (iii) Area Identification Signs shall not require extensive maintenance or upkeep.
- (iv) Blade Signs shall provide a minimum of eight (8) feet of clearance above the walkway surface below, be pedestrian oriented only, project a maximum of four (4) feet from the wall of a building, and not be internally illuminated.
- (v) City Identification Signs erected on private property do not count toward the maximum number of freestanding signs allowed on site.
- (vi) Freestanding Signs greater than six (6) shall be part of an approved sign program as set forth in Section B.16.030.B.7 (Signage) of this Specific Plan. Freestanding signs shall be erected in on-site landscaped planter areas and maintained in a neat and healthy manner in perpetuity with vegetation that is appropriate to the site. The planter area shall extend a minimum of three (3) feet from the base of the sign. The height of free standing signs shall be measured from grade level of the closest public sidewalk, curb or public street. A freestanding sign may consist of more than one (1) sign panel provided that all such sign panels are consolidated into one (1) common integrated sign structure.
- (vii) Graphic Panel Signs shall be located within five (5) feet of the main building wall. They do not count as freestanding signs, but the display area on graphic panels counts towards overall sign area.
- (viii) Joint Use Signs shall be approved as part of a Sign Program and only for a commercial district under multiple ownerships where freestanding signs for each parcel for which signage is desired is infeasible. The commercial district shall be characterized by close proximity of the businesses and small parcel size. A common parking field and common vehicular circulation are strongly encouraged.
- (ix) Menu Board Signs for drive-thru and speakers shall be oriented away from the public right-of-way.
- (x) Off-Site Public Information Signs for a quasi-public use may request up to two (2) signs to be located by the City within the public right-of-way. These signs shall only include the name of the use in letters not exceeding four (4) inches in height and an arrow specifying the appropriate direction. Requests for such signs shall be made in writing by an authorized representative of the use and shall include the general location desired for said signs. The City Manager, or his or her designee,

shall determine the precise location and sign design based on good traffic engineering practice and shall provide for erection of the signs.

- (xi) Projecting Signs shall have a clearance of eight (8) feet above the ground and fourteen (14) feet above a driveway, alley, or other vehicular access way. Unless modified by an approved sign program, projecting signs shall only be located on the middle one-third of the front wall of a building and shall not extend from the front wall to which they are attached more than five (5) feet. Projecting signs shall not project into a public right-of-way.
- (xii) Wall Signs shall have a maximum area as set forth in Table B.16.030-D (Matrix of Permanent Sign Types) below. The exposed face of a wall sign shall be installed in a plane parallel to the plane of the wall.

The maximum number, size and height of permanent signs, as defined and discussed above, is set forth in Table B.16.030-D (Matrix of Permanent Sign Types).

Table B.16.030-D: Matrix of Permanent Sign Types			
Sign Type	Maximum Number of Signs Permitted	Maximum Size per Sign	Maximum Height per Sign
Ancillary Service Signs	n/a	n/a	None
Architectural Sign	n/a	n/a	n/a
Area Identification Sign	n/a	60 square feet	n/a
Blade Sign	One per elevation of each tenant space	n/a	15 feet above walkway surface
City Identification Sign	n/a	n/a	n/a
Flag Signs	1 per site or building	40 square feet per flag sign	n/a
Freestanding Sign	1 per each parcel's public street frontage, 1 additional sign for sites with more than 300 feet of public street frontage	n/a	25 feet max.; 1 foot of height for every 8 lineal feet of public street frontage. For any second sign, only the lineal feet in excess of 300 shall be used to determine height.
Graphic Panel Sign	n/a	n/a	n/a
Joint Use Sign	See Freestanding Sign		
Menu Board Sign for Drive Through	2 per site	n/a	6 feet
Off-site Public Information Sign	n/a	n/a	n/a
Projecting Sign	One per business	Sixteen (16) square feet per side unless increased pursuant to approve Sign Program.	n/a
Wall Sign	n/a	n/a	n/a

Table B.16.030-D: Matrix of Permanent Sign Types

Sign Type	Maximum Number of Signs Permitted	Maximum Size per Sign	Maximum Height per Sign
Window Sign	n/a	Shall not exceed twenty-five (25) percent of the contiguous window area.	n/a

e. *Standards for Specific Types of Temporary Signs.*

- (i) Balloon Signs shall be allowed for grand openings (when first opened or after significant remodeling) for a business, promotional events for individual businesses or group of businesses on a parcel. Only one (1) sign may be attached to the balloon to identify the name of the shopping center, business, activity or event. No other smaller balloons shall be attached to the balloon or its supporting or secure lines. The balloon shall be securely mounted to the ground or a room and shall not move by any other means than normal wind current.
- (ii) Banner Signs shall be securely attached flush to a building and located on the premise of the business or use it advertises. The banner sign may be wrapped around a permitted permanent freestanding sign or wall sign when used to announce a change of business name. This banner would be allowed in addition to any other banner for the business.
- (iii) Construction Signs may indicate the opening date, architect, engineer, contractor, future business or lending agency and shall only be placed on the site of work under construction with a valid building permit.
- (iv) Grand Opening Signs are permitted when used for bona-fide grand opening functions after a business' initial occupancy, new ownership, name change or the reopening of a business that completely closed for remodeling for at least two week and shall only be displayed at the business for which the grand opening will occur.

The maximum number, size and height of temporary signs, as defined and discussed above, is set forth in Table B.16.030-E (Matrix of Temporary Sign Types).

Table B.16.030-E: Matrix of Temporary Sign Types

Sign Type	Maximum Number of Signs Permitted	Maximum Size per Sign	Maximum Height per Sign	Duration
Balloon Sign	1 per event		50 feet above grade	Up to four (4) times per calendar year. Maximum 30 days per event, 15 days for subsequent displays during year. Minimum 30 days between display occurrences
Banner Sign	1 per elevation	60 square feet		Maximum 30 consecutive days for

Table B.16.030-E: Matrix of Temporary Sign Types

Sign Type	Maximum Number of Signs Permitted	Maximum Size per Sign	Maximum Height per Sign	Duration
				1st event; maximum 15 consecutive days for subsequent event. Displays shall be interrupted by 30 days. Maximum four (4) banner signs permitted per calendar year. If associated with a remodel, the interruption period may be waved.
Construction Sign	2 per street frontage For tenant improvements: 2 maximum	32 square feet	6 feet when freestanding	After issuance of building permit and removed upon approval of final occupancy
Grand Opening Sign	1 per elevation	60 square feet		30 days
Temporary Use Sign	1 per street frontage	32 square feet	8 feet	To be erected only during the temporary use and taken down upon completion of temporary use

- f. *Prohibited Signs and Elements of Signs.* The following types of signs are prohibited in the Specific Plan Area: Off-Site Advertising Displays; Privately-Owned Signs Resembling Traffic Signs; Reflective Signs; Rotating or Moving Signs; Roof Sign or Signs Extending Above Roof Ridge; Signs That Are A Traffic Hazard; Sound or Odor Emitting Signs; Other Advertising Structure; and Statuary Signs.

The following types of signs are prohibited subject to the exceptions noted below:

- (i) Abandoned Signs shall be removed within ninety (90) days after the business the sign advertised has ceased and shall include elimination of all sign copy and if the sign was mounted on a building, the building façade shall be restored to its original state to the best extent possible.
- (ii) A-Frame Signs and Portable Signs with the exception of public services signs and open house directional signs.
- (iii) Blinking, Flashing Lights or any sign having fluttering lights or other illuminating device which has changing light intensity, brightness or color unless approved pursuant to an approved sign program.
- (iv) Temporary Signs except construction signs, grand-opening signs, and temporary promotional signs.

- (v) Vehicle-Mounted Signs where the vehicle is not legally registered, not operable, not parking within the confines of a striped parking space approved by the City of Milpitas or parked within the confines of a striped parking space approved by the City of Milpitas or a city street for more than seventy-two (72) hours.

- (vi) Portable Signs

8. **Noise.**

- a. **Construction Noise.** Hours of exterior construction shall be limited to between the hours of 7 a.m. and 7 p.m. daily except holidays. All construction equipment shall be acoustically muffled to reduce noise in accordance with Caltrans Standard Specifications.
- b. **Operational Noise.** Development in the Specific Plan area shall comply with the noise standards contained in the Noise Element of the Milpitas General Plan.

9. **Lighting.** The following section addresses illumination of on-site areas for purposes of safety, security, and nighttime ambience, including lighting for parking areas, pedestrian walkways, graphics and signage, architectural and landscape features, shipping and loading areas, and any additional exterior areas.

Prior to issuance of building permits, the developer shall ensure that all exterior lighting fixtures (building-mounted and freestanding) are shielded, recessed, or directed downward to prevent unwanted illumination of neighboring properties. Fixtures shall be appropriate in terms of height, style, design, scale and wattage to the use of the property. Fixtures shall be spaced appropriately to maximize pedestrian safety. This may be accomplished by submitting a Lighting Plan for review and approval by the Planning Director as set forth in Section B.16.050 (Administration) of the Milpitas Commercial Specific Plan. Any review of a Lighting Plan shall be a non-discretionary, final action that cannot be appealed. The intent of the review is to ensure compliance with the provisions of the Milpitas Commercial Specific Plan. The approved Lighting Plan shall be incorporated into the development proposed.

- 10. **Police Protection.** Developer shall conduct a crime survey of the area to evaluate the security needs for development in the Specific Plan area and shall implement a security plan based on this analysis. Any security plan shall be submitted to the City of Milpitas Police Department for review and approval. As set forth in Section B.16.050 (Administration) of this Specific Plan, any review and approval of a security plan shall be a non-discretionary, final action that cannot be appealed. The intent of the review is to ensure compliance with the police protection requirements of the Milpitas Commercial Specific Plan.

The following security measures shall be incorporated into any development in the Specific Plan area and may be part of the developer's security plan:

- a. A closed-circuit camera surveillance system for inside and outside of any retail building. These cameras should monitor the store entrance, cash registers and safe;
- b. A parking lot patrol that assists customers, ensures safety, and takes action to identify and prevent any suspicious activity (such as loitering and vandalism) both

during the day and nighttime hours, and a plainclothes patrol inside the retail building to ensure safety and security;

- c. Practices and procedures to prohibit consumption of alcohol in the parking lot by having employees regularly patrol the parking lot areas while collecting shopping carts and report any inappropriate activity to the appropriate management staff;
- d. A burglar, robbery and/or panic alarm;
- e. Clearly marked and lighted parking areas to allow for safe circulation; and,
- f. On-site security twenty-four (24) hours a day during construction to prevent theft or vandalism of construction materials.

- C. **Business Licenses.** Prior to the issuance of a grading permit, demolition or ground or vegetation disturbance; whichever occurs first, the developer will comply with City of Milpitas provisions for obtaining business licenses for the construction contractor and subcontractors.

Prior to the issuance of a Final Certificate of Occupancy, the developer shall comply with City of Milpitas provisions for obtaining business licenses (including amendments to existing licenses) for the building occupant.

B.16.040 Infrastructure, Grading and Construction

Any and all approvals, decisions, reviews or actions required under this section and required for development within the Milpitas Commercial Specific Plan area shall be ministerial, final and not subject to appeal, and shall be processed pursuant to Section B.16.050 (Administration) of this Specific Plan.

A. Infrastructure.

- 1. **General Provisions.** Any development in the Specific Plan area shall comply with the following:
 - a. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure shall be permitted within City easements and no trees or deep-rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas.
 - b. Submittal of the Sewer Needs Questionnaire and/or Industrial Waste Questionnaire is required with any building permit application. Payment of the storm water connection fee and treatment plant fee shall be paid prior to building permit issuance.
 - c. Developer must pay all applicable development fees, including but not limited to, plan check and inspection deposit, and two and one-half percent (2.5%) building permit automation fee. These fees are collected as part of the secured public improvement agreement. The agreement shall be secured for an amount of one hundred percent (100%) of the engineer's estimate of the construction cost for faithful performance and one hundred percent (100%) of the engineer's estimate of the construction cost for labor & materials. All fees shall be paid prior to building permit issuance.

- d. Before building permit issuance, developer shall obtain design approval from the City Engineer pursuant to Section B.16.050.D.7 (Environmental Performance Standards) of this Specific Plan, for all necessary public improvements along Ranch Drive, including, but not limited to, the installation of new pedestrian crosswalk and ped-flashing warning signals, new mid-block ramp, signage and striping, and installation of new median. Developer shall bond for such improvements and execute a secured public improvement agreement. The agreement shall be secured for an amount of one hundred percent (100%) of the engineer's estimate of the construction cost for faithful performance and one hundred percent (100%) of the engineer's estimate of the construction cost for labor and materials. All public improvements shall be constructed to the City Engineer's satisfaction and accepted by the City prior to building occupancy permit issuance.
 - e. At the time of building permit application, developer shall pay any project job account balance due to the City for recovery of review fees. Review of any permit submittals will not be initiated until balance is paid in full.
2. **Water Facilities.** The Specific Plan area will receive water service from the City of Milpitas. The City of Milpitas's Urban Water Management Plan indicates that under normal water years, water supplies are sufficient to serve demands within the City through 2030. Under multiple dry year scenarios, demand is expected to surpass supply as soon as 2010. Because the Specific Plan area has an existing building, that building's water demand is accounted for in the City's water demand projections. Development within the allowable Floor Area Ratio for the Specific Plan area would not create increased potable water demand that would adversely impact the water system. Development may be suspended, however, prior to building permit issuance if necessary to stay within available water supplies and will remain suspended until water is available. The City shall provide Developer with written evidence that available water supplies do not exist prior to suspending any development within the Specific Plan area. The Specific Plan area is estimated to generate ten thousand nine hundred (10,900) gallons per day of water demand. Implementation of the Specific Plan will not require new or expanded water facilities.

Development in the Specific Plan area must install the following indoor water conservation measures prior to issuance of the final certificate of occupancy to reduce overall demand for potable water: low-flow or ultra-low-flow toilets and urinals; and sensor-activated faucets in restrooms.

3. **Wastewater Facilities.** The Specific Plan area would convey wastewater via municipal sewage infrastructure maintained by the City of Milpitas to the San Jose/Santa Clara Water Pollution Control Plant. A wastewater trunk line is located in North McCarthy Boulevard from SR-237 to the Milpitas Pump Station located at Dixon Landing Road. The trunk line ranges in diameter from thirty-six (36) to forty-eight (48) inches. Development within the allowable Floor Area Ratio for the Specific Plan area would not create increased effluent generation that would adversely impact the sewer system or treatment plan capacity. Development may be suspended, however, prior to building permit issuance if necessary to stay within the safe allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant and will remain suspended until sewage capacity is available. The City shall provide Developer with written evidence that available sewage capacity does

not exist prior to suspending any development within the Specific Plan area. The Specific Plan area is estimated to generate six thousand three hundred ninety (6,390) gallons per day of effluent. Implementation of the Specific Plan will not require new or expanded wastewater treatment facilities.

Development in the Specific Plan area will be required to pay a Treatment Plant Fee, a standard requirement for new development projects.

4. **Storm Drains.** Implementation of the Specific Plan will not require new or expanded offsite storm drainage facilities. However, at the time of building permit plan check, the developer shall submit a grading plan and a Drainage Study prepared by a registered Civil Engineer that recommends adequate drainage facilities to properly accept and convey drainage flows from the Specific Plan area. The study shall be reviewed and approved by the City Engineer, pursuant to Section B.16.050 (Administration) of this Specific Plan. Developer shall incorporate the conclusions and recommendations of the approved Drainage Study prior to building permit issuance.
5. **Solid Waste Disposal.** Republic Services provides solid waste and recycling services to the City of Milpitas, including the Specific Plan area. During construction, it is estimated that the Specific Plan area would generate approximately five thousand seven hundred thirty-seven (5,737) tons of solid waste. During operation, it is estimated that the Specific Plan area would generate approximately 361.7 tons of solid waste annually. Before starting construction in the Specific Plan area, developer shall retain a qualified contractor to perform construction and demolition debris recycling. Developer must document, to the satisfaction of the City of Milpitas, that construction and demolition debris was recycled. Before building permit issuance, developer shall show on-site facilities necessary to collect and store recyclable materials. The facilities shall include receptacles in public spaces that are of high-quality design and identify accepted materials. Business owners in the Specific Plan area must comply with best management practices for the handling of solid and food wastes, as permitted by and in compliance with local and state solid waste disposal regulations.
6. **Natural Gas.** PG&E will provide natural gas service to the Specific Plan area and has available natural gas supplies and appropriate transmission capacity to serve the Specific Plan area. The Specific Plan area's estimated annual natural gas consumption is 8.79 million cubic feet.
7. **Police Protection.** The Milpitas Police Department will provide police protection to the Specific Plan area. No new or expanded police protection facilities are necessary to serve the Specific Plan area.
8. **Fire.** The Milpitas Fire Department will provide fire protection and emergency medical services to the Specific Plan area. No new or expanded fire protection facilities are necessary to serve the Specific Plan area.
9. **Electricity and Telephone.** The Specific Plan area is located within PG&E's service territory. PG&E would provide electrical services to the Specific Plan area. PG&E has available electricity supplies and appropriate transmission capacity to serve the Specific Plan area. The Specific Plan area's estimated annual electricity consumption is 2.37 million kilowatt hours.

Telephone service to the Specific Plan area will be provided by AT&T.

10. **Schools.** Prior to the issuance of building permits, the developer shall pay school impact fees. Impact fees are currently forty-seven cents (\$0.47) per square foot.

- B. **Project Access.** Access to the Specific Plan area allows for safe and efficient travel to and from the area. Administrative provisions and signage of the Specific Plan will facilitate direction and access throughout the area. Public transportation exists in the Specific Plan area and a direct pedestrian connection links the existing retail building with the Ranch Drive sidewalk, allowing for safe and convenient access between the existing retail building and the bus stop. A designated pedestrian connection between the existing retail building and the balance of the McCarthy Ranch Marketplace to the south and Ranch Drive to the north exists and will be maintained with any development of the Specific Plan area.

Vehicular access to the Specific Plan area will be provided by two (2) driveways onto Ranch Drive and a McCarthy Ranch Marketplace driveway entrance located to the southeast of the existing retail building. The driveways on Ranch Drive are stop-controlled and provide single-lane ingress and egress. Truck deliveries would enter via the northern driveway along Ranch Drive and immediately turn right and travel westbound towards the loading dock. Trucks exiting the site would retrace their path to the northern Ranch Drive driveway.

Prior to the issuance of a Certificate of Occupancy, Developer shall obtain the necessary approvals for the installation of VTA bus stop improvements consisting of retention of the bus stop in its existing location, and installation of a seven-foot by twenty-foot Portland cement concrete shelter pad behind the sidewalk/passenger waiting pad with retaining wall. Bicycle storage facilities shall also be installed prior to the issuance of the final certificate of occupancy. These facilities shall consist of at least one (1) rack located in a visible and convenient location (i.e., near the entrance to the building) and that provides storage equivalent to two (2) percent of the minimum parking requirement in the Specific Plan area.

Developer also shall work with and negotiate in good faith with the adjacent property owner to obtain permission for the design and construction of striped pedestrian crossing and associated median and/or ramp modifications at the shared driveway for McCarthy Ranch Marketplace and Specific Plan area entrances.

- C. **Grading.** Given the relatively level topography within the Specific Plan area, development will result in modest changes to topography and ground surface features. During grading and construction, however, developer shall adhere to all applicable recommendations for abating expansive soil conditions contained in the Geotechnical Engineering Investigation or comparable geotechnical study. Prior to the issuance of grading permits, developer shall prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) to the City of Milpitas that identifies specific actions and Best Management Practices (BMPs) to prevent stormwater pollution during construction activities.
- D. **Construction.** During all construction activities within the Milpitas Commercial Specific Plan area, the following measures shall be implemented:
 1. Water all active construction areas and exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) at least two (2) times per day;
 2. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two (2) feet of freeboard;

3. Pave, apply water three (3) times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
 4. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites;
 5. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
 6. All vehicle speeds on unpaved roads shall be limited to fifteen (15) miles per hour;
 7. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used;
 8. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points;
 9. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation; and,
 10. A publicly visible sign shall be posted with the telephone number and person to contact at the City of Milpitas regarding dust complaints. This person shall respond and take corrective action within forty-eight (48) hours. The phone number of the Bay Area Air Quality Management District shall also be visible to ensure compliance with applicable regulations.
- E. **Fiscal Implementation.** Implementation of the Specific Plan including, without limitation, construction of all infrastructure and private facilities contemplated in the Specific Plan, will be financed as follows:
1. All infrastructure necessary to implement the Specific Plan will be privately funded (by way of debt and/or equity financing), except to the extent that the cost of components of the infrastructure is a) funded by development impact fees, fair share contributions and other payments to public agencies and/or b) reimbursed from any public source.
 2. All private improvements necessary to implement the Specific Plan will be privately financed (by way of debt and/or equity financing).

B.16.050 Administration

- A. **Permit Processing.** Development within the Specific Plan area that is consistent with the provisions of the Milpitas Commercial Specific Plan and the conceptual site plan, elevations, colors and materials, and landscaping as depicted in Ordinance 38-799, Figures XI-10-11-07-6 through -9, and the conditions and requirements set forth in Ordinance 38-799, Figure 10, shall be processed under building permit and/or construction plan review and no additional approvals or permits shall be required. Any review or action by City agencies, entities or individuals (i.e., the Milpitas Police Department; the City Engineer; the City Building Department; Planning Director) on such development submittals shall be considered part of building permit and/or construction plan review. The action shall be limited to a determination of compliance with the provisions of

the Milpitas Commercial Specific Plan and all applicable building codes and other requirements of the City, County, State and/or other responsible agencies. Building permit and/or construction plan review shall be non-discretionary, final actions that cannot be appealed.

Development that is not consistent with the development standards set forth in the Milpitas Commercial Specific Plan, shall either require a Substantial Conformance Determination, as discussed below, or require approval under the provisions and requirements of the Milpitas Zoning Code for development in the C2 Zone.

Any building permit issuance in the Specific Plan area will be conditioned on the availability of water and sewage capacity as set forth in Sections B.16.040.A.2 (Water Facilities) and B.16.040.A.3 (Wastewater Facilities). Conformance with the provisions of this Specific Plan do not provide a vested right to the issuance of a Building Permit as water and sewage capacity availability is a material (demand/supply) condition to development on the Specific Plan area.

B. **Existing Uses.** Operation and maintenance of existing uses or structures in the Specific Plan area are not subject to the provisions of the Milpitas Commercial Specific Plan provided a building permit has been obtained and is still valid at the time of the effective date of the provisions codified in this title. Any expansion or development of existing uses or structures, however, would require compliance with the provisions of the Milpitas Commercial Specific Plan.

C. **Substantial Conformance Determination.**

1. **Purpose.** A Substantial Conformance Determination is a mechanism to allow the approval of minor modifications for development under the Specific Plan. A Substantial Conformance Determination may include, but is not limited to, minor modifications to the conceptual plans (Ordinance 38-799, Figures XI-10-11.07-6 through-9); inclusion of land uses not listed in Section B.16.030.A (Land Use Concept) of the Specific Plan; modifications that might be necessary to comply with applicable infrastructure, public services and facilities requirements, and landscape palette; and other issues. A Substantial Conformance Determination does not apply to significant modifications in the basic design of the Specific Plan area; changes to the height or bulk of the approved uses; or increases in the density or intensity of the approved uses unless specifically permitted by the provisions of this Specific Plan.

The purpose of a Substantial Conformance Determination is to ensure orderly development, quality aesthetic design, and safe and harmonious placement of uses within the Specific Plan area. A Substantial Conformance Determination (unless specifically noted otherwise) shall be made by the Planning Director or designee administratively, without the need for a public hearing. In making a Substantial Conformance Determination, the Planning Director or designee shall first make all of the required findings set forth in this section.

2. **Guidelines For A Substantial Conformance Determination.** The following guidelines explain the requirements for making a Substantial Conformance Determination, and the limits placed on the degree of variance from the provisions of the Specific Plan that can occur as part of a Substantial Conformance Determination.
 - a. **Permitted Land Uses.** Land uses not listed as permitted in Section B.16.030.A (Land Use Concept) of this Specific Plan may be permitted, with a Substantial Conformance Determination, provided that:

- (i) The proposed use is compatible with the uses permitted described in Section B.16.030.A (Land Use Concept) of this Specific Plan; and
 - (ii) The proposed use is similar to and will not cause environmental impacts substantially greater than the other permitted uses set forth within Section B.16.030.A (Land Use Concept) of this Specific Plan.
- b. *Infrastructure.* Any modifications to the alignment of access roads; parking lot configurations, or adjustments to individual infrastructure facilities plans such as drainage, sewer, water, and utilities shall be subject to a Substantial Conformance Determination by the Planning Director or designee. Prior to making a Substantial Conformance Determination, the Planning Director or designee shall make the finding that the proposed modification will not result in any environmental impacts substantially greater than those which would occur without any modification.
- c. *Environmental Performance Standards.* The Planning Director or designee may approve minor variations from the environmental performance standards set forth in Section B.16.050.D.7 (Environmental Performance Standards) of this Specific Plan, with a Substantial Conformance Determination. In making such a determination, the Planning Director or designee shall first find that the proposed variation provides substantially equivalent environmental protection as the originally approved standard.
- d. *Conceptual Plan and Other Specific Plan Provisions.* Provisions of the Specific Plan including, but not limited to, architectural details; landscape palette; building size, height, bulk, and orientation; parking lot layout; and other plan details may be modified with a Substantial Conformance Determination. In making such a determination, the Planning Director or designee shall be required to find that the revisions requested as part of a Substantial Conformance Determination are consistent with the provisions of the Milpitas General Plan, and will not create impacts substantially greater than those that would have resulted from the original approval of the Specific Plan.

A maximum ten (10) percent modification to permitted lot coverage, setbacks, floor area (other than the maximum allowable with the Specific Plan area), parking and fence and wall heights may be permitted subject to a Substantial Conformance Determination by the Planning Director or designee. In making such a determination, the Planning Director or designee shall be required to find that the revisions requested as part of a Substantial Conformance Determination are consistent with the provisions of the Milpitas General Plan, and will not create impacts substantially greater than those that would have resulted from the original approval of the Specific Plan.

The required parking spaces may be reduced by the Planning Director or designee subject to a Substantial Conformance Determination after preparation of a parking study demonstrating the proposed reduction in parking spaces is justified based on the mix of uses within the Specific Plan area and the use of shared parking between those uses.

A comprehensive sign program shall be submitted to the Planning Director for finding that it complies with the signage requirements of the Milpitas Commercial Specific Plan. Such finding shall be made as a part of building permit and/or construction plan review. Any subsequent sign permit applications that

substantially comply with the comprehensive sign program shall be processed as a ministerial building permit and/or construction plan review. Any comprehensive sign program that does not comply with the signage requirements of the Milpitas Commercial Specific Plan shall require a Substantial Conformance Determination.

D. Substantial Conformance Determination Procedure.

1. **Application.** Applications for a Substantial Conformance Determination shall be made on forms provided by the Planning Director or designee and shall be accompanied by a filing fee, equivalent to the fee for a Site Development Permit application. Applications shall be made by the owner of the property for which the approval is sought, or an authorized agent.
2. **Hearing.** No public hearing shall be required for a Substantial Conformance Determination.
3. **Action by Reviewing Authority.** The reviewing authority for a Substantial Conformance Determination shall be the Planning Director or designee. The reviewing authority shall take action by providing written notice to the applicant or developer approving, conditionally approving, or denying a Substantial Conformance Determination. The action of the Planning Director or designee shall be final with no appeal.
4. **Findings.** The Planning Director or designee must make a Substantial Conformance Determination if all of the following findings, in addition to those identified above, can be made:
 - a. The physical characteristics of the site have been adequately assessed, and proposed building sites are of adequate size and shape to accommodate proposed uses and all other features of development.
 - b. There is supporting infrastructure, existing or available, consistent with the requirements of the Milpitas Commercial Specific Plan, to accommodate the development without significantly lowering service levels.
 - c. The development resulting from the determination of substantial conformance will not have a substantial adverse effect on surrounding property or the permitted use thereof, and will be compatible with the existing and planned land uses, as well as the character of the surrounding area.
 - d. The proposed improvements related to the development resulting from a Substantial Conformance Determination adequately address all natural and man-made hazards associated with the proposed development and the project site.
5. **Periodic Review.** After receiving a certificate of occupancy, development in the Milpitas Commercial Specific Plan Area is subject to a six-, twelve- and eighteen-month review by the Planning Commission. The review shall be a public hearing to review conformance of the development with the requirements of the Milpitas Commercial Specific Plan.
6. **Specific Plan Amendments.**
 - a. **Purpose.** Specific Plan amendments are governed by Government Code Section 65453 and Section D.10.070 (Implementation and Amendments).
 - b. **Process.**

- (i) The Specific Plan may be amended or repealed only by a majority of the voters voting in an election thereon.
 - (ii) Notwithstanding subsection (a), upon application of the fee title holder of the Milpitas Commercial Specific Plan area, the City Council may amend the Specific Plan to further the purposes of this Specific Plan, but in no case can such amendment reduce or eliminate the parties' obligation to fund, construct, or cause to be funded or constructed, the public benefits or Environmental Performance Standards required.
7. **Environmental Performance Standards.** The Specific Plan includes environmental performance standards to ensure that development proceeds with appropriate environmental sensitivity. Environmental studies related to aesthetics, light and glare, health risks, air quality, biological resources, geology, soils and seismicity, hazards and hazardous materials, hydrology and water quality, noise, public services and utilities, transportation and urban decay were conducted for an expansion of the existing retail facility in the Specific Plan area. Environmental performance standards were developed from these environmental studies along with information from the City of Milpitas General Plan.

All environmental performance standards shall be implemented in accordance with the Specific Plan's environmental performance standards and implementation process as outlined in Table B.16.050-A (Milpitas Commercial Specific Plan Environmental Performance Standards). The developer of the Specific Plan area shall bear all costs of implementing the environmental performance standards.

Table B.16.050-A: Milpitas Commercial Specific Plan Environmental Performance Standards

Environmental Performance Standards	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
1. Aesthetics, Light, and Glare					
AES-1a: Prior to issuance of building permits, the developer shall prepare and submit a sign program to the City of Milpitas for review and approval. The sign program shall demonstrate compliance with the applicable requirements with Milpitas Municipal Code Title XI, Chapter 30. The approved sign program shall be implemented into the proposed project.	Approval of plans	Prior to issuance of building permits	City of Milpitas Planning Department		
AES-1b: Prior to issuance of grading or building permits, whichever comes first, the developer shall obtain a tree removal permit from the City of Milpitas for any trees slated for removal with a trunk circumference of 37 inches or more measured at 4.5 feet above ground level. Replacement of such trees shall be performed in accordance with the requirements of the Tree Maintenance and Protection Ordinance. Removed trees that are not covered by the Tree Maintenance and Protection Ordinance (i.e., less than 37 inches	Issuance of permit; Site inspection	Prior to issuance of grading or building permits (whichever comes first); Prior to issuance of the final certificate of occupancy	City of Milpitas Planning Department and Public Works Department		

Table B.16.050-A: Milpitas Commercial Specific Plan Environmental Performance Standards

Environmental Performance Standards	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
in circumference at 4.5 feet above ground level) shall be replaced onsite with a similar tree species at no less than a 1:1 ratio. All replacement trees shall be planted prior to the issuance of the final certificate of occupancy.					
AES-1c: Prior to issuance of the final certificate of occupancy, the developer shall do one of the following: 1) permanently remove all shipping containers from the project site; or 2) obtain a minor Site Development Permit Approval and install screening measures in accordance with Zoning Ordinance requirements. If the second option is pursued, outdoor storage of containers shall occur in a completely enclosed building or behind a visually obscure solid wall or tight board fence a minimum 6 feet in height and outside any front or street side yard setback area.	Site inspection	Prior to issuance of the final certificate of occupancy	City of Milpitas Planning Department		
AES-2: Prior issuance building permits, the developer shall ensure that all exterior lighting fixtures associated with the existing retail building (building-mounted and freestanding) are shielded, recessed, or directed downward to prevent unwanted illumination of neighboring properties.	Approval of plans	Prior issuance building permits	City of Milpitas Planning Department		
2. Air Quality					
AIR-3: The following measures shall be implemented during all construction activities:	Site inspection	During construction activities	City of Milpitas Building Safety and Housing Department		
Water all active construction areas and exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) at least two times per day.					
Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard.					
Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.					
Sweep daily (with water sweepers) all paved access roads, parking					

Table B.16.050-A: Milpitas Commercial Specific Plan Environmental Performance Standards

Environmental Performance Standards	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
areas, and staging areas at construction sites.					
Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.					
All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.					
All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.					
Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points.					
All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.					
Post a publicly visible sign with the telephone number and person to contact at the City of Milpitas regarding dust complaints. This person shall respond and take corrective action within 48 hours. The phone number of the Bay Area Air Quality Management District shall also be visible to ensure compliance with applicable regulations.					
AIR-7a: The developer shall use paving materials with increased solar reflectivity in areas where pavement is replaced. Such materials shall use light-colored aggregate or other appropriate methods to achieve high solar reflectivity. The developer shall provide	Approval of plans and site inspection	Prior to issuance of Building Permit	City of Milpitas Planning Department		

Table B.16.050-A: Milpitas Commercial Specific Plan Environmental Performance Standards

Environmental Performance Standards	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
construction details and specifications that shall be submitted with construction drawings and installed with improvements.					
AIR-7b: Prior to issuance of the final certificate of occupancy, the developer shall post signs in the loading docks advising truck drivers to turn off engines when not in use and advising truck drivers of state law prohibiting diesel idling of more than 5 minutes.	Site inspection	Prior to issuance of the final certificate of occupancy	City of Milpitas Planning Department		
AIR-7c: Prior to issuance of the final certificate of occupancy, the developer shall do the following:	Approval of plans; Site inspection; ongoing	Prior to issuance of the building permit; ongoing.	City of Milpitas Planning Department and Building Safety and Housing Department		
Prior to building permit issuance, a secondary closed loop system shall be evaluated and implemented, if found to be technically and economically feasible. Details and specifications shall be included with the construction drawings.					
The developer shall maintain the refrigeration system at least once per year to ensure that refrigerant leaks remain minimal. The maintenance records shall be kept onsite for review by the City of Milpitas.					
During installation of the new refrigerators and freezers, effort shall be made to reuse the existing refrigerants in the new system, unless the old refrigerant is not the same type as is proposed in the new system or more leakage would occur if the refrigerants are reused.					
AIR-7d: Prior to issuance of the final certificate of occupancy, the developer shall provide the following Transportation Demand Management measures:	Site inspection	Prior to issuance of the final certificate of occupancy	City of Milpitas Planning Department		
Public transit information in the employee breakroom. Store management shall post information such as Santa Clara Valley					

Table B.16.050-A: Milpitas Commercial Specific Plan Environmental Performance Standards

Environmental Performance Standards	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
Transportation Authority bus and light rail schedules, maps, and fares.					
Ride sharing information in the employee breakroom. Store management shall facilitate ride sharing by providing sign-up sheets or other measures to allow interested employees to identify carpooling opportunities.					
Bicycling information. Store management shall post information such as bicycle route maps and information about taking bikes on public transportation.					
AIR-7e: To reduce construction related greenhouse gas impacts, the following measures are required:	Submittal of documentation	During construction activities	City of Milpitas Planning Department		
At least 15 percent of the construction vehicles/equipment shall be fueled by an alternative source such as biodiesel and/or electric.					
At least 10 percent of all building materials shall be local (within 100 miles); and					
At least 50 percent of construction and demolition materials shall be recycled. This latter provision shall be coordinated with Mitigation Measure PSU-6a.					

3. Biological Resources

BIO-1: If vegetation removal associated with development of the property is to occur during the nesting bird season (February 15 through August 31), a qualified biologist shall conduct a pre-construction survey for nesting birds to identify any potential nesting activity. The pre-construction surveys for nesting birds shall be conducted within 14 days prior to any construction-related activities (grading, ground clearing, etc.). If nesting birds are identified on the site, a 100-foot buffer shall be maintained around the nests; no construction-related activities shall be permitted within the 100-foot buffer. A qualified biologist shall monitor the nests, and construction activities may	Submittal of documentation; Site inspection	Within 14 days prior to any construction-related activities during the nesting bird season (February 15 through August 31)	City of Milpitas Planning Department		
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Table B.16.050-A: Milpitas Commercial Specific Plan Environmental Performance Standards

Environmental Performance Standards	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
commence within the buffer area at the discretion and presence of the biological monitor. The pre-construction survey for nesting birds shall not be required if construction activities occur outside of the nesting bird season (September 1 through February 14).					
4. Geology, Soils, and Seismicity					
GEO-1a: Prior to issuance of building permits, the developer shall submit a seismic hazards technical study prepared by a qualified geotechnical engineer to the City of Milpitas for review and approval. The report shall be prepared in accordance with the requirements of the Seismic Hazards Mapping Act and shall identify necessary design measures to reduce potential seismic ground shaking impacts to acceptable levels. The developer shall incorporate the approved design measures into the project plans.	Approval of plans	Prior to issuance of building permits	City of Milpitas Building Safety and Housing Department		
GEO-1b: Prior to issuance of building permits, the developer shall submit a design-level geotechnical investigation to the City of Milpitas for review and approval. The design-level investigation shall address the potential for ground failure to occur onsite and identify abatement measures to reduce the potential for such an event to acceptable levels. The abatement measures shall be incorporated into the project design.	Approval of plans	Prior to issuance of building permits	City of Milpitas Building Safety and Housing Department		
GEO-1c: Prior to issuance of building permits, the developer shall submit plans to the City of Milpitas for review and approval that demonstrate that the proposed project is designed in accordance with all state and local seismic safety requirements. Such requirements shall include the California Building Standards Code and Milpitas Municipal Code, Title II. The approved plans shall be incorporated into the project design.	Approval of plans	Prior to issuance of building permits	City of Milpitas Building Safety and Housing Department		
GEO-4: During grading and construction, the developer shall adhere to all applicable recommendations for abating expansive soil conditions contained in the Geotechnical Engineering Investigation or comparable geotechnical study. This includes the excavation of expansive soils and the	Site inspection	During grading and construction	City of Milpitas Building Safety and Housing Department		

Table B.16.050-A: Milpitas Commercial Specific Plan Environmental Performance Standards

Environmental Performance Standards	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
subsequent replacement of such soils with non-expansive engineered fill.					
5. Hydrology and Water Quality					
HYD-1: Prior to the issuance of grading permits for the proposed project, the developer shall prepare and submit a Stormwater Pollution Prevention Plan (SWPPP) to the City of Milpitas that identifies specific actions and Best Management Practices (BMPs) to prevent stormwater pollution during construction activities. The SWPPP shall identify a practical sequence for BMP implementation and maintenance, site restoration, contingency measures, responsible parties, and agency contacts. The SWPPP shall include, but not be limited to, the following elements:	Approval of plan	Prior to the issuance of grading permits	City of Milpitas Planning Department and Engineering Department		
Temporary erosion control measures shall be employed for disturbed areas.					
No disturbed surfaces shall be left without erosion control measures in place during the winter and spring months.					
Sediment shall be retained onsite by a system of sediment basins, traps, or other appropriate measures.					
The construction contractor shall prepare Standard Operating Procedures for the handling of hazardous materials on the construction site to eliminate or reduce discharge of materials to storm drains.					
BMP performance and effectiveness shall be determined either by visual means where applicable (e.g., observation of above-normal sediment release), or by actual water sampling in cases where verification of contaminant reduction or elimination (such as inadvertent petroleum release) is required by the RWQCB to determine adequacy of the measure.					
In the event of significant construction delays or delays in final					

Table B.16.050-A: Milpitas Commercial Specific Plan Environmental Performance Standards

Environmental Performance Standards	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
landscape installation, native grasses or other appropriate vegetative cover shall be established on the construction site as soon as possible after disturbance, as an interim erosion control measure throughout the wet season.					
HYD-2: Prior to the issuance of building permits for the proposed project, the developer shall submit a stormwater management plan to the City of Milpitas for review and approval. The stormwater management plan shall comply with the requirements of Milpitas Municipal Code Title XI, Chapter 16 and identify pollution prevention measures and practices to prevent polluted runoff from leaving the project site. Examples of stormwater pollution prevention measures and practices to be contained in the plan include, but are not limited to:	Approval of plan	Prior to the issuance of building permits	City of Milpitas Planning Department and Engineering Department		
Strategically placed bioswales and landscaped areas that promote percolation of runoff					
Pervious pavement					
Roof drains that discharge to landscaped areas					
Trash enclosures with screen walls					
Stenciling on storm drains					
Curb cuts in parking areas to allow runoff to enter landscaped areas					
Rock-lined areas along landscaped areas in parking lots					
Catch basins					
Oil/water separators					
Regular sweeping of parking areas and cleaning of storm drainage facilities					
Employee training to inform store personnel of stormwater pollution prevention measures					
The developer shall also prepare and submit an Operations and Maintenance Agreement to the City identifying procedures to ensure that					

Table B.16.050-A: Milpitas Commercial Specific Plan Environmental Performance Standards

Environmental Performance Standards	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
stormwater quality control measures work properly during operations.					
6. Public Services and Utilities					
PSU-3: Prior to building permit issuance, the developer shall include details and specification in the construction drawings and install the following indoor water conservation measures: - Low-flow or ultra-low-flow toilets and urinals - Sensor-activated faucets in restrooms	Approval of plans	Prior to issuance of the final certificate of occupancy	City of Milpitas Planning Department, Building Safety and Housing Department and Engineering Department		
PSU-6a: Prior to the commencement of construction activities, the developer shall retain a qualified contractor to perform construction and demolition debris recycling. The developer shall provide documentation to the satisfaction of the City of Milpitas demonstrating that construction and demolition debris was recycled.	Submittal of documentation	Prior to issuance of building permits	City of Milpitas Planning Department		
PSU-6b: Prior to building permit issuance, the developer shall show onsite facilities necessary to collect and store recyclable materials. The facilities shall include receptacles in public spaces that are of high-quality design and identify accepted materials.	Approval of plans; Site inspection	Prior to issuance of building permits	City of Milpitas Planning Department		
7. Transportation					
TRANS-1a: Prior to the issuance of building permits, the developer shall provide fair-share fees to the City of Milpitas for improvements to the Dixon Landing Road/N. Milpitas Boulevard intersection and the widening of Dixon Landing Road in the amount of \$31,960 (\$3,000 for the intersection improvement and \$28,960 for the roadway widening). The fees will go towards the following intersection improvements: 1) modifying the signal operation to include a southbound right-turn overlap and subsequent signal timing optimization or 2) adding a northbound left turn lane, a southbound right-turn lane, and eastbound left-turn and right-turn lanes. The widening shall consist of adding an additional	Receipt of fees	Prior to the issuance of building permits	City of Milpitas Planning Department		

Table B.16.050-A: Milpitas Commercial Specific Plan Environmental Performance Standards

Environmental Performance Standards	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
lane in each direction between I-880 and N. Milpitas Boulevard. Both improvements are identified in the Valley Transportation Plan 2035.					
TRANS-1b: Prior to the issuance of final certificate of occupancy, the developer shall provide the City of Milpitas the full cost of signal timing modifications at the N. McCarthy Boulevard/Ranch Drive (south) intersection in the estimated amount of \$2,500 dollars. The modifications shall consist of re-timing the signal to increase the current cycle length. This mitigation measure shall not apply if the signal timing is modified prior to the developer seeking the final certificate of occupancy.	Receipt of fees	Prior to the issuance of final certificate of occupancy	City of Milpitas Planning Department		
TRANS-3: Prior to issuance of building permits, the developer shall provide a traffic management fee in the amount of \$180,000 to the City of Milpitas. The fees shall be used for circulation and traffic operation improvements within the City of Milpitas, including signal coordination and intersection improvements. Specific improvements that shall be fully funded by funds collected shall include:	Receipt of fees	Prior to issuance of building permits	City of Milpitas Planning Department		
McCarthy Boulevard/Technology Drive: The eastbound approach shall be re-stripped to provide two left-turn lanes and one shared through/right lane.					
McCarthy Boulevard/SR-237 Westbound Ramps: An additional westbound right-turn lane shall be constructed to provide two left-turn lanes, two through lanes, and two right-turn lanes for the westbound approach.					
Ranch Drive: The roadway shall be restriped to extend the existing two-way left-turn lane from the northern driveway of the existing retail building to the end of the existing westbound left-turn lane at the McCarthy Boulevard/Ranch Drive (North) intersection.					
TRANS-5: Prior to issuance of building permits, the developer shall prepare and submit a site plan to the City of Milpitas that demonstrates	Approval of plan (Note: Project	Prior to issuance of building permits	City of Milpitas Planning Department		

Table B.16.050-A: Milpitas Commercial Specific Plan Environmental Performance Standards

Environmental Performance Standards	Method of Verification	Timing of Verification	Responsible for Verification	Verification of Completion	
				Date	Initial
that off-street parking is provided onsite complies with the Milpitas Municipal Code Parking Regulations and Development Standards. The approved site plan shall be incorporated into the proposed project.	plans submitted comply with the City's off-street parking requirements)				
TRANS-8: Prior to building permit issuance, the developer shall provide details and specifications for bicycle storage facilities on the construction drawings and install prior to occupancy. Bicycle storage facilities shall consist of at least one rack located in a visible and convenient location (e.g., near the store entrance) and that provides storage equivalent to 2 percent of the proposed project's minimum parking requirement.	Approval of plans; Site inspection	Prior to issuance of the final certificate of occupancy	City of Milpitas Planning Department		
TRANS-9: Prior to commencement of construction activities, the developer shall submit a Construction Traffic Control Plan to the City of Milpitas for review and approval. The plan shall identify the timing and routing of all major construction equipment and materials deliveries to avoid potential traffic congestion and delays on the local street network and the McCarthy Ranch Marketplace, and to encourage the use of I-880 and SR-237. If necessary, construction equipment and materials deliveries shall be limited to off-peak hours (e.g., mornings or evenings) to avoid conflicts with local traffic circulation. The plan shall also identify suitable locations for construction worker parking.	Approval of plan	Prior to commencement of construction activities	City of Milpitas Planning Department		

Chapter B.18 Other Zones and Standards

Sections:

- B.18.010 Purpose
- B.18.020 Other Zones Use Regulations
- B.18.030 Other Zones Development Standards
- B.18.040 Other Zones Supplemental Standards

B.18.010 Purpose

- A. **Agricultural (A) Zone.** The Agricultural (A) Zone is intended to preserve lands best suited for agricultural use from the encroachment of incompatible uses, and to preserve land for eventual development into other uses, pending proper timing for the economical provision of utilities, major streets, and other facilities to allow compact, orderly development.
- B. **Institutional (I) Zone.** The Institutional (I) Zone is intended to encourage the orderly development of public service and educational uses in the community and to ensure their presence as a vital part of the neighborhood balance.
- C. **Park and Public Open Space (POS) Zone.** The Park and Public Open Space (POS) Zone is intended to provide for public open space and recreational uses in order to preserve environmentally sensitive areas and accommodate community service or recreational facilities.

B.18.020 Other Zones Use Regulations

- A. Table B.18.020-A (Other Zones Use Regulations) sets the land use regulations for other zones. Land uses are defined in Chapter E.4 (Definitions of Uses). In cases where a land use is not listed in the table, the Director shall make a determination regarding similar use consistent with Subsection A.4.020.G (Determination of a Similar Use).
- B. Land uses not listed in the table and not substantially like the uses below are prohibited unless the Planning Commission approves a Conditional Use Permit consistent with Subsection D.4.030 (Use Permits) and finds that use will not have adverse impacts or be more detrimental to the public welfare than any other use explicitly, with or without a Conditional Use Permit, in the same zone.
- C. All uses shall be conducted entirely within enclosed structures, unless specifically noted.

Table B.18.020-A: Other Zones Use Regulations

"P" = Permitted Use "MC" = Minor Conditional Use Permit approved by Zoning Administrator required "MCS" = Minor Conditional Use Permit approved by Director required "C" = Conditional Use Permit required "-" = Not Allowed				
Uses	A	I	POS	Additional Regulations
Agricultural Uses				
Agricultural Supply Sales	C	-	-	n/a

Table B.18.020-A: Other Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Uses	A	I	POS	Additional Regulations
Animal Husbandry	P	-	-	Section C.10.060 (Animal Husbandry)
Commercial Agricultural Processing Plant	C	-	-	n/a
Cultivated Agriculture	P	-	-	n/a
Guest Ranch	P	-	-	n/a
Riding Academy and Public Stables	P	-	-	n/a
Commercial Uses				
Animal Care and Services				
Kennel	C	-	-	Milpitas Municipal Code Section V-210-11 (Permits for Animal Facilities and Animal Adoption Organizations)
Veterinary Hospital or Services	-	C	-	
Eating and Drinking Establishment				
Mobile Food Vending (Individual Vehicle)	P	P	P	Section C.10.170 (Mobile Food Vending)
Home Occupation	P	P	-	Section C.10.130 (Home Occupations)
Hospital	-	C	-	n/a
Offices				
Medical Office/Clinic	-	C	-	n/a
Vehicle-Related Uses				
Fleet-Based Service	-	P	-	n/a
Mobile Fueling	P/-	P/-	-	Milpitas Municipal Code Chapter V-300 (Fire Code)
Industrial Uses				
Mining and Quarrying	C	-	-	n/a
Recycling Facility				

Part B: Zone Regulations

Table B.18.020-A: Other Zones Use Regulations

“P” = Permitted Use | “MC” = Minor Conditional Use Permit approved by Zoning Administrator required | “MCS” = Minor Conditional Use Permit approved by Director required | “C” = Conditional Use Permit required | “-” = Not Allowed

Uses	A	I	POS	Additional Regulations
Collection Facility	-	C	-	n/a
Public, Institutional, and Recreational Uses				
Cemetery	C	C	-	n/a
Child Care				
Child Care Center	MC	MC	MC	Section C.10.140 (Large Family Child Care and Child Care Centers)
Large Family Child Care Home	P	-	-	
Small Family Child Care Home	P	-	-	n/a
Civic/Government	-	P	-	n/a
Community Assembly				
Major	-	C	C	n/a
Minor	-	MCS	MCS	n/a
Community Garden	P	P	P	n/a
Correctional Facility	-	C	-	n/a
Educational Institutions				
College/University, Private	-	P	-	n/a
School, Private	-	P	-	n/a
School, Public	-	P	-	n/a
Trade and Vocational School	-	C	-	n/a
Farmers' Market	-	MCS	MCS	Section C.10.120 (Farmers' Markets)
Funeral Parlor and Mortuary	-	C	-	n/a
Library/Museum	-	P	-	n/a

Table B.18.020-A: Other Zones Use Regulations

"P" = Permitted Use | "MC" = Minor Conditional Use Permit approved by Zoning Administrator required | "MCS" = Minor Conditional Use Permit approved by Director required | "C" = Conditional Use Permit required | "-" = Not Allowed

Uses	A	I	POS	Additional Regulations
Park/Playground	P	P	P	n/a
Public Safety	-	P	-	n/a
Public Utility	-	C	-C	n/a
Resilience Hub	-	P	-	n/a
Transportation Passenger Terminal/Facility	-	C	-	n/a
Wireless Telecommunications Facility	See Section C.10.240 (Wireless Telecommunications Facilities).			
Residential Uses				
Accessory Dwelling Unit and Junior Accessory Dwelling Unit	P	-	-	Section C.10.030 (Accessory Dwelling Units and Junior Accessory Dwelling Units)
Elderly and Long-Term Care	-	C	-	n/a
Employee/Farmworker Housing	P	-	-	n/a
Group Living Accommodation	-	MCS	-	n/a
Residential Care Facility	P ¹	-	-	n/a
Single-Family Dwelling	P ¹	-	-	Section C.10.210 (Single-Family Dwellings)
Supportive Housing	P ¹	-	-	California Government Code § 65582
Transitional Housing	P ¹	-	-	California Government Code § 65582
Unclassified Uses				
Accessory Use	P	P	P	n/a
Parking Lot ²	-	MCS	-	n/a
Parking Structure ²	-	MCS	-	n/a
Temporary Use	See Section C.10.230 (Temporary Uses and Structures)			

Table Notes:

¹ When accessory to primary agricultural use.

² Applies to parking lots or structures that are primary uses, as defined in Part XIII-E (Definitions).

B.18.030 Other Zones Development Standards

Table B.18.030-A (Other Zones Development Standards) establishes the development standards for other zones.

Table B.18.030-A: Other Zones Development Standards			
ft = feet ac = acres du = dwelling unit FAR = floor area ratio n/a = not applicable			
Standard	A	I	POS
Lot Area, min (ac)	5	n/a	n/a
Lot Width, min (ft)	300	n/a	n/a
Density (du/gross acre) ¹	0.4	n/a	n/a
Setbacks (ft)			
Front	50	n/a	The most restrictive setback required for the abutting zone; in no case less than 20
Interior side	50	n/a	The most restrictive setback required for the abutting zone; in no case less than 10
Street side	50	n/a	The most restrictive setback required for the abutting zone; in no case less than 20
Rear	50	n/a	The most restrictive setback required for the abutting zone; in no case less than 10
FAR, max.	n/a		
Primary Building Height, max.	30 ft; 2.5 stories	n/a	30 ft; 2.5 stories
Accessory Building Height, max.	30 ft; 2.5 stories	n/a	30 ft; 2.5 stories
Open Space	n/a	n/a	n/a

Table Notes:

¹ When determining the density of non-traditional housing configurations such as group living accommodations and single-room occupancy residences, three bedrooms may be counted as the equivalent of one unit.

B.18.040 Other Zones Supplemental Standards

Reserved.

Chapter B.20 Overlay Zones and Standards

Sections:

- B.20.010 Purpose
- B.20.020 Freeway Corridor (FC) Overlay Zone
- B.20.030 Site and Architectural (S) Overlay Zone

B.20.010 Purpose

This Chapter establishes additional standards for defined areas (i.e., overlay zones) that are applied in addition to standards provided in the base zones. These standards are intended to ensure that proposed uses and development are compatible with existing and future development on neighboring properties and produce an environment of desirable character consistent with the General Plan. The “H” Hillside Combining District is addressed in Chapter B.22 (“H” Hillside Combining District).

B.20.020 Freeway Corridor (FC) Overlay Zone

- A. **Purpose.** The purpose of the Freeway Corridor (FC) Overlay Zone is to establish a process to consider an increase in the maximum floor area ratio to accommodate new and infill developments along the freeway corridor.
- B. **Applicability.** The FC Overlay Zone may be combined with any nonresidentially zoned property within 300 feet of Interstate 680, Interstate 880, or State Route 237.
- C. **Development Standards.** The development standards for the underlying base zone shall apply, except that an increase of up to 20 percent above the base zone’s maximum floor area ratio may be allowed subject to the Review Authority’s discretion (e.g., if the maximum floor area ratio is 0.50, eligible properties may submit an application requesting an increase in floor area ratio of up to 0.60).
- D. **Process.**
 - 1. An applicant for a proposed development project on a lot located within the FC Overlay Zone may request an increase in the maximum floor area ratio, pursuant to this Section, as part of the overall project entitlements. The Review Authority may approve, approve with conditions, or deny the request.
 - 2. The Review Authority may deny a request for increased floor area ratio on a lot within the FC Overlay Zone if a finding is made that such increase would be detrimental to public health, safety, or welfare; or that such increase would not be consistent with the nature and configuration of streets, infrastructure, and/or existing or anticipated development in the vicinity of the subject property.
- E. **Limitations.** The FC Overlay Zone may not be combined with any other overlay or other process allowing additional floor area ratio.

B.20.030 Site and Architectural (S) Overlay Zone

The Site and Architectural (S) Overlay Zone applies to areas annexed into Milpitas city limits consistent with Section B.2.040 (Zoning of Annexed Areas). Development in the S Overlay Zone shall comply with all applicable standards and procedures in this Title.

Chapter B.22 “H” Hillside Combining District

Sections:

- B.22.010 Findings, Purpose and Intent
- B.22.020 Establishment and Designation
- B.22.030 Maximum Allowable Densities and Minimum Lot Sizes
- B.22.040 Height Regulations
- B.22.050 Yard Requirements
- B.22.060 Crestline Zone of Protection
- B.22.070 Special Provisions for PUD’s in Hillside
- B.22.080 Open Space Easements
- B.22.090 Site and Architectural Approval
- B.22.100 Slope Planting
- B.22.110 Residential Driveways and Parking
- B.22.120 Non-Residential Off-Street Parking
- B.22.130 Fencing
- B.22.140 Recreation Courts
- B.22.150 Outdoor Lighting
- B.22.160 Underfloor Clearance
- B.22.170 Maximum Size of Residence, Accessory Structures, and Impervious Surface Coverage
- B.22.180 Grading Requirements

B.22.010 Findings, Purpose and Intent

The City Council of the City of Milpitas finds and declares:

- A. The hillsides which are a part of the City and within its urban planning area represent a unique scenic asset to the community and a part of the history and tradition of the community.
- B. The inventory of open space and natural scenery in the City and County is rapidly diminishing.
- C. The congestion of traffic, commerce, development and people may require a counterbalance of pleasant vistas bearing in mind preservation and conservation of the natural landscaping and open space while at the same time permitting orderly and regulated residential development.
- D. Pleasant communities attract business, industry and people. They improve public morale and pride and encourage public support for safe, healthful and productive development.
- E. Citizens have shown that they wish this community to be attractive as well as clean and safe and that they want to avoid hillside visual pollution. Therefore, it is necessary to create a special zoning

district which insures an orderly and harmonious residential development that will minimize the amount of disturbance to the natural terrain.

- F. If Milpitas is to avoid the hillside safety, ecological/environmental, and financial disasters which have occurred elsewhere in California, seismic risk, geologic hazards, fire protection, groundwater protection, flood prevention and erosion control require the regulation of hillside development as to density, construction practices, building sites and landscaping.
- G. That all environmental concerns be included in hillside development (in order to take into account nationally recognized Pacific Flyway Habitat designations and not to disturb nesting areas or resting areas).
- H. The purpose of the "H" Hillside Combining District is to promote and encourage the orderly development of the hillside area of the City by the application of regulations and requirements established to meet the particular problems associated with development of hillside areas, including but not limited to geologic problems, slope, safe access and visibility.

B.22.020 Establishment and Designation

"H" Hillside Combining Districts shall be established only in conjunction with other districts. An "H" designation shall be required in areas designated in the adopted General Plan as "Hillside" and may be combined with "R1" Single-Family Residential District.

The provisions of this section shall apply in the "H" Hillside Combining District, in addition to those conditions specified for the basic zone classification. Where there is a conflict between these regulations and the regulations specified in the basic zone, the provisions in this section shall prevail.

B.22.030 Maximum Allowable Densities and Minimum Lot Sizes

The following requirements shall apply in the "H" Hillside Combining District:

- A. The average land area per dwelling unit is determined by calculating the average slope of the parcel and then using this figure in the slope density equation to get minimum average land area per dwelling unit.
- B. **The Slope Density Equation.** If the parcel has an average slope of ten (10) percent or less, the average land area per dwelling unit shall be no less than ten (10) acres. If the parcel has an average slope of fifty (50) percent or more, the minimum average land area per dwelling unit shall be no less than eighty (80) acres. If the parcel has an average slope of ten (10) percent to fifty (50) percent, the average land area per dwelling unit shall be determined by the following equation:

$$a = \frac{1}{0.121875 - 0.0021875 S}$$

Where: **a** is the average land area per dwelling; and **S** is the average slope of the lot in percent.

- C. Average slope shall be based on existing contours as shown on aerial maps on file in the office of the City Engineer dated April 1964. Where slope cannot be directly determined by observation, the average slope will be determined by the formula:

$$S = \frac{100 I L}{A}$$

Where: **I** is the contour interval in feet; **L** is the combined length of the contour lines in scale feet; and **A** is the net area of the lot in square feet.

Exhibit "B" is an example of the use of this formula.

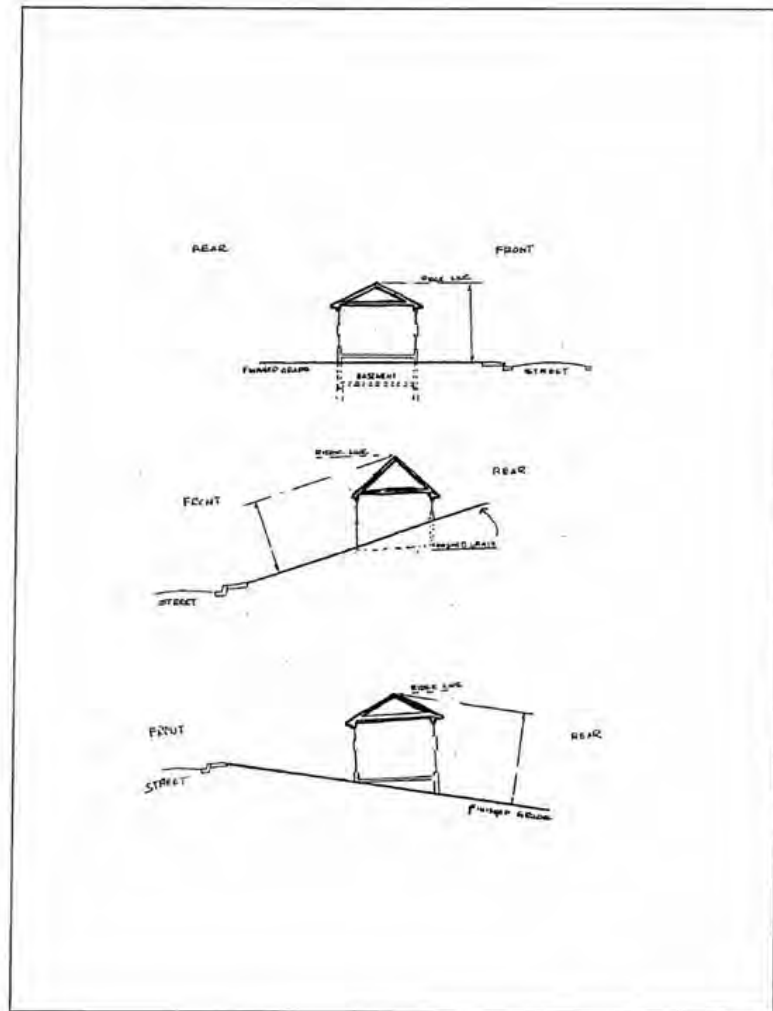
- D. The maximum number of dwelling units permitted in a subdivision shall be determined by dividing the gross land area by the average land area per dwelling unit, computed to the third significant figure, and then rounded to the nearest whole number.
- E. **Reduction of Density.** The City may require a reduction in the number of dwelling units below the maximum otherwise permitted under this Section if the City determines that such reduction is necessary or appropriate by reason of site restrictions or geologic hazards.
- F. **Further Subdivision Prohibited.** Upon recordation of a final subdivision or parcel map covering any site zoned "R1-H," no lots or parcels shown on such map may be thereafter further subdivided so as to increase the total density permitted under this Section for the entire subdivision or parcel depicted on the final map.
- G. **Exempted Lots.** Any lot shown as a unit on a recorded subdivision or land division, or any lot otherwise legally created, is exempt from the density requirements set forth in this Section provided such lot was created prior to the effective date of the ordinance codified in this chapter. Any lot so exempted will not lose its exempt status if either of the following events takes place subsequent to the effective date of the ordinance codified in this chapter:
 - 1. A portion of the lot is exchanged for a portion of any adjoining lot, the result of which does not decrease the original square footage of the lot; or
 - 2. The lot is enlarged by the addition of land from any adjoining parcel.

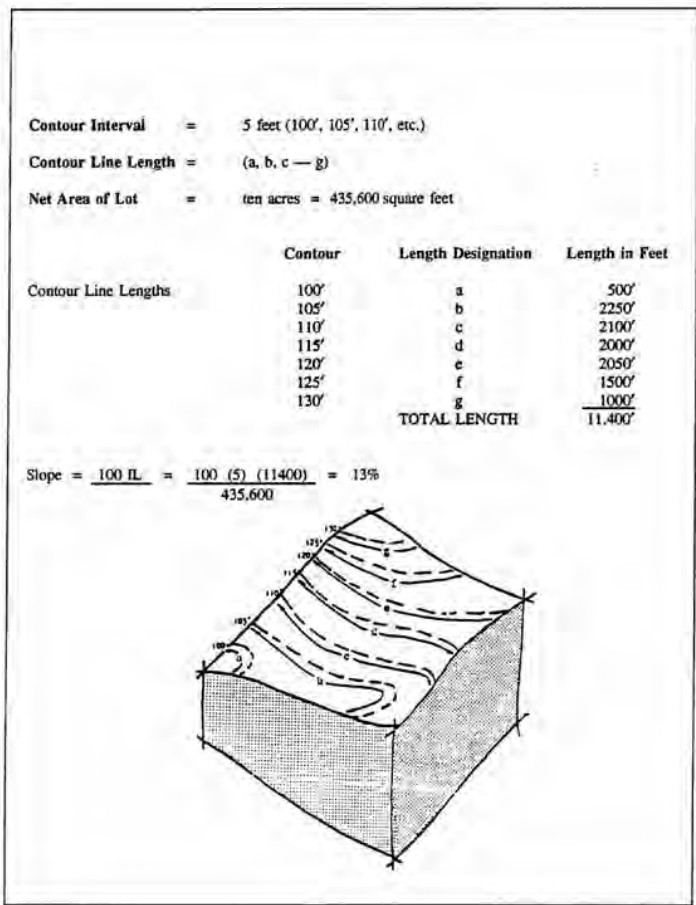
Under no circumstances shall the number of dwelling units be greater than the number permitted prior to any modification for lot line adjustment.
- H. **Density Exception.** Notwithstanding the density provisions of the "H" District set forth in Section B.22.030, a commercial development which was approved prior to the October 15, 1992 effective date of the ordinance codified in this section may, upon site and architectural approval, pursuant to Section B.22.030, be replaced with one less intensive single-family residential dwelling that complies with all other conditions of Chapter B.22 and all other relevant provisions of the Municipal Code.

B.22.040 Height Regulations

- A. Under no circumstances shall any main building on the west side of the crestline exceed a height of seventeen (17) feet and one (1) story (excluding basements) from the lowest finished grade to the highest ridgeline of the building.
- B. Under no circumstances shall any main building on the east side of the crestline exceed a height of twenty-seven (27) feet and two (2) stories from the lowest finished grade to the highest ridgeline of the building.
- C. Accessory structure(s) shall not exceed seventeen (17) feet and one (1) story from the lowest finished grade to the highest ridgeline of the building anywhere in the hillside.

FIGURE B.22.040-1: ILLUSTRATIONS FOR SECTION B.22.040





B.22.050 Yard Requirements

For lands in the R1 residential zoning district, the following requirements shall apply:

- A. All dwellings shall have a minimum side yard of forty (40) feet.
- B. Minimum front yard setbacks shall be twenty-five (25) feet when the average slope of the lot is less than sixteen (16) percent, or when the front yard slope does not exceed sixteen (16) percent; otherwise, the minimum front yard setback shall be forty (40) feet.
- C. The minimum rear yard setback for the principal dwelling shall be forty (40) feet.

B.22.060 Crestline Zone of Protection

- A. The purpose of the crestline zone of protection is to preserve the natural quality of the crestline and the slopes immediately below, when viewed from the valley floor.
- B. The crestline zone of protection is defined as the area westerly of the perceived crestline and between the perceived crestline and an elevation one hundred (100) feet below. In the area

within three hundred (300) feet easterly of the crestline, structure heights shall be restricted so that no structure extends above the crestline site line.

- C. The perceived crestline is the crestline identified when viewed from the three (3) closest viewpoints of those nine (9) shown on the zoning map and designated as "VP."
- D. The land within the crestline zone of protection shall remain in a natural condition and structures, grading and non-native plant materials are prohibited. All fences constructed within the crestline zone of protection shall be subject to review and approval by the Planning Commission.
- E. In demonstrating compliance with the crestline zone of protection, an applicant shall submit cross-sections from each of the three (3) closest viewpoints from their site. Each cross-section shall include the viewpoint, any proposed structure(s) on the applicant's site, the perceived crestline, and the lower edge of the zone of protection. Each cross-section shall be drawn commencing from the closest viewpoint with lines projecting through the highest point of any and all structures. No structure may visually intrude into the "crestline zone of protection" area. Exception may be granted where development would not be visible from the three (3) closest viewpoints.

B.22.070 Special Provisions for PUD's in Hillside

- A. When land in Hillside is to be subdivided and is also approved as a PUD, the following rules shall apply in addition to those specified elsewhere in this chapter for PUD's.
- B. There shall be no minimum lot size requirements for PUD's. Clustering of development for PUD's is encouraged and shall be located on not more than ten (10) percent of the total lot area that exists prior to any subdivision.
- C. Land included in a PUD but not included in lots shall be held in common and shall be encumbered with an open space easement in favor of the City unless such common ownership and easement would be inconsistent with approved uses such as public streets or public utilities.

B.22.080 Open Space Easements

- A. In any subdivision which is not approved as a PUD, at least fifty (50) percent of the gross area within the subdivision shall be encumbered with an open space easement in favor of the City. Side yard and front yard setback areas will not be allowed to be a part of nor encroach on the open space easement. Said easement shall be identified at the time of submittal of the tentative map.
- B. Reconfiguration of the open space easement may be granted, at a public hearing, by the City Council provided that the area (net acreage) is not decreased.
- C. No open space easement dedicated to the City within the "H" Hillside Combining District shall be abandoned by resolution of the City Council without a majority of those voting on the matter in a City election approving of such abandonment. The election shall be held at one (1) of the regularly scheduled election dates for general law cities.

B.22.090 Site and Architectural Approval

- A. **Purpose.** It is the policy of the City to review the proposed construction or expansion of single-family dwellings and certain accessory structures under circumstances where such structures

might constitute an invasion of privacy, unreasonable interference with views, light and air, and create adverse impacts upon the aesthetic character of neighboring residential structures. The purpose of this Section is to establish standards and procedures to be followed with respect to the design review of single-family dwellings and certain accessory structures to ensure that new development occurs in a manner which is consistent with the objectives of this Chapter and the policies of the General Plan.

- B. **Applicability-Requirement for Site and Architectural Review.** In each of the following cases, no building permit shall be issued for the construction or expansion of a single-family structure or accessory structure in any "H" District, until such structure has received a site and architectural review approval by the Planning Commission and City Council pursuant to this Section:
1. Prior to any grading;
 2. Prior to construction of any new structure; or
 3. Prior to any modification that requires a building permit, any interior alteration, or any alteration or conversion where such alteration or conversion does not result in any exterior modifications to the existing structure beyond the installation of skylights in the roof, installation of new windows or doors, fireplaces or chimneys, or any other minor alteration which in the opinion of the Community Development Manager meets the intent of this Subsection.
- C. **Application Requirements-Public Hearing.** Site plan and building elevations, which portray as accurately as possible the ultimate development of the lot, shall be submitted to the City. The plans shall include all structures, grading, landscaping, colors and materials.
- D. The applicant shall in addition propose a "building envelope" within which all development other than specified minor improvements such as fences (permitted by Section B.22.130, Fences) and driveways shall be located.
- E. A public hearing on the site and architectural review application shall be required at the planning commission level only. The review before the city council shall not be a public hearing. Provided, however, that any modifications or addition onto an existing structure, on parcels twenty thousand (20,000) square feet or less, shall not require a review by either the Planning Commission or City Council but said modifications or addition must comply with the site and architectural guidelines contained in this Section.
- F. **Application Materials.** Application for site and architectural review ("S" Zone Approval) shall be made, with the Community Development Department, on a form prescribed for this purpose.
1. The application shall include the following exhibits such as, but not limited to:
 - a. Site plan
 - b. Building envelope and open space plan
 - c. Existing topographic plan
 - d. Architectural plan(s)
 - e. Roof plan
 - f. Floor plan(s)
 - g. Line of sight-view restriction/obstruction analysis

- h. Landscape plan
 - i. Crestline zone of protection plan, where appropriate
 - j. Grading plan
 - 2. The application shall be accompanied by the payment of a processing fee(s), in such amount(s) as established by the City Council.
- G. **Site and Architectural Guidelines.** The Planning Commission and City Council shall consider the following guidelines in its review process:
- 1. ***Avoid Unreasonable Interference with Views and Privacy.*** The height, elevations and placement on the site of the proposed main or accessory structure, when considered with reference to the nature and location of residential structures on adjacent lots, will avoid unreasonable interference with views and privacy.
 - 2. ***Preserve Natural Landscape.*** The natural landscape will be preserved insofar as practicable by designing structures to follow the natural contours of the site and minimizing tree and soil removal.
 - 3. ***Minimize Perception of Excessive Bulk.*** The design of the proposed main and/or accessory structure(s) in relation to the immediate neighborhood should minimize the perception of excessive bulk.
 - 4. ***Impairment of Light and Air.*** The proposed main or accessory structure(s) shall not unreasonably impair the light and air of adjacent properties nor unreasonably impair the ability of adjacent properties to utilize solar energy.
 - 5. ***Grading.*** All grading shall be kept to an absolute minimum and shall comply with the grading ordinance criteria.

B.22.100 Slope Planting

The face of all cut-and-fill slopes may be required to be planted and maintained with a ground cover as recommended by the geotechnical report in order to protect the slopes against erosion as soon as practical and prior to the final approval of the grading. This plant material shall be shown on the landscape plan.

B.22.110 Residential Driveways and Parking

- A. Privately owned and maintained access from the public road to each single-family dwelling shall be a minimum of fourteen (14) feet in width. Turning radius shall be designed to meet the Fire Department's requirements.
- B. Turnout space shall be provided on driveways over one hundred fifty (150) feet in length with a maximum spacing of one hundred fifty (150) feet if driveway is less than eighteen (18) feet wide.
- C. **Turnaround.** All dwelling units shall provide an on-site area for vehicles to turn around if served by a driveway over one hundred fifty (150) feet in length to meet Fire Department's requirements.
- D. **Vertical Clearance.** All privately owned and maintained roads and drives shall assure a minimum fourteen (14) foot vertical clearance.

- E. There shall be provided at the time of erection of any dwelling at least two (2) permanently maintained parking spaces on the same lot with the dwelling, for each dwelling unit. Said parking spaces shall be not less than ten (10) feet wide and twenty (20) feet long with adequate provisions for ingress and egress.
- F. Private parking may be required to be located to the rear of the front setback line. Criteria used to determine need for parking to be located behind the front setback line shall be based on providing safe access which is harmonious with adjacent natural land slope, and structures existing and proposed.
- G. The design of the driveway and parking areas shall consist of an all-weather surface conforming to Section II-13-18, Paving Standards, and Chapter C.6, Parking and Loading, of this Code.
- H. The Planning Commission and City Council may grant exceptions to the above requirements pursuant to the guidelines set forth in Subsection B.22.090, Site and Architectural Guidelines, of this Section.

B.22.120 Non-Residential Off-Street Parking

Off-street parking shall be provided on-site for all nonresidential uses. The number and design of parking spaces shall be in accordance with Chapter C.6, Parking and Loading.

B.22.130 Fencing

Fencing on hillside lots shall be minimized and shall be of an open variety, except fencing around the immediate vicinity of each house. Fencing criteria will be found in Section C.2.040, Fences, Walls, and Hedges.

B.22.140 Recreation Courts

- A. Grading for tennis courts and other recreation courts shall not exceed six (6) feet of fill or twelve (12) feet of cut and fill. A site development application for a tennis or other recreation court which proposes grading in excess of the limits of this Chapter may be approved by the City upon finding that the excess cut or fill:
 - 1. Will not result in slopes prone to landslides or soil creep;
 - 2. Can be landscaped and/or contours rounded to render the cut or fill inconspicuous when viewed from off the site; and
 - 3. Can be properly drained according to methods approved by the Building Division.
- B. **Screening.** Recreation courts shall be landscaped and screened so as to be unobtrusive from off-site. The structure will not be permitted unless this screening can be accomplished without interfering with the function of the structure.
- C. **Color.** All surface and retaining walls shall be colored in natural tones and screened as appropriate so that the court is not conspicuous when viewed from off-site.

B.22.150 Outdoor Lighting

- A. **Tennis—Recreation Courts.** No artificial lighting shall be permitted for tennis and other recreation courts.
- B. **Swimming Pools and Spas.** Artificial lighting of swimming pools and spas shall be permitted only under the following conditions:
 - 1. Light(s) are placed beneath the surface of water in the pool or spa to illuminate the water;
 - 2. Other exterior lights used to illuminate the surrounding area;
 - 3. Light(s) use the minimum wattage which will safely illuminate the area;
 - 4. No direct light is cast beyond the immediate area of the pool or spa; and
 - 5. No light sources are directly visible from off the site.
- C. **Outdoor Lighting-General.** Outdoor lighting should use the minimum wattage lights which will safely illuminate the area. Outdoor light sources shall be shielded so as not to be directly visible from off-site. This section does not pertain to motion-induced/activated or motion-sensor security-type lights.

B.22.160 Underfloor Clearance

All new single-family main structures and accessory buildings, or additions thereto, shall be designed to follow the slope of the site so as to reduce the clearance between ground-floor levels and finish grade to not more than five (5) feet. This underfloor clearance shall not be enclosed. The Planning Commission and City Council may grant exceptions to this requirement pursuant to the guidelines set forth in Subsection B.22.090.G of this Section.

B.22.170 Maximum Size of Residence, Accessory Structures, and Impervious Surface Coverage

- A. **Purpose and Intent.** The purpose and intent of limiting the amount of impervious surface coverage allows for the site and area to remain in its natural setting, as much as possible, without incorporating unnatural man-made features. Impervious surfaces also increase stormwater runoff, which is to be considered in the design of drainage systems.
- B. **Definition.** "Impervious surfaces" are meant to include surfaces that will not allow or will greatly reduce the penetration of water into the ground. Impervious surfaces include the following: concrete, asphalt, bricks, paving stones, swimming pools, "turf stones," plastic sheeting, compacted gravel and rock areas, and similar surfaces. Impervious surfaces shall also include any and/or accessory structures located on a specific site.
- C. On parcels less than three (3) acres, the amount of impervious surface on the site is limited to eight thousand (8,000) square feet or ten (10) percent of the total lot area, whichever is greater (including the building footprint). The maximum size of the main residence shall not exceed six thousand (6,000) square feet.
- D. On parcels three (3) acres or greater, the amount of impervious surface on the site is limited to ten (10) percent of the total lot area (including the building footprint). Under no circumstances

shall the impervious surface coverage exceed thirty thousand (30,000) square feet. The maximum size of the main residence shall not exceed ten thousand (10,000) square feet.

- E. The maximum size of an accessory structure shall not exceed one thousand two hundred (1,200) square feet.

B.22.180 Grading Requirements

- A. **Purpose and Intent.** The intent of this Section is to regulate use, development and alteration of land in hill areas so that essential natural characteristics such as land form, vegetation and wildlife communities, scenic qualities, and open space can substantially be maintained; to preserve unique and significant geologic, biologic and hydrologic features of public value; to encourage alternative approaches to conventional hillside construction practices by achieving land use patterns and intensities that are consistent with the natural characteristics of hill areas such as slope land form, vegetation and scenic quality. It is further the intent of this Chapter to protect predominant views of and from hill areas in order to maintain the identity, image and environmental quality of the City; and to achieve land use densities that are in keeping with the General Plan.
- B. **Definition.** "Grading" means an excavation or fill, or the stockpiling or any combination thereof, or the conditions resulting from any excavation or fill. All grading quantities shall be measured in their compacted state.
- C. **Design Standards and Requirements.**
 - 1. Grading will "blend" in with the natural land forms and native vegetation to the maximum extent feasible.
 - 2. No grading cut or embankment with a slope greater than three (3) feet horizontal to one (1) foot vertical shall be located adjacent to a publicly maintained right-of-way. The applicant shall provide suitable guarantees, satisfactory to the Planning Commission, for landscaping and perpetual maintenance, at no cost to the City, of all slopes greater than fifteen (15) feet in total elevation.
 - 3. Within six (6) months, or such other period established by the Planning Commission, after the commencement of grading activities, all graded areas not covered by an impervious surface shall be stabilized in such manner as shall be approved by the Community Development Manager.
 - 4. Landscaping coverage and stabilization of graded slopes shall be selected and designed to be compatible with surrounding natural vegetation or to replace removed natural vegetation and should recognize climatic, soil and ecologic characteristics of the region. Plant materials that require excessive water after becoming established should be avoided. (Refer to illustrations.)
 - 5. Trees which have a six (6) inch or greater diameter trunk size at a point three (3) feet above grade should not be removed. The location of all such trees shall be shown on all plans submitted for approval. The Planning Commission, upon review of an "S" Zone application approval, shall have the power to authorize removal, relocation or replacement if the applicant can show that such requirement is unreasonable as applied to the particular property. If the removal is permitted, the replacement of any trees removed pursuant to this Section shall be at a five to one (5:1) ratio.

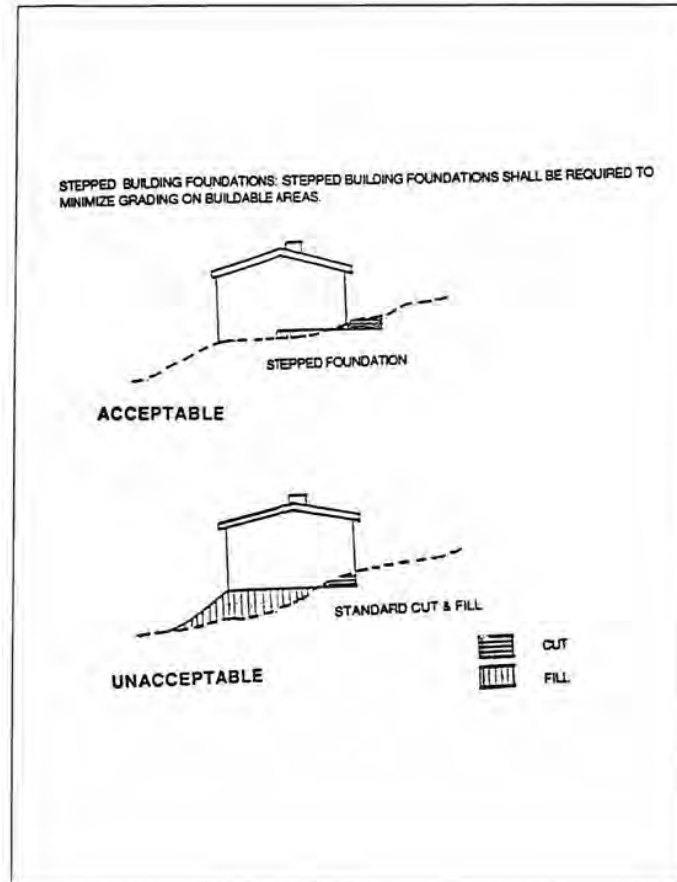
6. The overall shape, height, grade or any cut-or-fill slopes shall be developed in concert with existing natural contours and scale of the natural terrain of a particular site. (Refer to illustrations.)
 7. Where two cut-or-fill slopes intersect, the intersection shall be horizontally rounded and blended. (Refer to illustrations.)
 8. Where any cut-or-fill slopes intersect the natural grade, the intersection of each slope shall be vertically and/or horizontally rounded and blended with the natural contours so as to present a natural slope appearance. (Refer to illustrations.)
 9. Provide sites which fit into the terrain and allow for minimal amount of grading. Grading of any area of a site with a natural slope greater than forty (40) percent shall be prohibited.
 10. Stepped building foundations shall be required to minimize grading on building pads. (Refer to illustrations.)
 11. Streets shall be designed to generally follow the natural contours and land form in order to minimize cut and fill. Exposed walls and fences facing roadways and retaining walls shall be no greater than six (6) feet in height. Crib walls fencing roadways shall be no greater than fifteen (15) feet in height. (Refer to illustrations.)
 12. Structures shall be designed to fit with the contours of the hillside and relate to overall form of the terrain. Structures shall be designed to fit into the hillside rather than altering the hillside to fit the structure. (Refer to illustrations.)
- D. **Development Plan Review Procedures.** To further the specific purposes of this chapter, the following procedures are established:
1. ***Development Plan With Grading Under Five Hundred (500) Cubic Yards.*** Where the aggregate volume of grading on any site or contiguous group of sites is under five hundred (500) cubic yards, the Community Development Manager shall review the proposed Grading Plan. If the plan is found to be in conformance with the provisions of this chapter, the Grading Plan shall be approved. In approving the plan, such conditions as are reasonably necessary to ensure compliance with the objectives of the chapter may be imposed.
 2. ***Development Plan With Grading in Excess of Five Hundred (500) Cubic Yards.*** Where the aggregate volume of grading exceeds five hundred (500) cubic yards but is under one thousand five hundred (1,500) cubic yards, the Planning Commission shall review the proposed Grading Plan. If the plan is found to be in conformance with the provisions of the chapter, the Grading Plan shall be approved. In approving the plan, such conditions as are reasonably necessary to ensure compliance with the objectives of this chapter may be imposed. On receipt of the recommendations of the Planning staff, the Planning Commission shall approve or deny the application.
 3. ***Development Plan With Grading in Excess of One Thousand Five Hundred (1,500) Cubic Yards.*** Where the aggregate volume of grading exceeds one thousand five hundred (1,500) cubic yards, the Planning Commission shall review the proposed Grading Plan and recommend approval or denial to the City Council. If approval is recommended, such conditions as are reasonably necessary to secure substantially the objective of this

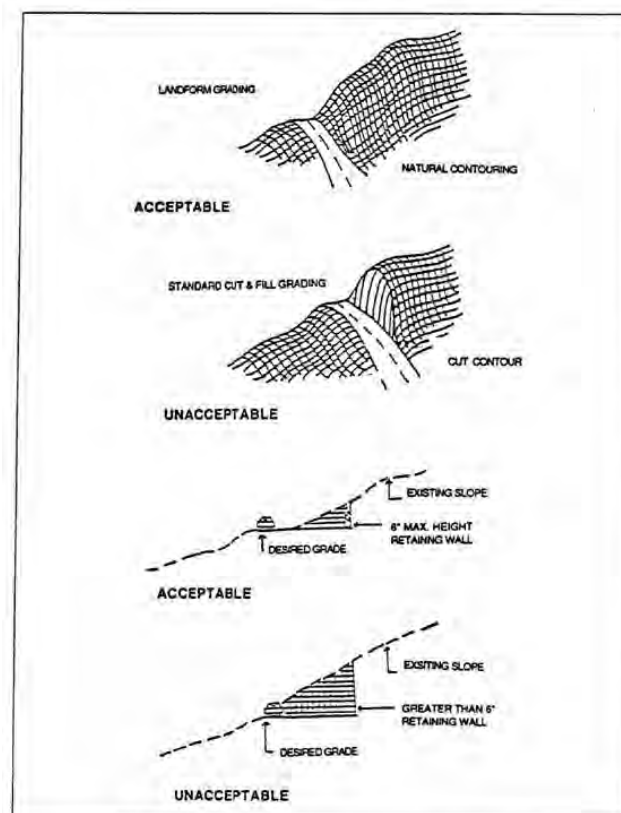
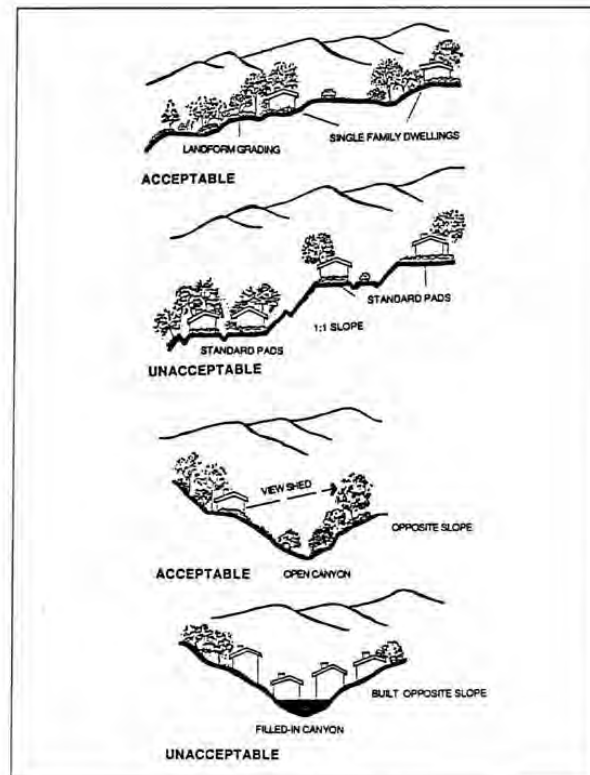
chapter may be included. On receipt of the recommendations of the Planning Commission, the City Council shall approve or deny the application.

E. **Grading Plan Requirements.** Wherever proposed grading in the hillsides exceeds five hundred (500) cubic yards, the applicant shall submit grading plans prepared by a licensed Civil Engineer. Said grading plans shall include, but not be limited to, the following:

1. Property lines and accurate contours of existing and proposed elevations;
2. Cross-sections taken through at least two (2) planes normal to each other. Horizontal and vertical depictions shall be made in the same scale;
3. Quantities of fill and excavating proposed in cubic yards;
4. Location of all existing and proposed structures; and
5. Location of existing trees which have a six (6) inch or greater trunk diameter at a point three (3) feet above grade, and details of the measures proposed to conserve such trees.

FIGURE B.22.180-1: ILLUSTRATIONS FOR SECTION B.22.18





City of Milpitas

PART C: CITYWIDE STANDARDS

Public Review Draft

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Chapter C.2 General Development Standards

Sections:

- C.2.010 Purpose
- C.2.020 Accessory Buildings and Structures
- C.2.030 Affordable Housing
- C.2.040 Fences, Walls, and Hedges
- C.2.050 Height Exceptions
- C.2.060 Incentives
- C.2.070 Lighting and Illumination
- C.2.080 Objective Design Standards
- C.2.090 Open Space
- C.2.100 Outdoor Display and Sales
- C.2.110 Performance Standards
- C.2.120 Refuse and Recycling Areas
- C.2.130 Setbacks and Encroachment into Required Setbacks
- C.2.140 Screening Standards
- C.2.150 Underground Utilities

C.2.010 Purpose

The purpose of this Chapter is to prescribe development standards that, except where specifically stated, apply to development in all zones. These standards shall be used in conjunction with the standards for each zone as established in Part XIII-B (Zone Regulations).

C.2.020 Accessory Buildings and Structures

- A. **Purpose.** This Section establishes development standards for accessory buildings and structures.
- B. **Applicability.**
 - 1. **Detached Structures.** The provisions of this Section apply to roofed structures, including but not limited to garages, carports, sheds, workshops, gazebos, greenhouses, pool houses, and covered patios which are detached from and accessory to the main building on the site. These provisions also apply to open, unroofed structures such as play equipment, decks, and trellises, that are over 18 inches in height and are detached from and accessory to the main building on the site.
 - 2. **Attached Structures.** The provisions of this Section do not apply to accessory buildings or structures attached to the main building, which shall comply with the requirements of this Title applicable to the main building. Structures with a common wall or roof with the main building shall be considered part of the main building. Allowed building projections

into required setbacks are stated in Section C.2.130.B (Encroachment into Required Setbacks).

3. **Accessory Dwelling Units.** This Section does not apply to accessory dwelling units, which are regulated by Chapter C.10.030 (Accessory Dwelling Units).
 4. **Fences and Walls.** This Section does not apply to fences and walls, which are regulated by Section C.2.040 (Fences, Walls, and Hedges).
- C. **Relation to Existing Structures.** A detached accessory building or structure may only be constructed on a lot on which there is a constructed main building to which the accessory building or structure is related.
- D. **Development Standards.** Accessory structures shall meet the development standards of the zone in which they are located consistent with Part XIII-B (Zone Regulations) except as follows.
1. **Limited Total Coverage in the Rear Setback Area.**
 - a. **Maximum coverage.** All accessory buildings and structures in the required rear setback area, as well as building additions as described in Subsection C.2.130.A.2.b (Building additions for R1 and R2 zones), are limited cumulatively to a total area not exceeding 30 percent of the area of the required rear setback area.
 - b. **Exemptions.** Platforms, landing places, concrete slabs, walkways, paved areas, in-ground pools, in-ground spas, and associated decking not covered by a roof or canopy and up to 18 inches above the ground are not counted toward this maximum coverage limitation.
 2. **Setbacks.**
 - a. Any detached accessory building shall not be located within:
 - (i) Three feet of any rear lot line or side lot line of the rear half of an adjacent lot; or
 - (ii) Seven feet of the side lot line of the front half of any adjacent lot.
 - b. In the case of a corner lot, shall not project beyond the required front setback line or the existing building front setback on the adjacent lot.
 - c. Eaves of accessory buildings and structures shall not project closer than three feet to any side or rear lot line.
 - d. Allowed projections into required setbacks are stated in Section C.2.130.B (Encroachment into Required Setbacks).
 3. **Location Limitation for Residential Zones.** A detached accessory building in a residential zone shall be located as follows:
 - a. On the rear half of the lot;
 - b. At least six feet from any dwelling existing or under construction on the same lot; and
 - c. In the R1 and R2 zones, at least 14 feet from a residential structure existing or under construction on any adjacent lot.

E. **Specific Standards.**

1. **Porte-Cocheres.** A porte-cochere may be permitted over a driveway in a required side setback area provided the porte-cochere is no more than 24 feet in length, not closer than three feet from the side lot line, and is entirely open on at least three sides, except for the necessary supporting columns.
2. **Patio Covers.** Patio covers, including but not limited to gazebos and pergolas, must not exceed 12 feet in height.
3. **Built-in Barbeque Pits and Water Features.** Built-in barbecue pits and water features (e.g., fountains) must not exceed six feet in height.
4. **Location Limitation for Community Emergency Caches.** Community emergency caches that do not displace required parking for the site and are located in the rear half of the lot are considered accessory uses.

C.2.030 Affordable Housing

A. **Affordable Housing Ordinance.** All applicable projects must comply with the affordable housing requirements in Milpitas Municipal Code Chapter XII-1 (Affordable Housing Ordinance).

B. **Housing Element Sites.**

1. **Reused Sites.** Reused sites are the opportunity and rezone sites listed in the Milpitas 2023-2031 Housing Element, Appendix E, Tables E-13 and E-14 that are identified for lower-income housing capacity and as a 5th Cycle Housing Element site. On these reused sites, owner-occupied and rental multi-family housing uses shall be allowed by right (i.e., without any discretionary review) when at least 20 percent of the units will be affordable to lower income households.
2. **Rezone Sites.** Rezone sites are those listed in the Milpitas 2023-2031 Housing Element, Appendix E, Table E14 that are identified for lower-income housing capacity. On these rezone sites, the following shall apply:
 - a. Owner-occupied and rental multi-family housing uses shall be allowed by right (i.e., without any discretionary review) when at least 20 percent of the units will be affordable to lower income households.
 - b. 100 percent residential use is allowed.
 - c. A minimum of 50 percent of the floor area in mixed-use projects must be occupied by residential use.

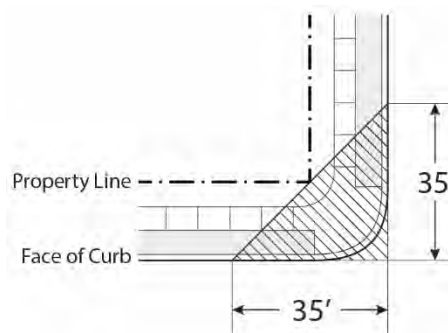
C.2.040 Fences, Walls, and Hedges

A. **Purpose.**

1. This Section establishes standards for fences, walls, dense and continuous hedges, and similar structures to allow for privacy while limiting visual impacts. The purpose of stricter height limits for walls and fences in the front yard is to allow for unobstructed views of traffic to and from driveways; to allow the primary structures on a street to be visible for enhanced safety; and to contribute to the visual character of the neighborhood.

2. This Section establishes standards for all fences and walls, including those not requiring a Building Permit.
- B. **Standards for Fences, Walls, and Hedges in All Zones.** The following standards apply to all fences, walls, and dense and continuous hedges, including all structural support elements (e.g., pilasters, columns, and posts) unless otherwise provided for in this Title.
1. **Measurement of Fence and Wall Height.** See Subsection A.6.090 (Measuring Height and Number of Stories) for rules for measuring fence and wall height.
 2. **Prohibited Fences.** The following fences are prohibited:
 - a. Barbed wire fences within four feet of a public sidewalk;
 - b. Electrically charged or other hazardous fences unless such fencing is required by any City, state, or federal law or regulation or other public agency;
 - c. Chain link fencing unless for recreational sports courts (e.g., tennis courts), or within a commercial or industrial zone where it is an expansion of an existing approved chain link enclosure and it is not visible from the public right-of-way or public property;
 - d. Fences that encroach into any public utility or other easement without written approval from the Public Works Director and all affected utility companies; and
 - e. Fences that encroach into any public easements without written approval from the Public Works Director and all affected public agencies.
 3. **Design.** Concrete block must be finished with stucco (or decorative split-faced block) and capped with a decorative cap. Plain, concrete block material is not allowed for walls or fencing.
 4. **Intersection Visibility.** On corner lots, fences within the visibility triangle (see Figure C.2.040-1 (Visibility Triangle)) may not exceed three feet in height unless approved by the Public Works Director. The visibility triangle is formed by lines extended from the face of the curb to their intersection and a line connecting the face of the curb extensions measured 35 feet from their point of intersection. If no curb exists, the edge of the roadway or vehicular travel area shall be used as the point of measurement.

FIGURE C.2.040-1: VISIBILITY TRIANGLE



5. **Safety.** All fences, walls, and hedges must be constructed or installed and maintained so that they do not constitute a hazard to traffic, persons, or property.

C. Standards for Fences and Walls on the Valley Floor (outside of the “H” Hillside Combining District).

1. **Height Limitations.** Fences, walls, dense and continuous hedges, and similar structures are limited to maximum heights as follows:
 - a. *Within required front setbacks.* 42 inches.
 - b. *Within required street side setbacks.*
 - (i) *Within 10 feet of the property line.* 42 inches.
 - (ii) *10 feet or more from the property line.* Six feet.
 - c. *Within required interior side and rear setbacks.* Six feet.
2. **Exceptions.**
 - a. *Building Code.* Any fences or railings required by the Building Code are allowed to exceed the maximum height established in this Section.
 - b. *Recreational areas.* Fences within a rear or side setback area adjacent to recreational areas, athletic fields, or sports courts may be up to 12 feet in height provided that the portion of the fence higher than six feet is at least 50 percent openwork design.
 - c. *All nonresidential zones.* In nonresidential zones, fences within the rear and side setback areas may be up to eight feet in height when approved by the Director through a Minor Site Development Permit.
 - d. *Residential zones.* In residential zones, fences within the rear and side setback areas may be up to eight feet in height provided written consent of adjoining residential property owners is received. See Milpitas Municipal Code Title II (Building Regulations) for permit requirements.
 - e. *Screening or security.* In commercial, mixed use, and industrial zones, fences or walls used for screening or providing security to mechanical equipment, to provide screening between a parking lot and an abutting residential zone or use (see Subsection C.6.080.I (Screening)), or to provide a buffer between an industrial use and an abutting residential zone or use, may exceed six feet in height to comply with Section C.2.140 (Screening Standards) subject to Review Authority approval.
 - f. *Decorative features.* One entry gateway, trellis, or other entry structure is allowed in the required front or street side setback of each lot, provided that the maximum height or width of the structure does not exceed 10 feet. Such decorative feature shall not have any solid obstruction that exceeds two feet in diameter between the height of three and 10 feet.

D. Standards for Fences and Walls within the “H” Hillside Combining District.

1. **Development Review.** All fences and walls constructed within the crestline zone of protection shall be subject to review and approval by the Planning Commission. Other fences that meet the requirements of this Subsection and do not otherwise require Planning Commission review, may be constructed without further review by the City.

2. **Height Limitations.** Fences and walls shall not exceed 54 inches in height. Also see requirements in Subsection B.22.180.C.11.
3. **Openwork Design.** Fences and walls must be of an openwork design which results in at least 75 percent visual transparency within every square foot area, posts excluded.
4. **Materials.** All fence post and supporting framework material shall be wood in order to maintain the rural character of the hills. Chain link fences and cyclone type fences are not considered an approved material in the area.
5. **Exceptions.**
 - a. The following may be allowed with Planning Commission approval of a Site Development Permit consistent with Chapter B.22 ("H" Hillside Combining District):
 - (i) Fences within the rear and side setback areas which exceed 54 inches in height.
 - (ii) Fences other than an openwork design.
 - (iii) Fences around recreational sports courts (e.g., tennis courts) up to eight feet provided that the portion of the fence higher than six feet is an openwork design approved by the Planning Commission, which may be chain link fencing, and screened from the valley floor consistent with Council Resolution No. 6066 (Hillside Landscaping Water Conservation Policy and Fire Hazard Mitigation Measures). The Planning Commission may approve fencing taller than eight feet in height with a Site Development Permit.
 - (iv) Non-wood material for fence posts.
 - b. Barbed wire fences, using a post material other than wood, may be erected on any parcel two acres or greater without Planning Commission approval.

C.2.050 Height Exceptions

The structures and features listed in Table C.2.050-A (Allowed Projections Above Height Limits) may exceed the maximum permitted building height for the zone in which they are located, subject to the limitations stated and provided that no portion of a structure taller than the building height limit contains habitable areas.

Table C.2.050-A: Allowed Projections Above Height Limits

Structures Allowed Above the Height Limit	Maximum Vertical Projection Above the Height Limit (ft)	Maximum Coverage and Locational Limitation
Skylights	1	None
Chimneys and smokestacks	8	None
Decorative features including spires, cupolas, steeples, bell towers, domes, obelisks, and monuments	10	Limited to a total of 20% of roof area of the building or structure

Table C.2.050-A: Allowed Projections Above Height Limits

Structures Allowed Above the Height Limit	Maximum Vertical Projection Above the Height Limit (ft)	Maximum Coverage and Locational Limitation
Rooftop open space features including sun decks, sunshade and windscreens, trellises, and landscaping		Must be set back from the exterior wall one foot for every foot of projection above the height limit
Elevator and stair towers (for multi-unit residential and nonresidential buildings only)	16	Limited to a total of 10% of roof area Must be set back from the exterior wall one foot for every foot of projection above the height limit
Mechanical equipment	5	Must be set back from the exterior wall one foot for every foot of projection above the height limit and screened consistent with Section C.2.140 (Screening Standards)
Mechanical equipment penthouses	10	Limited to 60% of roof area Must be set back from the exterior wall one foot for every foot of projection above the height limit and screened consistent with Section C.2.140 (Screening Standards)
City utility infrastructure	Consistent with City standard (e.g., light pole height) or as required by law or for public safety	None
Fire escapes, catwalks, and open railings required by law	No restriction	None
Telecommunications facilities, antennas, microwave equipment, and radio towers	Subject to the provisions of Section C.10.240 (Wireless Telecommunications Facilities)	

C.2.060 Incentives

A. Larger Affordable Rental Unit Incentives.

1. **Purpose.** To encourage the construction of larger affordable rental units, incentives shall be offered to eligible projects.
2. **Eligibility.** To be eligible for the incentives described in this Subsection, a project must comply with all of the following:
 - a. The project must include rental units with three or more bedrooms that are deed restricted to a low-income rental price. A low-income rental price shall be affordable to households earning no more than 80 percent of area median income as defined by California Health and Safety Code section 50079.5.
 - b. The project must comply with all requirements in Milpitas Municipal Code Chapter XII-1 (Affordable Housing Ordinance) with no exceptions under Milpitas Municipal Code Section XII-1-4 (Exceptions to On-Site Development of 15 Percent Affordable Units).

3. ***Incentives.*** The following incentives shall be granted to eligible projects:
 - a. Low-income rental units with three or more bedrooms shall count as no more than one dwelling unit for purposes of density calculations.
 - b. The following incentives shall be granted to projects that include at least 40 percent of the total units as low-income rental units with three or more bedrooms:
 - (i) Reduction in required setbacks for the project, up to a maximum reduction of 30 percent.
 - (ii) Reduction in common open space requirements for the project, up to a maximum reduction of 30 percent.
 4. ***Agreement.*** A developer electing incentives under this Section shall execute a legally binding agreement with the City that ensures the affordability of the units qualifying the projects for incentives. The agreement shall be similar to a density bonus agreement described in Section C.12.080 (Density Bonus Agreement).
- B. **Lot Consolidation Incentives.**
1. ***Purpose.*** To encourage the assembly of smaller existing lots into larger lots that can be more efficiently developed into higher density housing or mixed-use projects, incentives shall be offered to eligible projects.
 2. ***Eligibility.***
 - a. The lot consolidation incentive request must be proposed and processed concurrently with a multi-family or residential mixed-use project.
 - b. Consolidation of existing smaller lots into a project site of one acre to two acres shall be eligible for one incentive.
 - c. Consolidation of existing smaller lots into a project site of greater than two acres shall be eligible for two incentives.
 3. ***Incentives.*** The following incentives shall be granted to eligible lot consolidation projects:
 - a. Reduction in required setbacks, up to a maximum reduction of 10 percent.
 - b. Reduction in required guest parking, up to a maximum reduction of 20 percent.
 - c. Reduction in common open space requirements, up to a maximum reduction of 10 percent.
- C. **Sustainability Incentives.**
1. ***Purpose.*** To encourage energy efficiency and building decarbonization, incentives shall be offered to eligible projects.
 2. ***Eligibility.*** Projects that exceed required energy efficiency standards, including but not limited to local, regional, and state building codes, shall be eligible for incentives.
 3. ***Incentives.*** Eligible projects shall receive streamlined review by the Department, as feasible based on Department resources.
- D. **Affordable Housing Density Bonus Incentives.** See Chapter C.12 (Density Bonus for Affordable Housing Developments).

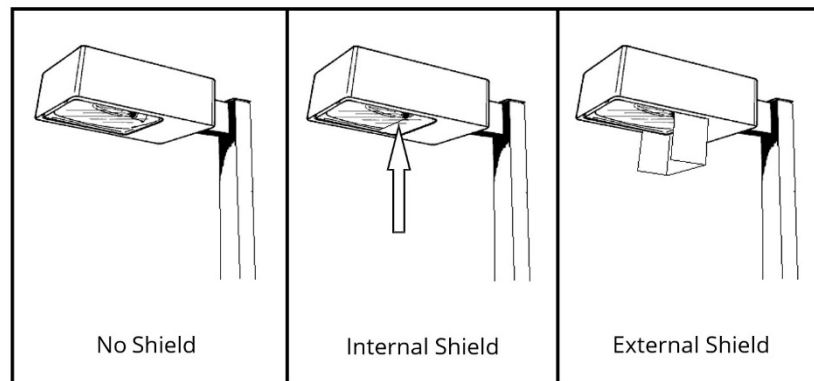
C.2.070 Lighting and Illumination

- A. **Purpose.** The purpose of this Section is to provide standards for outdoor lighting in order to maintain adequate visibility and safety, conserve energy, and protect against glare and excessive lighting. This Section is intended to minimize outdoor artificial light that may have a detrimental effect on the environment and enjoyment of the night sky. These provisions are also intended to reduce the unnecessary intrusion of light onto adjacent properties.
- B. **Applicability.**
1. ***New Projects, Alterations, and Additions.*** The standards in this Section apply to all new construction and to exterior alterations and additions that involve installation of new exterior light fixtures and/or replacement of existing exterior light fixtures. Any new outdoor lighting installed on a building or parcel must meet the requirements of this Title for shielding and lamp type.
 2. ***Exemptions.*** The following lighting is exempt from the provisions of this Section.
 - a. Public and private street lighting.
 - b. Athletic field lights used within a school campus or public or private park.
 - c. Safety and security lighting for public facilities.
 - d. Lighting of state and federal facilities.
 - e. Temporary construction and emergency lighting provided the lighting is discontinued immediately upon completion of the construction work or abatement of the emergency.
 - f. Temporary seasonal lighting related to cultural or religious celebrations using low wattage bulbs (15 lumens or less).
 - g. Underwater lighting that is used for the illumination of swimming pools and decorative water fountains.
 - h. Special event lighting approved by the City.
 3. ***Compliance with Applicable Codes.*** All outdoor lighting fixtures must be installed and maintained in compliance with the provisions of this Section and all applicable Building Codes.
- C. **General Requirements.**
1. ***Design.*** Outdoor lighting shall be designed to be an integral part of the built environment, reflecting a balance for the lighting needs with the contextual ambient light level and surrounding nighttime characteristics of the community, while still employing Crime Prevention Through Environmental Design (CPTED) principles.
 2. ***Controls.*** All exterior lighting must be capable of accepting controls that enable dimmers, timers, motion sensors, or networking to avoid unnecessary lighting and energy use, especially in areas adjacent to sensitive habitat, such as riparian habitat, streams, and wetlands.

3. **Shielding.**

- a. *General.* Exterior lighting shall be shielded or recessed and directed downward and away from adjoining properties and public rights-of-way.
- b. *Partial shielding.* Exterior light fixtures that have a maximum output of 1,000 lumens may be partially shielded using a semi-translucent barrier, provided that the lamp is not visible from offsite, no direct glare is produced, and the fixture has an opaque top to keep light from shining directly up.
- c. *Unshielded fixtures.* Exterior light fixtures that have a maximum output of 400 lumens, regardless of the number of bulbs, may be left unshielded provided that the fixture has an opaque top to prevent the light from shining directly up.
- d. *Accent lighting.* Architectural and landscape features may be illuminated by uplighting, provided that the light is effectively contained by the structure or landscaping, the lamps are low intensity to produce a subtle lighting effect, and no glare or light trespass is produced. For national flags, statues, public art, or other objects of interest that cannot be illuminated with down-lighting, upward lighting may only be used in the form of one narrow-cone spotlight that confines the illumination to the object of interest.
- e. Any light fixture located within 25 feet of a residential zone or public right-of-way must utilize an internal or external shield, with the light fixture and shield oriented to minimize light trespass onto adjacent property or the right-of-way line. If an external shield is used, its surface must be painted black to minimize reflections.

FIGURE C.2.070-1: SHIELDING CONFIGURATIONS



4. **Maximum Height.** Pole-mounted lighting shall comply with the following height standards:

- a. *Within 100 feet of a residential zone.* 16 feet.
- b. *Parking lot illumination.* 15 feet.
- c. *Other locations.* 25 feet.
- d. *Exceptions.* The Review Authority may allow additional height for activities, uses, or development with unique lighting needs, such as accentuating historic

architectural features of a building; accentuating signage and/or landscape features; or for security purposes.

5. **Light Trespass Standard.** All light fixtures must be located, aimed, and shielded to prevent light trespass onto adjacent properties. The light level at the property lines must not exceed 0.3 foot-candles.
6. **Time Limits for Outdoor Lighting.** All outdoor lighting in nonresidential development shall be on a time clock or photo-sensor system and turned off during daylight hours and during hours when the building or all buildings on the site are not in use and the lighting is not required for security.
7. **Lighting that Changes Color.** Decorative lighting that changes colors is only permitted to change color every two minutes.
8. **Sign Illumination.** Standards for external and internal sign illumination are provided in Chapter C.8 (Signs).

D. **Supplemental Requirements.**

1. **Multi-Unit Residential Building Lighting Standards.**
 - a. Lighting in parking, garage, and carport areas shall be maintained with a minimum of one foot-candle of illumination at the ground level during the hours of darkness.
 - b. Aisles, passageways, and recesses related to and within the building complex shall be illuminated with an intensity of at least 0.25 foot-candles at the ground level during the hours of darkness.
2. **Nonresidential Building Lighting Standards.** Ground-floor building façades and other areas, including parking lots, driveways, pedestrian and bicycle circulation areas, and recesses, shall be illuminated with lighting fixtures that meet the following minimum standards:
 - a. All exterior doors: 0.5 foot-candle at ground level.
 - b. Open parking lots: One foot-candle at ground level.
 - c. Pedestrian paths/bike paths: One foot-candle at ground level.
 - d. Covered parking: Five foot-candles at ground level.

E. **Prohibited Outdoor Lighting.** The following types of outdoor lighting are prohibited:

1. Outdoor floodlighting;
2. Searchlights, sky beams, strobe lights, laser lights, or similar high intensity light, except as necessary for official emergency services or for meteorological data gathering purposes;
3. Any lighting device located on the exterior of a building or on the inside of a window which is visible beyond the property boundaries of the lot or parcel with intermittent fading, flashing, blinking, rotating, or strobe light illumination;
4. Lighting that results in glare to motor vehicles on public rights-of-way;
5. Mercury vapor lights; and
6. Aerial lasers.

C.2.080 Objective Design Standards

- A. New residential and mixed-use projects for which state law limits the City's application of design standards to objective standards must comply with the Milpitas Residential and Mixed-Use Objective Design Standards. Eligible projects that comply with the Objective Design Standards shall qualify for streamlined ministerial review consistent with California Government Code section 65913.4.
- B. Where standards of this Title conflict with the Objective Design Standards, the Objective Design Standards control.

C.2.090 Open Space

- A. **Purpose.** This Section establishes standards for open space for residential uses, as required by this Title.
- B. **Configuration.**
 - 1. Private open space typically consists of balconies, decks, patios, fenced yards, and other similar areas outdoor areas that are accessible only to occupants of the residential unit.
 - 2. Common open space typically consists of landscaped areas, patios, swimming pools, barbeque areas, playgrounds, turf, or other such improvements as are appropriate to enhance the outdoor environment of the entire development, and that are accessible to occupants of all residential units in the development; these can be located at the ground level, on parking podiums, or on rooftops, provided they are adequately landscaped.
- C. **Dimensions.** Open space dimensions shall comply with the Milpitas Residential and Mixed-Use Objective Design Standards.
- D. **Usability.** A surface shall be provided that allows convenient use for outdoor living and/or recreation. Such surface may be any practicable combination of lawn, garden, flagstone, wood planking, concrete, or other serviceable, dust-free surfacing. Slope shall not exceed 10 percent.
- E. **Accessibility.**
 - 1. **Private Open Space.** The space shall be accessible to only one dwelling unit by a doorway to a habitable room or hallway.
 - 2. **Common Open Space.** The space shall be accessible to all dwelling units on the lot.

C.2.100 Outdoor Display and Sales

Outdoor display and sales shall be located, developed, and operated in compliance with the following standards.

- A. **Temporary Outdoor Display and Sales.** The temporary outdoor display and sale of merchandise shall comply with Section D.4.040 (Temporary Use Permits).

- B. **Produce Displays.** The outdoor display of fresh produce associated with an existing food and beverage retail sales establishment on the same site is allowed, subject to the following standards:
1. The display shall not disrupt the normal function of the site or its circulation and shall not encroach upon parking spaces, driveways, pedestrian walkways, or required landscaped areas.
 2. All produce shall be removed or enclosed at the close of each business day.
- C. **Permanent or Ongoing Outdoor Display and Sales.** The permanent or ongoing outdoor display of merchandise, except for vehicle sales and leasing, shall comply with the following standards:
1. **Relationship to Primary Use.** The outdoor display and sales area shall be directly related to a business occupying a principal structure on the same parcel.
 2. **Allowable Merchandise.** Only merchandise sold at the business is allowed to be displayed outdoors.
 3. **Location.** The displayed merchandise shall occupy a fixed and defined location, shall not disrupt the normal function of the site or its circulation, and shall not encroach upon parking spaces, driveways, pedestrian walkways, or required landscaped areas.
 4. **Size Limits.** Permitted as an accessory use where the outdoor display and sales occupies less than 200 square feet or five percent of the indoor retail space, whichever is less. Additional area may be allowed with approval of a Minor Conditional Use Permit.
- D. **Outdoor Vending Machines Prohibited.** Outdoor vending machines other than those for the sale of newspapers is prohibited.

C.2.110 Performance Standards

- A. **Purpose.** The purposes of this Section are to:
1. Ensure that uses and activities are conducted in a manner that protects the public health and safety and does not produce adverse impacts on surrounding properties or the community at large.
 2. Establish permissible limits and permit objective measurement of nuisances, hazards, and objectionable conditions; and
 3. Protect industry from arbitrary exclusion from areas of Milpitas.
- B. **Applicability.** The standards of this Section apply to all uses and properties in all zones, unless otherwise specified. The standards established by this Section are minimum requirements and shall not be construed to prevent the Council, the Planning Commission, or the Director from imposing, as part of a project approval, specific conditions which may be more restrictive, in order to meet the intent of these regulations.
- C. **Measurement of Impacts.** Measurements necessary for determining compliance with the performance standards of this Section shall be taken at the property line of the establishment or use that is the source of a potentially objectionable condition, hazard, or nuisance.
- D. **Electromagnetic Interference.** Uses, activities, and processes shall not cause electromagnetic interference with normal radio and television reception, or with the function of other electronic

equipment beyond the lot line of the site in which it is situated. All uses, activities, and processes shall comply with the applicable Federal Communications Commission regulations.

- E. **Radioactivity.** No radiation of any kind shall be emitted that is dangerous to humans.
- F. **Fire and Explosive Hazards.** All activities, processes, or uses involving the storage, use of, transportation, or production of products which, in the raw or finished state, constitute a flammable or explosive material or volatile extraction, shall be subject to approval by the Fire Department. All incineration is prohibited except for those substances including, but not limited to, chemicals, insecticides, hospital materials and waste products required by law to be disposed of by burning, and those instances where the Fire Department deems it a practical necessity.
- G. **Glare.** Uses, activities, buildings, structures, and processes shall not produce glare perceptible beyond the boundaries of the lot where the use is located. Exterior lighting must comply with Section C.2.070 (Lighting and Illumination).
- H. **Hazardous Materials.** The use, handling, storage, and transportation of hazardous and extremely hazardous materials shall comply with the provisions of the California Hazardous Materials Regulations, the California Fire and Building Codes, Milpitas Municipal Code Chapter V-300 (Fire Code), as well as the laws and regulations of the California Department of Toxic Substances Control and the County of Santa Clara Environmental Health Department.
- I. **Heat and Humidity.** Uses, activities, and processes shall not produce any emissions of heat or humidity that cause distress, physical discomfort, or injury to a reasonable person, or interfere with the ability to perform work tasks or conduct other customary activities. In no case shall heat emitted by a use cause a temperature increase of more than five degrees Fahrenheit on another property.
- J. **Noise.** Noise standards are established in the Noise Element of the General Plan and Milpitas Municipal Code Chapter V-213 (Noise Abatement). Additionally, the following standards shall apply.
 - 1. **Acoustic Study.** An acoustic study shall be required for any proposed project which could create or be subject to a noise that exceeds the levels contained in Tables N-1, N-2, and N-3 in the General Plan.
 - 2. **Noise Attenuation Measures.**
 - a. Noise attenuation measures identified in an acoustic study shall be incorporated into the project to reduce noise impacts to satisfactory levels as determined by the Director.
 - b. Emphasis shall be placed upon site planning and project design measures. The use of noise barriers shall be considered and may be required only after all feasible design-related noise measures have been incorporated into the project.
 - 3. **Public Areas.** Recorded background music may be permitted outdoors on public sidewalks and in other public areas subject to the standards of this Title and Milpitas Municipal Code V-213 (Noise Abatement).
- K. **Odors.**
 - 1. No use, process, or activity shall produce odors that are perceptible without instruments at the lot lines of a site. Odors from temporary construction, demolition, and vehicles that

enter and leave the subject lot (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard.

2. An odor detected no more than a total of 15 minutes in any one day shall not be deemed to be continuous, frequent, or repetitive.

L. Air Contaminants.

1. Uses, activities, and processes shall not operate in a manner that emits excessive dust, fumes, or particulate matter.
2. Sources of air emissions shall comply with regulations established by the Environmental Protection Agency, the California Air Resources Board, and the Bay Area Air Quality Management Control District (BAAQMD). Operators of activities, processes, or uses that require “approval to operate” from the BAAQMD, shall file a copy of the permit with the Department within 30 days of permit approval.

M. Vibration.

1. No vibration shall be produced that is transmitted through the ground and is discernible without the aid of instruments by a reasonable person at the lot lines of the site.
2. Vibrations from temporary construction, demolition, and vehicles that enter and leave the subject lot (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard.

N. Liquid or Solid Wastes. The handling of liquid or solid wastes shall comply with Milpitas Municipal Code Chapter VIII-2 (Milpitas Sanitary Code), Chapter V-3 (Sewage Disposal), and Chapter V-200 (Solid Waste Management), and applicable regulations established by the State Water Resources Control Board and any other public agency.

O. Hours of Operation. Hours of operation for all uses, activities, and processes may be regulated as determined by the Director, through the conditions of project approval, in order to mitigate impacts on surrounding uses and ensure compliance with the provisions of this Title.

C.2.120 Refuse and Recycling Areas

- A. Purpose.** This Section establishes standards for refuse and recycling areas consistent with California Public Resources Code section 42900 et seq. and section 40050 et seq.
- B. Applicability.** Areas for collecting and loading refuse and recyclable materials are required for any project for which a Building Permit is required, except as follows:
 1. Projects that consist of interior improvements only; or
 2. Single-family dwellings and other uses which participate in the City’s curbside trash and recycling program.
- C. Size and Number.** Refuse and recycling collection areas and bins shall be adequate in capacity, number, and distribution to accommodate all trash, garbage, recyclables, green waste, organic waste, and any other waste until such items are picked up by the City or its contracted collector.
- D. Screening.** Refuse and recycling areas or bins shall be stored or screened in such a manner that containers are not visible from the right-of-way at the front of the property.

- E. **Enclosures.** Enclosures for dumpsters must comply with the following:
1. When located on the street side of a corner lot, the enclosure must be set back at least as far as the main building.
 2. The enclosure must be constructed as a masonry wall using cement block, split-face block, or similar masonry materials. Colors and materials used on the enclosure must complement the colors and materials on the building.
 3. Gates shall be solid metal, or other equivalent material approved by the Director, and painted to match the enclosure.
 4. The enclosure shall screen the dumpsters, trash compactors, or any other equipment.
 5. No net reduction in the number of on-site trees and no loss of protected trees, as defined in Milpitas Municipal Code Section X-2-7.01 (Existing Trees Protected), may be approved to accommodate an enclosure.
 6. Trash enclosures shall be located as far away as possible from residential zones and residential uses.
- F. **Recycling Areas.** The design and construction of recycling areas shall be reviewed and approved in accordance with the City Development Guidelines for Solid Waste Services.

C.2.130 Setbacks and Encroachment into Required Setbacks

- A. **Setbacks.** Projects shall comply with the required setbacks of the zone in which it is located consistent with Part XIII-B (Zone Regulations) except as follows.
1. **Front Setbacks.**
 - a. *Infill development between projecting buildings.* Where a lot is located between two lots, each of which has a main building that is within 25 feet of its side lot lines, which projects beyond the required front setback line and has been so maintained since March 15, 1955, the front setback may be the average of the front yards of the two adjacent buildings.
 - b. *Sloping lot.* Where the elevation of the ground at a point 50 feet from the front lot line and midway between the side lot lines, differs 10 feet or more from the curb level, or where the slope (measured in the general direction of the side lot lines) is 20 percent or more on at least one-quarter of the depth of the lot, the front yard may be reduced to 50 percent of the required setback.
 2. **Rear Setbacks.**
 - a. *Alleys.* The depth of a required rear setback area may include one-half of the width of an abutting alley.

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sidewalks, paths, trails, and other public facilities may be constructed within the setback.

- B. **Encroachments into Required Setbacks.** Encroachments into required setback areas are allowed consistent with Table C.2.130-A (Allowed Encroachments into Required Setbacks), subject to all applicable requirements of the Building and Fire Codes and any easements.

Table C.2.130-A: Allowed Encroachments into Required Setbacks

Projection	Front or Street Side Setback (max.)	Interior Side Setback (max.)	Rear Setback (max.)	Limitations
All projections	No projection may extend closer than 3 ft to an interior lot line unless a setback of less than 3 ft is required or into a public utility or other easement. Where any allowance of this Title conflicts with applicable Building or Fire Codes, the more restrictive shall apply			
Uncovered stairs, ramps, stoops, landings, decks, balconies, porches, platforms, and walkways	Any railing that is part of one of these projections is allowed provided the railing is an openwork design and does not exceed 3.5 ft in height			
All elements 18 inches or less above ground elevation	30 in R4 Zone: 6 ft	Must not be located closer than 3 ft to an interior side or rear lot line unless a setback of less than 3 ft is required		Walkways 4 ft in width or less may encroach to the property line
All elements more than 18 inches above ground elevation	30 in R4 Zone: 6 ft	30 in R4 Zone: 6 ft Must not be located closer than 3 ft to an interior side lot line unless a setback of less than 3 ft is required	4 ft Must not be located closer than 3 ft to a rear lot line unless a setback of less than 3 ft is required	n/a
In-ground pools/spas and associated decking (no more than 18 inches above ground)	None	Must not be located closer than 3 ft to an interior side or rear lot line unless a setback of less than 3 ft is required.		n/a
Covered patios, trellises, gazebos, and porches	None	Must not be located closer than 3 ft to an interior side or rear lot line unless a setback of less than 3 ft is required		Must be unenclosed on 3 sides except for required vertical supports, insect screening, and kickboards not exceeding 1 ft in height measured from ground level

Table C.2.130-A: Allowed Encroachments into Required Setbacks

Projection	Front or Street Side Setback (max.)	Interior Side Setback (max.)	Rear Setback (max.)	Limitations
Cornices, eaves, canopies, awnings, chimneys, foundationless bay windows, and similar architectural features	30 in	30 in R4 Zone: 6 ft	30 in	Must not be located closer than 3 ft to any side lot line unless a setback of less than 3 ft is required
Utility or mechanical equipment structures	None	Must not be located closer than 3 ft to an interior side or rear lot line unless a setback of less than 3 ft is required.		
Ramps and similar structures that provide access for persons with disabilities	Must not be located closer than 3 ft to any lot line unless a setback of less than 3 ft is required Any railing that is part of one of these projections is allowed provided the railing is an openwork design and does not exceed 3.5 ft in height Reasonable accommodation will be made consistent with Subsection D.2.050.K (Reasonable Accommodation) for additional encroachments			
Fire escapes required by law or public agency regulation	4 ft	4 ft	4 ft	n/a

C.2.140 Screening Standards

- A. **Purpose.** This Section establishes standards for the screening and separation of abutting residential and nonresidential uses, outdoor storage areas, and equipment to minimize visual and other potential impacts on adjacent lots and surrounding areas.
- B. **Screening and Buffer Abutting Residential Zones and Uses.**
1. **Industrial Uses.**
 - a. Industrial activities must maintain a minimum 15-foot separation from any abutting residential zone or residential use unless a larger setback is required by Part B (Zone Regulations). For additional industrial separation requirements, see Section B.10.040 (Industrial Zones Supplemental Standards).
 - b. A minimum six-foot masonry or solid fence and/or screening landscaping must be provided and maintained on the interior lot lines of any lot that contains an industrial use and abuts a residential zone or residential use.
 2. **Commercial Uses.** Commercial structures and activities must maintain a minimum 10-foot separation from any abutting residential zone or residential use unless a larger setback is required by Part B (Zone Regulations). The 10-foot buffer area must be landscaped consistent with Chapter C.4 (Landscaping).

- C. **Outdoor Storage.** Outdoor storage areas shall be screened from view from any adjacent public street or freeway, existing or planned residential area, or publicly accessible open space area with a solid wall or tight board fence that is:
1. Tall enough to sufficiently screen stored material; and
 2. Consistent with this Title; however, the fence or wall may exceed the maximum allowable height consistent with Chapter D.2 (Procedures).
 3. **Exceptions.**
 - a. Temporary storage of materials reasonably required for construction work on the premises in compliance with a valid Grading Permit or Building Permit.
 - b. Outdoor sales or uses that by their nature provide outdoor storage, such as auto, trailer, and boat dealers, and equipment rental specified as an allowed land use in the applicable zone.
- D. **Equipment Screening.**
1. **Ground-Mounted Equipment.** Ground-mounted equipment including, but not limited to, air conditioning units, landscape irrigation controls, transformers, communication equipment, gas meters, water meters, standpipes, fire sprinkler connectors, tanks and other exterior equipment shall comply with the following standards:
 - a. *Location.* Ground-mounted equipment must be located outside the front setback and, when no front setback is required, ground-mounted equipment must be outside the area between the street and the building closest to the street. Where it is infeasible to locate ground-mounted equipment outside the front setback, ground-mounted equipment located in the front yard must be screened from public view as provided for in Subsection C.2.140.D.1.b (Screening) below.
 - b. *Screening.* Equipment shall be completely screened from view from all public and private streets by dense shrubbery, masonry wall such as split face block or masonry finished to match the building, or other solid screening material utilizing colors and materials which complement the building. Wall and fences must comply with Section C.2.040 (Fences, Walls, and Hedges).
 - c. No net reduction in the number of on-site trees, and no loss of protected trees, as defined in Milpitas Municipal Code Section X-2-7.01 (Existing Trees Protected), are allowed for the placement of any ground-mounted equipment.
 - d. *Height of ground-mounted equipment.*
 - (i) In commercial and industrial zones, the installed height of the transformer, tank, or equipment shall not exceed the height of the building. Equipment exceeding building height may be approved by the Director if it is proposed at the rear of the building, and the applicant can demonstrate that the equipment will not be seen from the public right-of-way.
 - (ii) If adjacent to a residential zone, mixed use zone, or a residential use, the maximum installed height shall not exceed six feet.
 - e. Generators are not allowed adjacent to residential zones or residential use.

2. **Rooftop Equipment.** All rooftop equipment including, but not limited to, air conditioning units, and mechanical equipment shall be shielded and architecturally screened from view from on-site parking areas, adjacent public streets, and adjacent residential zones as follows:
 - a. All rooftop equipment shall be placed so that it is screened by a screening wall, parapet wall, equipment well, or other device approved by the Review Authority and not visible from public rights-of-way. Exceptions may be granted by the Review Authority where screening is infeasible due to health and safety, structural limitations, or utility requirements.
 - b. Rooftop equipment screening shall match or be complementary in material and color to the exterior building and may include metal panels, parapet walls, or screens constructed of exterior grade plywood or other durable materials.

C.2.150 **Underground Utilities**

- A. **Residential Zones.**
 1. Where the allowable dwelling units exceed six for a single parcel or the total area to be subdivided exceeds three acres, all on-site utilities must be placed underground.
 2. Television antennas must be centralized for structures of four or more units.
- B. **Mixed Use, Commercial, and Industrial Zones.** All electrical, telephone, cable television, and similar distribution lines providing direct service to new development shall be installed underground within the site.
- C. **Waiver.** Undergrounding requirements may be waived by the Review Authority upon determining that underground installation is unreasonable or impractical consistent with Milpitas Municipal Code Subsection XI-1.02 (Utilities).

Chapter C.4 Landscaping Standards

Sections:

- C.4.010 Purpose
- C.4.020 Applicability
- C.4.030 Landscape Plan
- C.4.040 Areas to be Landscaped
- C.4.050 General Landscaping Standards
- C.4.060 Tree Preservation and Maintenance

C.4.010 Purpose

- A. The purpose of this Chapter is to:
1. Improve the appearance of the community by requiring permanently maintained landscaping;
 2. Aid in energy conservation by providing shade from the sun and shelter from the wind;
 3. Promote conservation and efficient use of water;
 4. Improve the appearance of parking lots and other development through landscaping;
 5. Minimize or eliminate conflicts between potentially incompatible but otherwise allowed land uses on adjoining lots through landscaping;
 6. Provide opportunities for carbon sequestration;
 7. Improve environmental quality by recognizing the many beneficial effects of landscaping, including:
 - a. Improving air and water quality through natural processes such as photosynthesis and mineral uptake;
 - b. Maintaining permeable land areas essential to surface water management and aquifer recharge;
 - c. Reducing and reversing air, noise, heat, and chemical pollution through the biological filtering capabilities of trees and other vegetation; and
 8. Preserve existing established tree canopy.

C.4.020 Applicability

- A. **General Applicability.** This Chapter applies to all new development and improvement of existing uses in Milpitas, including any construction, expansion, or improvement on private property, which requires the issuance of a Building Permit or other approval by the City unless excepted under Subsection C.4.020.B (Exceptions).

- B. **Exceptions.** This Chapter shall not apply to the following:
1. An addition or alteration to an existing single-family dwelling;
 2. Construction of accessory dwelling units (see Section C.10.030 (Accessory Dwelling Units and Junior Accessory Dwelling Units));
 3. Construction of accessory structures;
 4. New project landscape areas of less than 500 square feet;
 5. Rehabilitated landscape areas of less than 2,500 square feet;
 6. Registered local, state, or federal historic sites; and
 7. Ecological restoration projects.
- C. **“H” Hillside Combining District.** Landscaping in the “H” Hillside Combining District must comply with City Council Resolution No. 6066.
- D. **Water Efficient Landscapes.** All landscaping and irrigation shall comply with Chapter VIII-5 (Water Efficient Landscapes).
- E. **Nonconforming Landscaping.** Landscaping that is not consistent with this Chapter shall comply with Section C.18.060.B (Nonconforming Landscaping).
- F. **Multi-Family and Mixed-Use Projects.** Landscaping for multi-family and mixed-use projects shall comply with the Milpitas Residential and Mixed-Use Objective Design Standards.
- G. **Stormwater Management and Landscape Areas.** Landscaped areas may be used for stormwater management practices consistent with Milpitas Municipal Code Chapter XI-16 (Stormwater and Urban Runoff Pollution Control) provided the requirements of this Chapter are met.

C.4.030 Landscape Plan

- A. **Application Requirements.**
1. **Filing and Review.** A conceptual landscape plan demonstrating compliance with the standards of this Chapter shall be prepared, filed, and processed concurrently with any required planning permit or approval in compliance with Chapter D.2 (Procedures) and this Section. If no planning permit or approval is required, a landscape plan shall be submitted as part of a Building Permit, Grading Permit, or other similar application. If applicable, the landscape plan may be combined with the Landscape Documentation Package required by Milpitas Municipal Code Chapter VIII-5 (Water Efficient Landscapes).
 2. **Preparation by Landscape Professional.** All landscape plans for commercial, industrial, institutional, and residential projects consisting of two or more, shall be prepared by a California registered landscape architect or licensed landscape contractor. A written statement from the landscape professional must be included on the landscape plan indicating compliance with this Chapter.
- B. **Alternative Landscape Plan Requirements.**
1. **Purpose.** An applicant may demonstrate that the intent of the landscape requirements of this Chapter can be achieved through an alternative landscape plan.

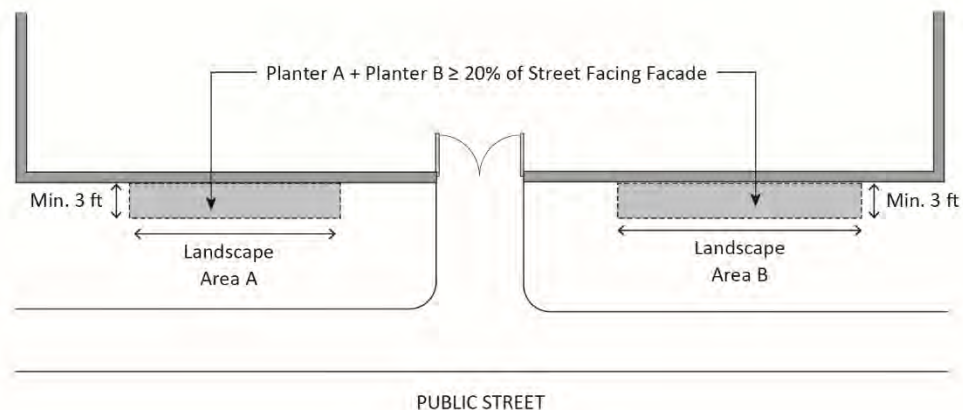
2. **Filing and Review.** An alternative landscape plan shall be filed and processed in the same manner as a conceptual landscape plan consistent with Subsection C.4.030.A (Application Requirements); however, an alternative landscape plan must clearly detail the modifications being requested from the standards of this Chapter.
3. **Criteria for Approval.** The Review Authority may approve a landscape plan, with or without conditions of approval, only after finding that the landscape plan meets one or more of the following criteria:
 - a. Innovative use of plant materials and design techniques in response to unique characteristics of the site or the proposed use;
 - b. Preservation or incorporation of existing native vegetation and documentation and proposed removal of existing invasive species;
 - c. Integration of landscaping and pedestrian facilities in a manner that improves access or incorporates pedestrian-friendly design; this may include reduced ground-level planting along the street or within the front setback area if canopy shade trees along sidewalks are provided; and/or
 - d. Use of additional shade trees to create a greater canopy effect.

C.4.040 Areas to be Landscaped

A. Front and Street-Side Setbacks.

1. All required front and street-side setback areas, except for areas used for vehicles (i.e., parking and driveways), must be landscaped.
2. A landscaped area must be installed between a wall or fence that fronts a street and the property line unless the wall or fence is at the property line.
3. The portions of a nonresidential building that are greater than two feet from the property line and that front a public street must have one or more landscape planters installed along a minimum of 20 percent of the building facade. The minimum width of the planter must be three feet or the entire distance between the building and the property line.

FIGURE C.4.040-1: NONRESIDENTIAL BUILDING PERIMETER LANDSCAPING



4. Where buildings are located at the back of the sidewalk on the property line or within two feet of a property line, no landscaped areas are required; however, the sidewalk must be extended to the front of the building and constructed with materials that match the surface of the existing sidewalk.
- B. Interior Side and Rear Setbacks.**
1. **General.** All required interior side and rear setback areas must be landscaped.
 2. **Abutting Residential Zones or Uses.** Wherever a nonresidential use is located adjacent to a residential zone or use, a landscape buffer shall be provided along interior property lines.
 - a. **Buffer yard landscaping.** At least one tree of at least 15-gallon size shall be planted per 20 lineal feet to create a tree canopy over the buffer yard. At least 10 percent of the required trees shall be 24-inch box size, or a minimum of one tree when five to 10 trees are required. In addition, at least three shrubs shall be planted per 20 lineal feet.
 - b. **Buffer yard width.** The buffer yard between a nonresidential use and a residential zone or use must comply with the following widths:
 - (i) **Industrial use.** Ten foot wide landscaped buffer yard.
 - (ii) **Other nonresidential uses.** Six foot wide landscaped buffer yard.
- C. Common Open Space Areas.** All common open space areas in residential and nonresidential projects must be landscaped.
- D. Unused Areas.** All areas of a project site not intended for a specific use, including areas planned for future phases of a phased development, must be landscaped or left in a natural state. The Director may waive this requirement for areas planned for near-term future development.
- E. Parking Areas.** The following standards apply to parking areas for multi-family projects with five or more units and nonresidential parking area with 10 or more spaces.
1. **Minimum Landscaped Area in Parking Areas.** A minimum of 15 percent of the total off-street open parking area shall be landscaped with a mixture of trees, shrubs, ground cover, and other plant material, except that only 10 percent is required in the BPRD Zone.
 2. **Parking Area Landscaping Along the Public Right-of-Way.** Along the public right-of-way adjacent to any street front parking there must be a minimum landscape planting area 10 feet wide; however, portions of the right-of-way landscape strip may be reduced to five feet when in the opinion of the Director the following conditions are met:
 - a. The total amount of required landscaping, as calculated by applying the 10-foot width requirement, is met along the same street frontage, or the size, configuration, topography, or other condition on the site would make the 10-foot requirement impractical.
 - b. The reduction does not preclude the requirement for adequate shading or screening of the parking area; and
 - c. The reduction in required width does not impede compliance with any other landscape requirement.

3. ***Tree Planters Within Parking Areas.***

- a. *Tree well dimension.* Tree wells shall have a minimum five-foot dimension between parking spaces.
- b. *Residential parking.* Contiguous parking spaces shall not exceed six spaces without a tree well.
- c. *Nonresidential parking.* Contiguous parking spaces shall not exceed eight spaces without a tree well.

4. ***Landscaping Adjacent to Paved Areas.***

- a. All landscaped areas located adjacent to driveways, loading areas, parking lots and sidewalks must be protected along the parking lot side with curbs or wheel stops, or alternative treatments subject to Review Authority approval.
- b. A six-inch high curb must be constructed around planter islands.
- c. *Shade requirements for surface parking areas.* Shade trees must be installed to provide shade over 50 percent of a vehicle parking area within 15 years. Areas within the parking area that are excluded from the total vehicle parking area shade requirement include:
 - (i) The surface parking area covered by solar photovoltaic shade structures, or shade structures;
 - (ii) Truck loading in front of overhead doors;
 - (iii) Truck maneuvering and main access roads and driveways not used as back-up areas; and
 - (iv) Surfaced areas for automobile dealerships and areas used for display, service, and vehicle storage.

C.4.050 General Landscaping Standards

A. **General.**

1. ***Landscape Components.***

- a. Required landscaped areas must be planted with a combination of ground covers, shrubs, vines, and trees.
- b. Landscaped areas may also include incidental features including stepping stones, benches, fountains, sculptures, decorative stones, or other ornamental features, placed within a landscaped setting.
- c. Garden areas and other areas dedicated to edible plants are considered landscaped areas and count toward required landscaping.

2. ***Mulch.*** Landscaped areas shall be top-dressed with a bark chip mulch or an approved alternative, such as those described in Subsection C.4.050.D (Ground Cover Materials), to avoid exposed bare soil.

3. ***Soil Depth.*** Planting in above grade courtyards shall have a minimum soil depth of 12 inches for ground cover, 20 inches for shrubs, and 36 inches for trees.

4. **Water Features.** Recirculating water must be used for all decorative water features. Where available, water features must use recycled water.
- B. **Drought-Tolerant Species.** A minimum of 75 percent of non-turf landscaped areas shall be planted with native or drought-tolerant planting (as identified in the Bay Friendly Landscape Plant Lists or East Bay Municipal Utility District Plants and Landscapes for Summer-Dry Climates guidebook).
 - C. **Invasive Plants Prohibited.** Plant species that are listed by the California Invasive Plan Council (Cal-IPC) as invasive are prohibited. Existing invasive plants and noxious weeds must be removed prior to issuance of a Certificate of Occupancy for a new project.
 - D. **Ground Cover Materials.**
 1. Crushed rock, mulch, pebbles, stones, and similar non-plant materials, including paved or gravel surfaces, may comprise up to 50 percent of the total required landscaped area.
 2. Paved or graveled surfaces may not exceed 10 percent of the total required landscaped area.
 - E. **Turf Allowance.**
 1. **Natural Turf.** Natural turf areas must be limited to activity or recreation areas.
 2. **Synthetic Turf.** Synthetic turf may be used as a substitute for natural turf for the purposes of water conservation or in high activity or foot-traffic areas (e.g., sports fields, etc.). The following standards apply to synthetic turf.
 - a. Synthetic turf must consist of lifelike individual blades of grass that emulate real grass in look and color and have a minimum pile height of one and one-half inches, unless a lower pile height is required for turf functionality (e.g., athletic field, putting green, etc.).
 - b. A permeable base and drainage system approved by the City Engineer must be installed underneath the synthetic turf.
 - c. Synthetic turf must be installed in combination with natural plant materials (e.g., trees, shrubs, and groundcover) to enhance the overall landscaping design.
 3. **Turf Location.** Turf must be located a minimum of six feet from any tree and may not be installed on slopes greater than 25 percent.
 - F. **Size and Spacing.** To achieve an immediate effect of a landscape installation and to allow sustained growth of planting materials, minimum plant material sizes, plant spacing, and minimum planter widths (inside measurements) are as follows:
 1. **Ground Covers.** Ground cover plants other than grass must have a minimum container size of four inches. Areas planted in ground cover plants other than grass seed or sod must be planted at a rate of one ground cover plant per 12 inches on center or less, except this may be increased to 24 inches on center in the BPRD Zone.
 2. **Shrubs.**
 - a. All proposed shrubs except accent, color, or ground cover planting shall be a minimum five gallons in size, except this may be decreased to a one-gallon

minimum size in the BPRD Zone. However, a 15-gallon minimum size shall be required for screening purposes.

- b. The minimum planter width for shrubs is three feet.

G. Trees and Shade.

1. Street Trees.

- a. A minimum of one street tree per frontage must be provided, at a minimum average of one tree per 35 linear feet of sidewalk length or street frontage (i.e., 35 feet apart on center). If these are not provided in a landscaped parkway strip between the sidewalk and curb, they must be provided on private property along the street. Corner lots must provide a minimum of two trees (i.e., a minimum of one tree on each frontage).
- b. Trees must be planted and spaced to achieve a 50 percent canopy cover after 15 years. Trees must be drawn to scale representing the canopy size at 15 years of growth on the landscape plan.
- c. Street trees must comply with Milpitas Municipal Code Chapter X-2 (Tree Maintenance and Protection).

2. Shade Requirements.

- a. *Shaded landscape areas.* Shade trees must be planted to provide shade that covers 30 percent of the landscape areas within 15 years.
- b. *Shaded hardscape areas.* Shade trees must be planted to provide shade that covers 50 percent of hardscape areas, not including parking areas (see Subsection C.6.080.J (Landscaping)), within 15 years.
- c. *Metro Specific Plan zones.* Shade trees within Metro Specific Plan zones shall be provided as follows:
 - (i) One tree per 5,000 square feet of residential building footprint; and
 - (ii) One tree per 10,000 square feet of developed lot area for nonresidential or mixed-use development.

- 3. **R1 Zone.** Projects in the R1 Zone must comply with the standard of this Chapter, and in no case shall fewer than two trees be required on any developed lot in the R1 Zone.

4. Tree Size and Spacing.

- a. The minimum planting size for trees shall be 15-gallon with a one-inch diameter at breast height (DBH), and with 25 percent of all trees on a project site planted at a minimum 24-inch box size, except this may be decreased to a 15 percent in the BPRD Zone.
- b. Any tree that cannot be planted in the ground shall be planted in a planter box at least twice the width and depth of the root ball plus one additional foot in container diameter for every four feet of mature tree height. The minimum planter area for trees shall be five feet by five feet.

- c. Any tree planted along a lot line or adjacent to a structure must be no closer to the lot line or structure than one-half the diameter of the species' drip line at maturity, measured from the center of the tree.
 5. **Cumulative Requirement.** Other trees required by this Title apply in addition to the requirements of this Subsection. When it is determined that it is not possible to place all required trees on the site, an applicant may request the Review Authority to allow planting in a nearby public facility or payment of an in-lieu fee to replace a portion of the total number of required trees.
 6. **Tree Staking.** Newly planted trees must be staked with supporting metal, wood, or equivalent stakes as approved by the Director, firmly anchored into the ground, and set 12 inches away from the tree trunk on the prevailing wind side. Alternatively, newly planted trees may be supported with double stakes or guy wires and tree guards in accordance with International Society for Arboriculture (ISA) and American National Standards Institute (ANSI) standards. Nursery stakes must be removed when setting the support stakes. Stakes must be removed once trees can stand by themselves.
- H. **Installation and Completion.**
1. **Consistency with Approved Plans.** All landscaping must be installed consistent with approved plans and specifications in a manner designed to encourage and maintain healthy plant growth.
 2. **Timing of Installation.** Required landscaping must be installed prior to the issuance of a Certificate of Occupancy for the associated project. However, the Director may allow the required landscaping to be installed within 120 days after the issuance of a Certificate of Occupancy in special circumstances related to weather conditions or the availability of plants and other landscape materials. A surety in the amount equal to 150 percent of the estimated cost of landscaping, including materials and labor, as well as an agreement that the required landscaping will be installed within 120 days, shall be filed with the City to assure completion of landscaping installation within such time. The surety may take the form of cash deposit, irrevocable letter of credit, or bond; and together with the agreement, would provide for payment to the City of any costs incurred in contracting for completion of the required landscaping.
 3. **Certification of Completion.** Upon completion of the installation of the landscaping and irrigation system, a field observation shall be completed by the licensed project contractor and a Certificate of Completion shall be submitted to the City by the licensed project contractor. The Certificate must specifically indicate that the plants were installed as specified and that the irrigation system was installed as designed, along with a list of any deficiencies.
- I. **Maintenance.**
1. All required landscaping and structural landscape features such as water features, must be maintained in a healthy condition consistent with the approved landscape plans and to not create a nuisance consistent with Milpitas Municipal Code Chapter V-500 (Neighborhood Beautification). Maintenance includes watering, fertilizing, weeding, cleaning, pruning, trimming, spraying, and cultivating.
 2. All landscape materials must be maintained free from physical damage or injury arising from lack of water, chemical damage, accidents, vandalism, insects, and diseases. Dying,

decayed, untrimmed, or plant materials showing such damage must be remedied, or replaced in kind consistent with an approved landscape plan.

3. At minimum, trees must be maintained in compliance with Section C.4.060 (Tree Preservation and Maintenance).
4. Prior to the re-occupancy of a building with existing landscaping, all portions of damaged or defective irrigation systems and dead, dying, or damaged ground cover, shrubs, and trees must be replaced.
5. All landscaped areas in a public street, sidewalk, or right-of-way that is abutting a property must be maintained by the adjoining property owner, unless it is maintained through another mechanism such as a homeowner's association or business improvement district.
6. Landscaping must not obstruct a public street, intersection, sidewalk, or right-of-way either physically or visually as determined by the Public Works Director.

C.4.060 Tree Preservation and Maintenance

- A. **Purpose.** This Section is intended to support the preservation and maintenance of trees to promote public health, safety, and general welfare.
- B. **Tree Maintenance and Protection.** Trees shall be maintained and protected consistent with Milpitas Municipal Code Chapter X-2 (Tree Maintenance and Protection).
- C. **Tree Removal Permit.** Prior to the removal of any protected tree, as defined in Milpitas Municipal Code Section X-2-7.01 (Existing Trees Protected), associated with a development project, a Tree Removal Permit shall be approved by the Public Works Department consistent with Milpitas Municipal Code Section X-2-4.02 (Permit Required for Removal).
- D. **Tree Protection During Construction.** Trees on a construction site must be protected from encroachment, damage, and destruction by construction activities.
 1. **Tree Removal and Protection Plan.** A tree removal and protection plan shall be required prior to construction on any property or site containing one or more trees. The tree removal and protection plan must clearly depict all trees and include tree protection measures that comply with this Section.
 2. **Tree Protection Measures.** Except as otherwise allowed by the Director, all required tree protection measures must be instituted prior to any construction site activities, including clearing, grading, excavation, or demolition work, and shall be removed only after completion of all construction activity, including landscaping and irrigation installation.
 - a. Temporary fencing must be installed along the outer edge of the tree drip lines in compliance with the following:
 - (i) Fencing shall be flush with the initial (undisturbed) grade;
 - (ii) Temporary fencing must be polyethylene laminar safety fences or a similar material a minimum of four feet in height and supported on stakes that are securely embedded into the ground;
 - (iii) Temporary fencing must not be attached to trees;

- (iv) No construction activity may occur within the temporary fencing area, and these areas must be kept free of construction materials, vehicles, equipment, and debris; and
 - (v) Temporary fencing must be installed prior and maintained throughout all land disturbance activities and must not be removed until landscaping is installed or a financial assurance is posted for the required landscaping.
- b. When proposed buildings or improvements encroach into the drip line of any tree, special construction practices are required as determined by the Director and based upon recommendations of a certified arborist's or landscape professional's report.
- c. The existing ground surface within four feet (measured horizontally) of the base of any tree must not be cut, filled, or compacted. Tree wells may be used where advised and excavation adjacent to any tree shall not be permitted where damage to the root system will result, as determined by a certified arborist or landscape architect.
- d. No oil, gas, chemicals, heavy construction machinery or other construction materials must be stored within 10 feet of any tree trunk.
- e. No wires, unless those needed for the support of any tree, or signs other than small tree identification signs, must be attached to any tree.
- f. The Director shall be notified by any contractor, developer, or owner of any damage that occurs to a tree during construction so that the contractor may administer proper treatment.

Chapter C.6 Parking and Loading

Sections:

- C.6.010 Purpose
- C.6.020 Applicability
- C.6.030 General Requirements
- C.6.040 Types of Vehicle Parking Allowed
- C.6.050 Number of Parking Spaces Required
- C.6.060 Parking Reductions
- C.6.070 Transportation Demand Management
- C.6.080 Parking Area Development and Design Standards
- C.6.090 Electric Vehicle Charging Spaces
- C.6.100 Bicycle Parking
- C.6.110 Off-Street Loading Requirements

C.6.010 Purpose

The specific purposes of the parking and loading requirements are to:

- A. Require parking spaces and loading spaces for all land uses that are sufficient in number, size, and arrangement;
- B. Minimize the negative environmental and urban design impacts of parking lots, driveways, and drive aisles within parking lots;
- C. Ensure the provision of adequate off-street bicycle parking;
- D. Establish standards and regulations for safe and well-designed parking, unloading and vehicle circulation areas;
- E. Offer flexible means of minimizing the amount of area devoted to parking by allowing reductions in the number of required spaces in transit-served locations, shared parking facilities, and other situations expected to have lower vehicle parking demand;
- F. Encourage modal shift; and
- G. Reduce urban run-off and heat island effect.

C.6.020 Applicability

Off-street parking spaces shall be provided and improved consistent with this Chapter as follows:

- A. Whenever a building is constructed;
- B. Whenever a new use is established; or

- C. Whenever an existing building or use is altered, resulting in an increase in the number of required parking or loading facilities; however, Subsection C.18.060.A (Nonconforming Parking) may reduce the amount of additional parking required.

C.6.030 General Requirements

- A. **When Constructed.** Parking and loading facilities required by this Chapter shall be constructed or installed prior to final inspection or the issuance of a Certificate of Occupancy for the use that they serve.
- B. **Existing Parking and Loading to be Maintained.** No existing parking and loading area serving any use may be reduced in amount or changed in design or location below the requirements for such use, unless equivalent substitute facilities are provided.
- C. **Accessibility.** Parking and loading areas shall be accessible for their intended purpose during all hours of operation.
- D. **Vehicle Storage and Repairs Prohibited.** No required parking or loading facilities shall be used for the storage of inoperable vehicles for any period of time. Repair work and servicing of vehicles is prohibited within required parking or loading facilities.

C.6.040 Types of Vehicle Parking Allowed

- A. **General.** Parking spaces shall be designed consistent with Subsection C.6.080 (Parking Area Development and Design Standards) unless otherwise allowed by this Chapter.
- B. **Disabled Accessible Parking.**
1. Parking for disabled persons shall be provided in compliance with the Building Code and the Americans with Disabilities Act (ADA).
 2. Parking spaces for disabled persons shall count toward the number of parking spaces required by this Chapter.
 3. A site shall not be considered to have nonconforming parking if the number of off-street spaces provided is reduced to less than required by this Chapter solely because the lot is restriped to comply with handicapped parking requirements.
- C. **Compact Parking Spaces.** For parking areas and garages containing 10 or more stalls serving nonresidential, mixed use, and multi-family uses, up to 40 percent of the total (i.e., required and non-required) stalls may be compact parking spaces.
- D. **Tandem Parking.** Tandem parking is allowed for residential uses when the tandem spaces are assigned to the same dwelling unit and where the tandem parking is a maximum of two cars in depth. Tandem parking may also be approved for nonresidential uses when the tandem spaces are assigned to employees of the same nonresidential establishment or if the applicant demonstrates that tandem parking will not interfere with orderly parking and movement of vehicles consistent with Subsection C.6.040.E (Stacked Parking).
- E. **Stacked Parking.** Stacked or valet parking is allowed if an attendant is present, or an automated system is in place to move vehicles. If stacked parking managed by an attendant is used for required parking spaces, an acceptable form of guarantee must be filed with the Director ensuring that an attendant will be present while the parking lot is in operation.

F. **Unbundled Parking from Residential Uses.** Unbundled parking is allowed with any dwelling unit other than a detached single-family dwelling and is required for attached single unit and multi-unit projects of 16 units or more:

1. All off-street spaces shall be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units, such that potential renters or buyers have the option of renting or buying a residential unit at a price lower than would be the case if there were a single price for both the residential unit and the parking space.
2. In cases where there are fewer parking spaces than dwelling units, the parking spaces shall be offered first to the potential owners or renters of three-bedroom or more units, second to owners or renters of two-bedroom units, and then to owners and renters of other units. Spaces shall be offered to tenants first. Non-tenants may lease with a provision for 30 days to terminate the lease.
3. Renters or buyers of on-site affordable units shall have an equal opportunity to rent or buy a parking space on the same terms and conditions as offered to renters or buyers of other dwelling units. Parking rates shall be established based on the prevailing market rate and shall not be subsidized by property owners or employers; however, rates for affordable units shall be prorated in proportion to their rent discounts. For condominiums with non-deeded spaces, the homeowners' association (HOA) shall collect parking fees separate from the standard HOA fee.

G. **Commercial Vehicles and Trailers.**

1. **Commercial Vehicles.** Commercial vehicles, including any self-propelled vehicle over 8,500 pounds gross vehicle rating and/or having more than two axles and possessing a commercial license plate, shall not be parked or stored in any residential zone or any street adjoining a residential zone, except that commercial vehicles may be parked or stored in a residential zone if kept fully within a garage or other enclosed structure.
2. **Commercial Trailers.** Trailers or equipment used for commercial purposes shall be stored within an enclosed building.

C.6.050 Number of Parking Spaces Required

A. **Number of Spaces Required.**

1. Each land use is subject to the required number of parking spaces as listed in Table C.6.050-A (Required Number of Vehicle Parking Spaces) unless excepted under Subsection C.6.050.C (Exceptions) or otherwise provided in this Title.
2. The parking requirement for any use not listed in Table C.6.050-A (Required Number of Vehicle Parking Spaces) shall be determined by the Director based upon the requirements for the most similar comparable use, the characteristics of the proposed use, and any other relevant data regarding parking demand.

Table C.6.050-A: Required Number of Vehicle Parking Spaces

Land Use Classification ¹	Minimum # of Spaces ²
Commercial Uses	
All Commercial Uses	1 per 400 sf of floor area, except as specified below

Table C.6.050-A: Required Number of Vehicle Parking Spaces

Land Use Classification ¹	Minimum # of Spaces ²
Animal Care and Services	
Kennel	1 per employee plus 2 spaces
Commissary or Catering	1 per 300 sf
Eating and Drinking Establishments	
Bars/Nightclubs; Microbreweries	1 per 200 sf of floor area
Mobile Food Park	1 per 2.5 seats plus 1 per 60 sf of lot area dedicated to mobile food vending
Mobile Food Vending (Individual Vehicle)	None
Restaurant, Full Service	1 per 200 sf of floor area; no parking is required for outdoor seating when seats provided equal 20% or less of total indoor seating
Restaurant, Limited Service	1 per 250 sf of floor area
Entertainment and Recreation, Commercial	Determined by the Director
Financial Institution	1 per 300 sf
Home Occupation	None
Hospital	1 per every 3 beds
Lodging	
Bed and Breakfast	1 per guest room in addition to required spaces for non-transient residential use
Hotel	0.5 per guest room
Motel	0.7 per guest room
Short-Term Rental	See Section C.10.190 (Short-Term Rentals)
Maintenance and Repair Services	1 per 500 sf
Offices	1 per 300 sf
Services	
Business Support Services	1 per 350 sf of floor area
Massage Establishment	See Section C.10.150 (Massage Establishments)
Personal Services	1 per 300 sf
Repair and Cleaning, Small Items	1 per 300 sf
Industrial and Research & Development Uses	
All Industrial and Research & Development Uses	1 per 2,000 sf of floor area plus 1 per 300 sf of office area, except as specified below
Advanced Manufacturing	1 per 500 sf
Custom and Artisan Manufacturing	1 per 500 sf

Table C.6.050-A: Required Number of Vehicle Parking Spaces

Land Use Classification ¹	Minimum # of Spaces ²
Data Center	1 per 1,500 sf
Mini-storage or Self-storage	1 per 5,000 sf of storage unit area plus 2 employee parking spaces
Parcel Hub	1 per 2,000 sf plus 1 truck parking space for each delivery vehicle on-site during peak time ³
Research and Development	1 per 500 sf
Public, Institutional, and Recreational Uses	
All Public, Institutional, and Recreational Uses	1 per 400 sf of floor area, except as specified below
Child Care	
Small Family Child Care Home	Same as required for underlying residential use
Large Family Child Care Home; Child Care Centers	Same as required for underlying residential use
Community Assembly	1 space per 5 permanent seats and/or 1 space per 100 sf of assembly seating area
Community Garden	Determined by the Director
Correctional Facility	Determined by the Director
Educational Institutions	
College/University, Private	2 per classroom plus 1 space per 300 sf of assembly area
School, Private and Public	1 per classroom plus 1 per 240 sf of office
Trade/Vocational School	1 per 300 sf
Park/Playground	4 per acre of park space unless reduced or waived by the Director based on use, facilities, and/or location
Hospital	1 per 1.5 beds, plus 1 per 300 sf of area used for office, clinics, testing, research, administration, and similar activities associated with the principal use
Instruction Service	
Group	1 per 200 sf
Private	1 per instructional area or classroom, whichever is greater; no fewer than 3 spaces
Public Utility	1 for each employee plus 1 for each agency vehicle used in connection with the use
Residential Uses	
Accessory Dwelling Unit	See Subsection C.10.030 (Accessory Dwelling Units and Junior Accessory Dwelling Units)
Boarding House Group Living Accommodation	0.5 per each room rented

Table C.6.050-A: Required Number of Vehicle Parking Spaces

Land Use Classification ¹	Minimum # of Spaces ²	
Caretaker's Residence	1 per residence	
Elderly and Long-term Care; Residential Care Facility	1 per every 3 beds	
Emergency Shelter; Low Barrier Navigation Center	1 space per employee or agency vehicle used in connection with the use	
Live-work Unit	Single-family and two-family dwelling parking requirements for residential component plus 1.5 spaces for the commercial component	
Mobile Home Park	1 per unit	
Multi-Family Dwellings		
Studio and 1-bedroom (up to 1,100 sf)	1 per unit	15% of the total required spaces for additional guest parking
2-bedroom (up to 1,100 sf)	1.5 per unit	At least one covered space per unit
3 or more bedrooms and/or 1,101 sf or larger	2 per unit	A driveway space measuring a minimum of 8' x 18' shall count as an off-street parking space
Single-family Dwelling ⁴ ; Two-family Dwelling (Detached or Attached)		
Less than 900 sf and 2 bedrooms or fewer	1 per unit	At least one covered space per unit A driveway space measuring a minimum of 8' x 18' shall count as an off-street parking space
Less than 2,500 sf and 4 or fewer bedrooms	2 per unit	
2,500 sf or more or 5 or more bedrooms	3 per unit	
Single-room Occupancy Residences	0.5 per unit	
Vehicle-Related Uses		
Auto Broker	1 per 400 sf	
Commercial Fueling Facility	1 per employee on the largest shift	
Fleet-based Service	1 per 400 sf plus 1 per company vehicle used in connection with the use	
Mobile Fueling	None (n/a)	
Parking Lots; Parking Structures	None (n/a)	
Service Station	1.5 per bay if service bays are included on site; 1 per 250 sq ft of any retail and/or office on site	
Vehicle Sales and Leasing	1 per 1,000 sf of showroom plus 1 per 400 sf of retail or office	
Vehicle Rental	1 per 400 sf plus 1 per rental/company vehicle used in connection with the use	

Table C.6.050-A: Required Number of Vehicle Parking Spaces

Land Use Classification ¹	Minimum # of Spaces ²
Vehicle Repair and Maintenance; Vehicle Washing	3 per service bay plus 1 per 400 sf of retail or office
Vehicle Storage	None (n/a)

Table Notes:

¹ See specific land uses within each land use classification in Part XIII-B (Zone Regulations).

² See exceptions in Subsection C.6.050.C (Exceptions).

³ The requirement for delivery truck parking is not intended to accommodate semi-trucks delivering products to the site.

⁴ Parking shall not be required for single-family dwelling additional consistent with California Government Code § 65863.3.

B. Calculation of Required Spaces.

1. **Parking Ratios.** The number of required parking spaces shall be calculated according to the following rules:
 - a. **Floor area.** Where a parking requirement is stated as a ratio of parking spaces to floor area, the floor area is assumed to be gross floor area, unless otherwise stated. Any portion of floor area that is used for automobile parking shall not be counted in calculating the floor area for required parking.
 - b. **Employees.** Where a parking requirement is stated as a ratio of parking spaces to employees, the number of employees shall be based on the maximum number of employees that occurs in a typical week.
 - c. **Bedrooms.** Where a parking requirement is stated as a ratio of parking spaces to bedrooms, any rooms having the potential of being a bedroom and meeting the standards of the California Building Code as a sleeping room shall be counted as a bedroom.
 - d. **Students or clients.** Where a parking requirement is stated as a ratio of parking spaces to students or clients, the number is assumed to be the number of students or clients at the state-certified capacity or at Building Code Occupancy where no state certification is required.
 - e. **Seats.** Where a parking requirement is stated as a ratio of parking spaces to seats, each 24 inches of bench-type seating at maximum seating capacity is counted as one seat. For places of meeting or assembly that do not include fixed seating, seven square feet shall equal one seat.
2. **Sites with Multiple Uses.** If more than one use is located on a site, the number of required parking and loading spaces shall be equal to the sum of the requirements calculated separately for each use, unless a lower amount of parking is required or allowed consistent with Section C.6.060.A (Shared Parking), this Chapter, or this Title.
3. **Parking Requirements for Ancillary Uses.** For accessory or ancillary uses, no additional parking may be required as determined by the Director. Examples of this case include a

coffee or snack shop within an office or hotel development or a copy/package store within a business park.

4. **New Building Without Tenants.** If the type of tenant that will occupy a nonresidential building, or the nonresidential portion of a mixed-use building, is not known at the time the new building is being proposed, the number of parking spaces required for the nonresidential use shall be the parking generally required for the use classification (e.g., commercial uses) as identified in Table C.6.050-A (Required Number of Vehicle Parking Spaces) unless otherwise determined by the Review Authority.
5. **Queuing Area.** The number of parking spaces required by Table C.6.050-A (Required Number of Vehicle Parking Spaces) does not include queuing space that may be required for vehicles and customers waiting in vehicles for service, pump stations, auto service bays, or similar uses.

C. Exceptions.

1. **Major Transit Stop Proximity.** Parking requirements for all uses within a one-half mile of a major transit stop are listed in Table C.6.050-B (Vehicle Parking Requirements Near a Major Transit Stop).

Table C.6.050-B: Vehicle Parking Requirements Near a Major Transit Stop ¹

Use	Minimum Parking Spaces Required	Maximum Parking Spaces Required ³
Residential and lodging uses	None ²	1.5 spaces per dwelling unit
Industrial uses		2 spaces per 1,000 sf
All other nonresidential uses		1 space per 1,000 sf

Table Notes:

¹ Within ½ mile of a major transit stop as defined in California Public Resources Code § 21155.

² Minimum automobile parking requirement is prohibited by California Government Code § 65863.2 unless specific findings are made or the project is exempt.

³ Valet, tandem spaces, and mechanical lift stalls are counted as individual spaces.

2. **Metro Specific Plan Area Parking Requirements.** Parking requirements for all uses in the Metro Specific Plan area are listed in Table C.6.050-C (Vehicle Parking Requirements in the Metro Specific Plan Area).

Table C.6.050-C: Vehicle Parking Requirements in the Metro Specific Plan Area

Use	Minimum Parking Spaces Required	Maximum Parking Spaces Required ¹
Residential and lodging uses	None	1.5 spaces per dwelling unit
Industrial uses		2 spaces per 1,000 sf
All other nonresidential uses		1 space per 1,000 sf

Table Notes:

¹ Valet, tandem spaces, and mechanical lift stalls are counted as individual spaces.

C.6.060 Parking Reductions

A. Shared Parking.

1. **Purpose.** Buildings or sites with multiple uses shall have reduced parking requirements reflecting different peak parking demands and/or the capture of trips within the building or site due to the mix of on-site uses.
2. **Parking Reductions For Sites With Two Uses.** The amount of the parking reduction is calculated by taking the sum of the minimum parking requirements for the two uses with the highest parking requirement based on Table C.6.050-A (Required Number of Vehicle Parking Spaces) and multiplying that sum by the percentage in Table C.6.060-A (Parking Reductions for Sites with Two Uses) for that combination of uses. The Review Authority may approve further reductions consistent with C.6.060.G (Other Parking Reductions).

Table C.6.060-A: Parking Reductions for Sites with Two Uses

First Use	Second Use					
	Multi-Family	Public, Institutional, or Civic	Food, Beverage, Lodging, Recreation, or Entertainment	Retail	Office	Other Commercial
Multi-Family	N/A					
Public, Institutional, or Civic	10%	N/A				
Food, Beverage, Lodging, Recreation, or Entertainment	10%	20%	N/A			
Retail	15%	25%	25%	N/A		
Office	30%	25%	30%	20%	N/A	
Other Commercial	20%	25%	25%	20%	20%	N/A

3. **Parking Use Analysis for Other Sites with Multiple Uses.** When three or more uses share parking or a use is not listed in Table C.6.060-A (Parking Reductions for Sites with Two Uses), the amount of required parking may be reduced if a parking use analysis is provided that demonstrates that the amount of proposed parking is adequate. The Review Authority shall only allow the parking reduction consistent with C.6.060.G (Other Parking Reductions).
- B. **Off-Site Parking.** The required number of on-site parking spaces may be reduced through the provision of off-site parking in compliance with the following:
1. **Location.** Required parking must be located within one-half mile of the project site.
 2. **Access.** Access between the on-site use(s) or the subject site and the off-site parking area must be provided through pedestrian, bicycle, and/or transit facility connections (e.g., sidewalks, multi-use paths, bicycle lanes, transit stops). Adequate signage must be installed to direct users to off-site parking areas as determined necessary by the Director. Off-site parking may also be shared parking.

3. **Agreement.** A parking agreement shall be provided in a form acceptable to the City Attorney which identifies the location of the off-site parking spaces, guarantees the continued availability of the off-site parking spaces, and sets forth the ongoing responsibilities of the parties involved. The parties to the agreement shall include the owners and lessees of the off-site parking spaces and the owners and lessees of the subject site, and a copy of any such agreement shall be provided to the City. The City shall not be required to be a party to any such agreement, but each agreement shall grant the City the right (but not the obligation) to enforce the agreement's terms and shall include a provision requiring that the City be notified immediately of any termination or default of the agreement. Any termination or default of the agreement between parties shall result in revocation of the on-site parking reduction approval by the City unless a new alternative parking arrangement is approved by the City within a reasonable timeframe, as determined by the Director.
- C. **Designated Car-Sharing Parking.** Required parking spaces may be substituted with designated car-share vehicle parking spaces, and the required number of parking spaces may be reduced, consistent with the following.
1. **Car-Share Parking Designation.** A maximum of 20 percent of the required parking spaces may be designated as car-share vehicle parking spaces.
 2. **Reduction Allowed.**
 - a. *Parking areas with 50 or fewer parking spaces.* A five percent reduction in the required parking shall be allowed where five percent of the required spaces are designated as car-share vehicle parking spaces.
 - b. *Parking areas with 51 or more parking spaces.* A 10 percent reduction in the required parking shall be allowed where 10 percent of the required spaces are designated as car-share vehicle parking spaces.
- D. **Electric Vehicle (EV) Charging Parking Spaces.** Each electric Vehicle (EV) charging parking space exceeding the minimum requirement in Section C.6.090 (Electric Vehicle Charging Spaces) shall count as two required parking spaces, for up to a maximum of five additional EV parking spaces corresponding to a parking requirement reduction of 10 spaces.
- E. **Bicycle Parking.** Bicycle parking exceeding the minimum requirements in this Chapter may reduce the number of required vehicle parking spaces by up to five percent, provided the bicycle parking complies with the following:
1. Three bicycle spaces may substitute for one vehicle space; and
 2. Bicycle spaces must comply with the standards in Section C.6.100 (Bicycle Parking).
- F. **Motorcycle Parking.** Motorcycle parking may substitute for up to five percent of the required number of vehicle parking spaces. Each motorcycle space must be at least four feet wide and seven feet deep and be able to accommodate two-wheeled motorized vehicles, including scooters, mopeds, and similar vehicles.

- G. **Other Parking Reductions.** Required parking for any use or site may be reduced at the discretion of the Review Authority, if any of the following findings are met:
1. The site is developed, and it would be infeasible or impractical to provide additional parking;
 2. Special conditions including, but not limited to the nature of the proposed operation; proximity to transit service; transportation characteristics of the persons residing, working, or visiting the site; or other circumstances will reduce parking demand at the site;
 3. The use will be adequately served by proposed on-site parking or other approved off-site parking;
 4. A parking use analysis is provided to support the proposed parking arrangement; or
 5. Parking demand generated by the project will not exceed the capacity of the supply of on-street parking.

C.6.070 Transportation Demand Management

- A. **Applicability.** New construction of the following types of projects shall be subject to this Section:
1. **Residential.** Single-family and multi-family projects with 20 or more units (excluding elderly and long-term care, emergency shelters, residential care facilities and similar uses, and affordable housing projects with greater than 50 percent of units below market rate).
 2. **Lodging.** Hotels and motels with 40 or more rooms.
 3. **Commercial.** Commercial uses of more than 5,000 square feet.
 4. **Office and Employment-Generating Industrial Uses.** Office and employment-generating industrial uses (e.g., research and development uses) of more than 10,000 square feet.
 5. **Other.** Any other land use found to have a significant impact to vehicle miles traveled during environmental review.
- B. **TDM Plan Requirements.** The project applicant shall submit a Transportation Demand Management (TDM) Plan for review and approval by the Review Authority. The TDM Plan shall document and demonstrate consistency with the requirements in this Section. The TDM Plan shall include, but is not limited to, the following:
1. Identification of the applicable trip reduction measures to be implemented based on the size of the project and estimated number of trips generated.
 2. Implementation plan for each trip reduction measure, including timelines, responsibilities, and budget allocations.
 3. Monitoring and evaluation plan, submitted annually to the Department, to track the effectiveness of the trip reduction measures and adjust them as needed.
 - a. This shall be required for at least the first five years after building occupancy.
 - b. At their discretion, the Director may require modifications if anticipated results are not achieved.

C. Trip Reduction Measures.

1. **Required Trip Reduction Measures.** The following trip reduction measures must be incorporated into all TDM Plans.
 - a. Provide the following information to employees and/or residents on an annual basis:
 - (i) Carpooling/vanpooling information;
 - (ii) Transit schedules and route information;
 - (iii) Information on air pollution and alternatives to single-occupancy vehicle trips;
 - (iv) Bicycle route and facility information, including local bicycle maps, locations of nearest outdoor bicycle parking or enclosed bicycle storage, and bicycle safety information; and
 - (v) Information on walking and biking to work, pedestrian and bicycling safety, and all-weather walking shoes.
 - b. Identify a TDM coordinator or contact person to provide oversight and management of the TDM Plan's implementation. The individual must either be an employee, homeowners association representative, or contracted through a third-party provider. In addition, for sites leasing space to multiple employers or businesses, the TDM coordinator designated by the property owner shall be responsible for providing lists of mandatory and optional measures to all individual businesses. Commercial tenants should be obligated (via lease language) to provide a main point of contact for the designated TDM coordinator.
 - c. At least one measure from Subsection C.6.070.C.2 (Supplemental Trip Reduction Measures).
2. **Supplemental Trip Reduction Measures.**
 - a. *All projects.* The following measures may be included in a TDM Plan for any project.
 - (i) *Bicycle repair station(s).* An on-site bicycle repair station above that required by Section C.6.100 (Bicycle Parking).
 - (ii) *Active transportation gap closure.* Constructing improvements that close gaps in the local active transportation system network (e.g., constructing segments of pedestrian paths or bicycle lanes to connect the project site to existing or planned pedestrian or bicycle infrastructure network).
 - (iii) *Funding for trip reduction projects.* Funding toward local transit, pedestrian, or bicycle facilities or infrastructure above that required through impact fees or mitigation requirements.
 - b. *Residential projects.* The following measures may be included in a TDM Plan for any residential project.
 - (i) *Transit pass subsidies.* Transit pass subsidies for residents.

- (ii) *On-site car share.* An on-site car-share program with at least one dedicated car-share vehicle.
 - (iii) *Bicycle share or micromobility program.* An on-site bicycle share or micromobility (e.g., bicycle, scooter, or other lightweight small/personal vehicle) program for use by residents.
- c. *Nonresidential projects.* The following measures may be included in a TDM Plan for any nonresidential project.
 - (i) *Transit pass subsidies for employees.* Subsidies shall be administered through a pre-tax transit benefit program allowing employees to fully fund their transit use with pre-tax dollars if they opt into the program.
 - (ii) *Carpooling and/or vanpooling to facilitate shared work trips.* Carpool and vanpool programs shall include subsidies or other monetary incentives from employers (e.g., gas card after carpooling for a given amount of time, or parking subsidies for carpools), as well as ride-matching services to help facilitate these shared trips.
 - (iii) *Cash reward incentives.* Offer a “cash-out” program to employees who do not drive to work. If the employer leases parking, the cash-out amount shall be equivalent to the cost per space for the employer to lease parking for employees. If the employer owns and manages its own parking facilities, the cash-out value shall be determined based on market-rate parking at nearby locations.
 - (iv) *Showers.* Showers, changing rooms, and lockers to accommodate employees arriving by bicycle or other active form of transportation.
 - (v) *Telecommuting and flexible work schedules.* Offer and encourage employees to work remotely at least one day per week to reduce overall vehicle trips. When employees commute to work, encourage flexible work schedules that encourage travel outside of peak hours.
 - (vi) *Enhanced shuttle commitment.* Providing a project-specific shuttle (e.g., a hotel funding or providing a free supplemental shuttle service to the airport, etc.).
 - (vii) *On-site amenities.* Providing on-site amenities to reduce employee vehicle trips (e.g., child care, cafeteria, etc.).
 - (viii) *On-site employee housing.* Providing on-site employee housing.

D. TDM Plan Submittal and Review.

1. ***Submittal.*** The applicant shall submit a TDM Plan for review and approval by the Review Authority. The TDM Plan shall document and demonstrate consistency with the requirements in this Section.
2. ***Final TDM Plan.*** The applicant shall submit the Final TDM Plan including any requirements imposed by the City as part of the Building Permit or Business License processes for compliance with this Section. The Department shall review and approve the Final TDM Plan to ensure all City requirements have been addressed.

3. **TDM Plan Agreement.** A TDM Plan agreement shall be provided in a form acceptable to the City Attorney and shall include the Final TDM Plan prior to Certification of Occupancy. The parties to the agreement shall include the owners and lessees of the project site. A copy of the agreement shall be provided to the City. The City shall not be required to be a party to any such agreement, but each agreement shall grant the City the right (but not the obligation) to enforce the agreement's terms and shall include a provision requiring that the City be notified immediately of any termination or default of the agreement. Any termination or default of the agreement between parties shall result in enforcement action by the City unless a new TDM Plan is approved by the City within a reasonable timeframe, as determined by the Director.
4. **Tenant Concurrence Letter.** Prior to approval of a permit for tenant improvements or a Business License, tenants shall submit a letter demonstrating concurrence with the Final TDM Plan. The letter shall acknowledge how applicable TDM requirements are identified in their lease and summarize how the tenant is implementing applicable trip reduction measures. The City shall receive and review this letter to confirm the implementation of the Final TDM Plan.
5. **Modifications.** The Department may approve modifications to the final TDM Plan that are consistent with the project overall and would result in achieving the performance targets.
6. **Changed Plans.** A change in an approved project that would add at least 100 daily trips shall be treated as a new application.

E. Monitoring and Enforcement.

1. **Initial Compliance Form.** When applying for a Certificate of Occupancy, all projects must submit an initial compliance form to the Department documenting that the Final TDM Plan will be implemented before the site reaches 50 percent occupancy.
2. **Annual Compliance Form.** All projects must submit an annual compliance form to the Department documenting the continued implementation of the Final TDM Plan for the time period established in this Section or in the Final TDM Plan, whichever is longer.
3. **Penalty for Noncompliance.** If the required performance targets are not being achieved, or if the participant fails to submit required monitoring documentation, the following penalties shall apply:
 - a. **First violation.** The City will direct the participant to modify its Final TDM Plan to achieve compliance. Modifications are likely to include adding or modifying trip reduction measures to increase mode shift.
 - b. **Second violation.** The City will direct the participant to retain an independent consultant to identify additional program modifications to achieve compliance. Modifications are likely to include adding or modifying trip reduction measures to increase mode shift.
 - c. **Third violation.** The City may assess a penalty per the approved fee schedule. Penalties shall be assessed for each additional violation in subsequent years. The Council shall, in a resolution adopted after a duly noticed public hearing, set forth the amount of the fine, describe the need for the fine, describe the reasonable relationship between the fine and the effect of noncompliance, and set forth time for calculation and payment of the fine.

4. **Appeal of Penalty.** The participant may appeal the decision to assess a penalty consistent with Chapter I-21 (Administrative Citations). In determining whether a financial penalty is appropriate, the City may consider whether the participant has made a good faith effort to implement the Final TDM Plan and achieve trip reduction.
5. **Program Costs.** Participants shall be required to reimburse the City for costs incurred in maintaining and enforcing the trip reduction program for the approved project.

C.6.080 Parking Area Development and Design Standards

- A. **Location of Parking.** Except as otherwise provided in this Chapter, all required parking spaces shall be located on the same site as the use they serve.
 1. **Residential Parking.** Vehicles on private property used for residential purposes shall be parked only in paved parking spaces or in driveways that comply with the following:
 - a. The driveway must provide access to required parking spaces; and
 - b. The required spaces must not block access to parking for other residential units.
 2. **Driveways on Residential Lots with One or Two Dwelling Units.** Only one driveway and one curb cut is allowed per residential lot with one or two dwelling units, except that a corner lot may have a second driveway and curb cut, not to exceed 12 feet in width, providing vehicular access to the side or rear yard area, subject to approval by the Director and the City Engineer.
 3. **MXD3 Zone.** No parking spaces area allowed within the front or street side setback areas, except for schools.
- B. **Limitations on Reversing.** Each automobile parking stall shall be so located that no automobile is required to back onto any public street or sidewalk to leave the parking stall, parking bay, or driveway except from a lot in the R1 or R2 zone.
- C. **Backing Space in Residential Projects.** A minimum unobstructed vehicular maneuvering distance of 25 feet measured from the opening of the garage or carport shall be provided, except as otherwise allowed in this Section.
- D. **Size and Dimensions of Parking Spaces and Maneuvering Aisles.** Parking spaces shall meet the minimum size and dimensions established in Table C.6.080-A (Parking Space Minimum Dimensions). Screening walls, roof support posts, columns, or other structural members shall not intrude into the required dimensions for parking spaces. Maneuvering aisles shall meet the minimum size and dimensions established in Table C.6.080-B (Maneuvering Aisle Minimum Dimensions).

Table C.6.080-A: Parking Space Minimum Dimensions

Type of Parking Space	Width (feet)	Length (feet)
Standard ¹	9	18
Compact	7.5	15
Parallel	10	22
Tandem	10	38
Motorcycle	4	8

Table C.6.080-A: Parking Space Minimum Dimensions

Type of Parking Space	Width (feet)	Length (feet)
Accessible	Compliant with California Building Code	

Table Notes:

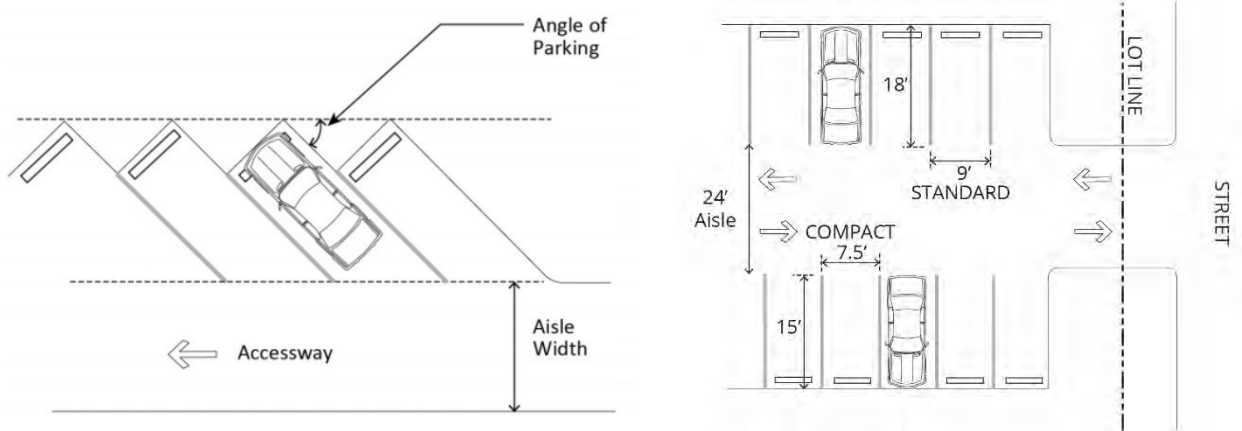
¹ A min. width of 10 ft and a minimum length of 20 ft must be provided in a residential garage containing four or fewer parking spaces and where the individual garage does not include circulation elements, such as driveway aisles.

Table C.6.080-B: Maneuvering Aisle Minimum Dimensions

Angle of Parking	Width (feet) ¹	
	One-Way	Two-Way
Parallel	12	16
0-45 degrees	12	22
46-60 degrees	18	22
61-90 degrees	24	24

Table Notes:

¹ Modified standards may be approved by the City Engineer depending on the number of compact spaces present.

FIGURE C.6.080-1: SIZE AND DIMENSIONS OF PARKING SPACES AND MANEUVERING AISLES

- E. **Required Improvements.** All parking areas and access driveways shall have a smoothly graded, stabilized, and dustless surface with adequate drainage consistent with Engineering Division specifications.
- F. **Striping and Marking.**
1. **Space Outline.** All parking spaces shall be clearly outlined with striping consistent with Engineering Division specifications.
 2. **Maneuvering Areas.** All aisles, approach lanes, and turning areas shall be clearly marked with directional arrows and lines as necessary to provide for safe movement.

3. **Compact Spaces.** All compact spaces shall be clearly marked as such.
 4. **Assigned Parking.** Lots developed with multiple uses and a shared parking area shall not assign parking spaces to individual tenant spaces or uses, except that parking spaces for residential uses in a mixed-use project shall be assigned to the residential portion of the development.
- G. **Bumpers, Curbs, and Wheel Stops.** A permanent curb, bumper, wheel stop, or similar device at least six inches high and thick shall be installed along the front edge of each parking space to protect buildings and landscaping from vehicular damage. If such protection is provided by a wheel stop, the stopping edge shall be placed no closer than two feet from the edges of the required sidewalks, planter, or landscaped areas and from any building. The two feet beyond the wheel stop may be paved, landscaped with ground cover, or used as additional sidewalk width. No walkway used for a wheel stop may be less than six feet wide.
- H. **Circulation and Safety.**
1. **Visibility.** Visibility shall be ensured for pedestrians, bicyclists, and motorists entering individual parking spaces, circulating within a parking facility, and entering or leaving a parking facility.
 2. **Public Service Vehicles.** Parking lots shall be designed so that sanitation, emergency, and other public service vehicles can provide service without backing up unreasonable distances or making other dangerous or hazardous turning movements.
 3. **Pedestrian Circulation.** Parking areas for commercial uses that are 80 feet or more in depth and/or include 25 or more parking spaces must have distinct and dedicated pedestrian access from a commercial use to parking areas and public sidewalks, according to the following standards.
 - a. **Connection to public sidewalk.** An on-site walkway shall connect the main building entry to a public sidewalk on each street frontage. Such walkway shall be the shortest practical distance between the main building entry and sidewalk, generally no more than 125 percent of the straight-line distance.
 - b. **Materials and width.** Walkways shall provide at least five feet of unobstructed width, be hard surfaced, and paved with permeable materials.
 - c. **Identification.** Pedestrian walkways shall be clearly differentiated from driveways, parking aisles, and parking and loading spaces using a raised crosswalk, a different paving material, or similar method.
 - d. **Separation.** Where a pedestrian walkway is parallel and adjacent to a vehicle travel area, it must be raised and separated from the vehicle travel area by a raised curb at least four inches high, bollards, or other physical barriers.
- I. **Screening.** A solid masonry wall a minimum height of six feet shall be required on all common property lines when any parking area is established abutting a residentially-zoned property. The wall shall be consistent with Section C.2.040 (Fences, Walls, and Hedges).
- J. **Landscaping.** Parking area landscaping shall be provided consistent with Chapter C.4 (Landscaping).
- K. **Lighting.** Parking area lighting shall comply with Section C.2.070 (Lighting and Illumination).

- L. **Alternative Parking Area Designs.** An applicant may submit an alternative parking area design to the Director. The City Engineer and Review Authority may approve the alternative design if the applicant demonstrates the alternative design achieves at least one of the following:
 1. Environmental design and green building objectives, including but not limited to achieving certification under the LEED Green Building Rating System or Green Globes building rating system;
 2. Reduces or eliminates a public safety hazard; or
 3. Brings substandard parking spaces into greater compliance with current City standards.
- M. **Transportation Research Board Manual and Guidelines.** Projects shall comply with the Transportation Research Board's Access Management Manual and Access Management Application Guidelines as appropriate as determined by the City Engineer.
- N. **Maintenance.** Parking lots, including landscaped areas, driveways, and loading areas, shall be maintained free of refuse, debris, or other accumulated matter and shall always be kept in good repair.

C.6.090 Electric Vehicle Charging Spaces

Electric vehicle (EV) charging stations and EV-capable parking spaces may be provided in any area designated for the parking or loading of vehicles. All such spaces shall count toward the number of parking spaces required by this Chapter.

- A. **Required EV Charging Stations.** The total number of required EV charging spaces shall be provided in compliance with the California Green Building Code.
- B. **Exceptions.** Exceptions to the total number of EV charging spaces may be made on a case-by-case basis where the Director and the Building Official determine that EV charging infrastructure is not feasible based upon one or more of the following conditions:
 1. There is insufficient electrical supply; or
 2. The project is for an accessory dwelling unit or junior accessory dwelling unit.
- C. **Size.** The size of EV charging station parking spaces and EV-capable parking spaces shall be as specified in Section C.6.080 (Parking Area Development and Design Standards). EV supply equipment shall not reduce the size of the parking space.
- D. **EV Charging Station Standards.** EV charging stations shall be allowed within any zone subject to all applicable requirements of the Milpitas Municipal Code and California Green Building Code in addition to the following:
 1. The EV charging station shall be protected to prevent damage by automobiles.
 2. Installation of mechanical equipment shall not conflict with existing infrastructure and shall not result in pedestrian or vehicular traffic hazards.
 3. The EV charging station shall have complete instructions and appropriate warnings posted in an unobstructed location next to each EV charging station.
 4. **EV Stations for Public Use.** EV charging stations for public use must comply with the following standards.

- a. The public EV charging station shall be visible from the right-of-way and illuminated during nighttime business hours. Lighting shall comply with Section C.2.070 (Lighting and Illumination).
 - b. The EV charging station may be on a timer that limits the use of the station to the normal business hours of the use(s) that it serves to preclude unauthorized use after business hours.
 - c. The following information shall be posted at a public EV charging station:
 - (i) Voltage and amperage levels;
 - (ii) Hour of operations if time limits or tow-away provisions are to be enforced by the property owner;
 - (iii) Usage fee;
 - (iv) Safety information; and
 - (v) Contact information for reporting when the equipment is not operating or other problems.
5. Existing parking spaces that must be removed to accommodate required EV charging spaces shall not be required to be replaced.

C.6.100 Bicycle Parking

- A. **Required Bicycle Parking.** Bicycle parking must be provided consistent with this Section; however, if the California Green Building Code or other standards require additional bicycle parking or imposes more restrictive standards, the standard requiring the most bicycle parking and imposing the more restrictive standards shall control.
- B. **Number of Bicycle Spaces Required.**
 1. **General.** Bicycle parking shall be provided, consistent with this Table C.6.100-A (Required Number of Bicycle Parking Spaces), unless Subsection C.6.100.B.2 (Bicycle Parking Near a Major Transit Stop or Within the Metro Specific Plan Area) applies. Short-term parking spaces generally serve shoppers, customers, messengers, guests, and other visitors to a site who generally stay for a short time. Long-term bicycle parking spaces generally serve employees, students, residents, commuters, and others who generally stay at a site for four hours or longer.

Table C.6.100-A: Required Number of Bicycle Parking Spaces ¹

Use	Number of Bicycle Parking Spaces (min.)	Long-Term Spaces (min.)	Short-Term Spaces (min.)
Single-family residential uses	None		
Multi-family residential uses	1 per 2 units	85%	15%
Restaurant uses	1 per 1,500 sf of leasable floor area	25%	75%

Table C.6.100-A: Required Number of Bicycle Parking Spaces ¹

Use	Number of Bicycle Parking Spaces (min.)	Long-Term Spaces (min.)	Short-Term Spaces (min.)
Single-family residential uses	None		
Retail, services, office, financial institution uses	1 per 5,000 sf of leasable floor area	25%	75%
Industrial and research and development uses	1 per 20,000 sf	75%	25%
Lodging uses	1 per 10 guest rooms	50%	50%
Parking structures	1 per 25 vehicle parking spaces	To be determined by the Review Authority	
All other uses	To be determined by the Review Authority		

Table Notes:

¹ See separate standards for projects near major transit stops or within the Metro Specific Plan areas in accordance with Subsection C.6.100.B.2 (Bicycle Parking Near a Major Transit Stop or within the Metro Specific Plan Area).

2. ***Bicycle Parking Near a Major Transit Stop or Within the Metro Specific Plan Area.*** Bicycle parking requirements for all uses within a one-half mile of a major transit stop and within the Metro Specific Plan area shall be provided consistent with Table C.6.100-B (Bicycle Parking Requirements Near a Major Transit Stop or within the Metro Specific Plan Area).

Table C.6.100-B: Bicycle Parking Requirements Near a Major Transit Stop or within the Metro Specific Plan Area

Use	Long-Term Spaces (min.)	Short-Term Spaces (min.)
Multi-family residential uses	0.5 spaces per bedroom	0.1 spaces per bedroom
Retail uses	1 space per 10,000 sf	1 space per 5,000 sf
Offices, Business and Professional	1.5 spaces per 10,000 sf	1 space per 20,000 sf
All other uses	None	None

C. Bicycle Parking Standards.

1. ***Size and Accessibility.*** Each bicycle parking space shall be a minimum of two feet in width and six feet in length and shall be accessible without moving another bicycle. Two feet of clearance shall be provided between bicycle parking spaces and adjacent walls, poles, landscaping, street furniture, drive aisles, and pedestrian walkways. Five feet of clearance shall be provided from vehicle parking spaces.
2. ***Standards for Short-Term Bicycle Parking.***
 - a. ***Location.*** Short-term bicycle parking must be located outside of the public right-of-way and pedestrian walkways and within 50 feet of a main entrance to the

building it serves. In the case of a commercial center, bicycle parking must be located within 50 feet of an entrance to each anchor store. Bicycle parking shall be visible from the street or from the main building entrance, or a sign must be posted at the main building entrance indicating the location of the parking.

- b. *Anchoring and security.* For each bicycle parking space required, a stationary, securely anchored object shall be provided to which a bicycle frame and one wheel can be secured with a high-security U-shaped shackle lock if both wheels are left on the bicycle. One such object may serve multiple bicycle parking spaces.
- c. *Large bicycles.* Five percent of the short-term parking spaces shall be at least three feet by 10 feet per parking space to accommodate large bicycles such as cargo, recumbent, tandem, and electric bicycles, and bicycles with trailers.

3. ***Standards for Long-Term Bicycle Parking.***

- a. *Location.* Long-term bicycle parking must be located on the same lot as the use it serves.
 - (i) In parking garages, long-term bicycle parking must be located near an entrance to the facility.
 - (ii) If not located on the ground floor, long-term bicycle parking must be accessible by an elevator with interior dimensions of at least 80 inches by 54 inches.
- b. *Covered spaces.* 100 percent of the required long-term bicycle parking for multi-family residential uses shall be covered. At least 50 percent of the required long-term bicycle parking for other uses must be covered. Covered parking can be provided inside buildings, under roof overhangs or awnings, in bicycle lockers, or within or under other structures.
- c. *Security.* Long-term bicycle parking must be in at least one of the following facilities:
 - (i) An enclosed bicycle locker;
 - (ii) A fenced, covered, locked or guarded bicycle storage area;
 - (iii) A rack or stand inside a building that is within view of an attendant or security guard or visible from employee work areas, or within a secure/restricted bicycle storage room;
 - (iv) In a highly visible area that is monitored by a security camera; or
 - (v) Other secure area approved by the Director.
- d. *Electrical outlets.* Electrical outlets must be provided for electric bicycle charging.
- e. *Large bicycles.* Five percent of the long-term parking spaces shall be at least three feet by 10 feet per parking space to accommodate large bicycles such as cargo, recumbent, tandem, and electric bicycles, and bicycles with trailers.
- f. *Bike repair station.* When 10 or more long-term parking spaces are required, a bicycle repair station must also be provided. At minimum, the bicycle repair

station must include tools to help fix minor maintenance issues, such as adding air to a tire, tightening a loose chain, or adjusting handlebars.

C.6.110 Off-Street Loading Requirements

All uses requiring the receipt or distribution by vehicles or trucks of material or merchandise shall provide off-street loading and unloading areas to handle the volume of truck traffic and loading requirements. The loading space(s) shall be maintained during the existence of the building or use it is required to serve. No loading space which is provided for the purpose of complying with the provisions of this Section shall be eliminated, reduced, or converted in any manner below the requirements established in this Title, unless equivalent facilities are provided elsewhere, conforming to this Title.

A. **Number of Loading Spaces Required for Commercial and Industrial Uses.** At a minimum, loading spaces shall be provided in compliance with Table C.6.110-A (Required Loading Spaces).

1. **Multi-Tenant Buildings.** The gross floor area of the entire building shall be used in determining spaces for multi-tenant buildings. A common loading area may be required, if each tenant space is not provided with a loading area. Drive-in roll-up doors for multi-tenant industrial projects may be substituted for required loading areas.
2. **Reduction to Number of Loading Spaces Required.** The Director may waive the loading space requirement upon finding that the applicant has satisfactorily demonstrated that, due to the specific nature of the use and building, such loading space will not be necessary.
3. **Additional Loading Spaces Required.** Additional loading spaces may be required to ensure that trucks will not be loaded, unloaded, or stored on public streets. Such requirement shall be based on the anticipated frequency of truck deliveries.

Table C.6.110-A: Required Loading Spaces

Total Square Feet of Building Space (Gross Floor Area)	Loading Spaces Required
Commercial and Industrial Buildings	
Less than 6,000	0
6,000 – 15,000	1
15,001 – 40,000	2
40,001 and over	3
Over 100,000	Adequate number as determined by the Director
Hospitals and Institutions	
Less than 10,000	0
10,000 – 50,000	1
50,001 – 100,000	2
100,001 and over	3

Table C.6.110-A: Required Loading Spaces	
Total Square Feet of Building Space (Gross Floor Area)	Loading Spaces Required
Other Uses	
Hotels/Motels	1

- B. **Maneuvering Area.** Sufficient space shall be provided for turning and maneuvering vehicles such that vehicles may enter and exit the site in a forward direction.
- C. **Location and Orientation.**
1. Off-street loading facilities shall be located on the same site with the use for which the berths are required.
 2. Off-street loading facilities shall be designed and located so that loading vehicles are not parked in required setbacks, driveways, or required parking spaces during loading activities.
 3. No loading berths shall be closer than 30 feet to any property in a residential zone unless completely enclosed within a build, or a uniformly solid fence or wall, or any combination thereof, not less than eight feet in height.
 4. No permitted or required loading berth shall be located within 25 feet of the nearest point of any street intersection.
 5. Loading areas shall be located inside of buildings or on non-primary street frontages, alleys, parking areas, and/or at the rear or side of building.
 6. **Exceptions.** The location requirement may be modified or waived where the Review Authority finds that:
 - a. The intended use of the property or the location of or shape of the site and/or existing development warrant an adjustment to or waiver of these standards;
 - b. That street-facing loading areas will exhibit architectural treatment, or will be enhanced with landscaping, in such a way as to minimize visual and noise impacts; and
 - c. There are specific features of the site and design of the building such that strict application of the location requirement is impractical.
- D. **Size and Dimensions.** Each on-site loading space required by this Section shall not be less than 12 feet wide, 45 feet long, and 14 feet high, exclusive of driveways and areas for maneuvering. The minimum size requirement may be modified if the Director finds that the applicant has satisfactorily demonstrated that due to the nature of the proposed use, such size will not be needed.
- E. **Screening.** All loading zones and truck parking areas shall be screened from view by a minimum of an eight-foot-high hedge, vine-covered fence, or wall and landscaping.
- F. **Bumpers.** Bumper rails shall be provided in loading areas where needed for safety or to protect property.

- G. **Paving.** Loading areas, aisles, and access driveways shall be paved so as to provide a durable, dustless surface and shall be graded and drained to dispose of surface water.
- H. **Use of Required Loading Spaces.** Loading areas shall be accessible for their intended purpose during all hours of operation. No repair work or servicing of vehicles shall be conducted in a loading area. Space allocated to any off-street loading berth shall not be used to satisfy the space requirements for any off-street parking facility.

Chapter C.8 Signs

Sections:

- C.8.010 Purpose
- C.8.020 Applicability
- C.8.030 Permits and Administration
- C.8.040 General Standards for All Signs
- C.8.050 Standards for Permanent Signs
- C.8.060 Sign Design Standards
- C.8.070 Standards for Portable Signs and Temporary Signs
- C.8.080 Nonconforming Signs
- C.8.090 Sign Enforcement
- C.8.100 Severability

C.8.010 Purpose

The purpose of this Chapter is to provide regulation for all signs which are publicly displayed in the City. The regulations in this Chapter ensure that all signs installed in the City are compatible with the unique character and environment of the community and in compliance with the General Plan. The Chapter promotes public health, safety, and welfare through a comprehensive system of reasonable, effective, consistent, content-neutral, and nondiscriminatory sign standards and requirements. More specifically, this Chapter is intended to:

- A. Ensure that all signs are compatible with the character of Milpitas and with its adopted plans, and that they support the desired ambience and development patterns of the community;
- B. Protect and improve property values, the local economy, and quality of life by preserving and enhancing the appearance of the streetscape;
- C. Provide clear and unambiguous sign design standards that enable the fair and consistent enforcement of these sign regulations; and
- D. Balance public and private objectives by allowing adequate avenues for both commercial and non-commercial messages;
- E. Ensure pedestrian and traffic safety by promoting the free flow of traffic and the protection of pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting, and/or illegible signage;
- F. Prevent property damage, personal injury, and litter caused by signs that are improperly constructed or maintained;
- G. Ensure that the constitutionally guaranteed right of free speech is protected.

C.8.020 Applicability

The regulations of this Chapter shall be applicable to all persons, businesses, and other enterprises seeking to erect or otherwise display a sign in Milpitas, and to all signs within Milpitas regardless of their nature or location, unless otherwise specifically exempted in Subsection C.8.020.F (Exempt Signs) or otherwise regulated through a Specific Plan.

- A. **Standards for Permanent Signs.** Standards for permanent signs are found in Section C.8.050 (Standards for Permanent Signs).
- B. **Standards for Portable Signs and Temporary Signs.** Standards for portable signs and temporary signs are found in Section C.8.070 (Standards for Portable Signs and Temporary Signs).
- C. **Content-Neutral Application.** The provisions of this Chapter shall be applied in a content-neutral manner. Noncommunicative aspects of all signs, not related to the content of the sign, shall comply with the provisions of this Chapter. “Non-communicative aspects” include the time, place, manner, location, size, height, illumination, spacing, and orientation of signs.
- D. **Right-to-Picket.** Nothing in this Chapter shall be construed to prohibit a person from holding a sign while picketing or protesting on public property that has been determined to be a traditional or designated public forum, so long as the person holding the sign does not block ingress and egress from buildings, create a safety hazard by impeding travel on sidewalks, in bike or vehicle lanes, or on trails, or violate any other reasonable time, place, and manner restrictions adopted by the City.
- E. **Substitutions and Interpretations.**
 - 1. This Chapter is not intended to, and does not, restrict speech on the basis of a sign’s content, viewpoint, or message. No part of this Chapter shall be construed to favor commercial speech over non-commercial speech. A non-commercial message may be substituted for any commercial or non-commercial message displayed on a sign, or the content of any non-commercial message displayed on a sign may be changed to a different non-commercial message, without the need for any approval or permit, provided that the size of the sign is not altered and the sign otherwise complies with the provisions of this Chapter. To the extent any provision of this Chapter is ambiguous, the term will be interpreted not to regulate on the basis of the content of the message.
 - 2. When there is any question regarding the interpretation of a provision of this Chapter, or its application to any specific case or situation, the Director shall interpret the intent of this Chapter.
 - 3. An existing sign refinished for a use other than the original use shall be considered to be a new sign and is subject to the provisions of this Chapter.
 - 4. All regulations included in this Chapter shall apply unless a Sign Program is approved; see Subsection C.8.030.C (Sign Programs). Approval of a Sign Program by the City may result in the application of alternative sign standards that supersede the requirements of this Chapter, except for matters of public safety.
- F. **Conflicting Regulations.**
 - 1. Exceptions to this Chapter may be made for signs subject to federal or state government regulations that may be in conflict with this Chapter.

2. No sign shall be constructed, erected, installed, or maintained in any manner that conflicts with any rule, regulation, or order of the California Public Utilities Commission pertaining to the construction, operation, and maintenance of public utilities.
- G. **Exempt Signs.** The following are not regulated under this Chapter, do not count toward the maximum total sign area, and do not require a Sign Permit:
1. ***Non-structural Modifications and Maintenance.*** A Sign Permit is not required for the following:
 - a. Changes to the changeable copy of a changeable copy sign; and
 - b. The normal repair and maintenance of conforming or legal nonconforming signs, except as identified in Subsection C.8.040.G (Sign Maintenance).
 2. ***Government Signs.*** Any sign, posting, notice or similar signs placed, installed, or required by law by a city, county, or a federal or state governmental agency in carrying out its responsibility to protect the public health, safety, and welfare, including the following:
 - a. Numerals and letters identifying an address from the street to facilitate emergency response and compliant with city requirements;
 - b. Emergency and warning signs necessary to warn of dangerous and hazardous conditions and that serve to aid public safety or civil defense;
 - c. Traffic signs erected and maintained by an authorized public agency;
 - d. Signs required to be displayed by any applicable federal, state, or local law, regulation, or ordinance;
 - e. Signs directing the public to points of interest; and
 - f. Signs showing the location of public facilities.
 3. ***Incidental Signs.*** Incidental signs located outside of public easements or right of way on private property no greater than a total of three square feet in sign area in all residential zones and six square feet in all other zones.
 4. ***Signs or Displays Located Entirely Inside of a Building.*** Signs not readable from the public right-of-way that meet at least one of the following:
 - a. Signs or displays located entirely inside of a building, within a courtyard, open-air pedestrian space or similar open area and not visible from the building's exterior, except signs viewed from an alley.
 - b. Signs intended to be readable from within a parking area or public park but not readable beyond the boundaries of the lot or parcel upon which they are located or from a public right-of-way.
 5. ***Signs Identifying Historic Buildings, Historic Plaques, and Commemorative Signs.*** Historic plaques, memorial signs, or tablets that are no more than two square feet in area that are:
 - a. Erected by recognized historical agencies;
 - b. Names of buildings and the date the building was erected when cut into a masonry surface; or

- c. Constructed of bronze or other noncombustible letters and affixed flat against the wall of the building.

C.8.030 Permits and Administration

- A. **Relationship to Other Applicable Documents including Local and State Regulations.** In addition to the provisions provided in this Chapter, other City and state regulations may apply depending on the specific sign type and/or its location. These other regulations include, but are not limited to:
 - 1. California State Highway Code;
 - 2. California Business and Professions Code;
 - 3. California Civil Code;
 - 4. Any applicable Specific Plan that includes sign standards and regulations in addition to those provided in this Chapter. If the Specific Plan does not include sign standards, the regulations of this Chapter shall prevail;
 - 5. Uniform Building and National Electrical Codes when Building and Electrical Permits are required; and
 - 6. Any other requirements of the Milpitas Municipal Code.
- B. **Sign Permits.** The procedures and requirements for the preparation, filing, and processing of Sign Permits for permanent and temporary signs are provided in Section D.4.070 (Sign Permits).
- C. **Sign Programs.** The procedures and requirements for the preparation, filing, and processing of Sign Programs are provided in Section D.4.080 (Sign Programs).

C.8.040 General Standards for All Signs

- A. **Purpose.** The purpose of these general regulations is to define the parameters for design, size, height, and location of signs. The requirements related to the number, design, type and size of signs outlined in this Chapter are intended to be maximum standards which do not necessarily ensure compatibility with building architecture, the neighborhood and the community appearance.
- B. **Sign Message.** Any permitted sign may contain, in lieu of any other message or copy, any lawful non-commercial message, so long as the sign complies with the size, height, area, location, and other requirements of this Chapter.
- C. **Prohibited Signs and General Restrictions for All Signs.** The following signs, or signs which contain the following elements, are prohibited:
 - 1. **Location Restrictions.** Signs may not be placed in the following locations, except where specifically authorized in this Chapter:
 - a. *Architectural features.* Locations where a sign would cover the architectural features of a building, such as dormers, insignias, pilasters, soffits, transoms, trims, or another architectural feature.

- b. *Accessory structures.* Tacked, painted, pasted, or otherwise affixed, to the walls of any accessory structure, barn or shed, or on trees, poles, posts, fences, ladders, or other structures that are visible from or within a public way. Permanent signs may be attached to a fence or freestanding wall only when a monument or post sign is not present in the development and must be a maximum of three square feet in sign area.
- c. *Fuel tanks, storage containers, and solid waste receptacles.* Painted, attached or mounted on fuel tanks, storage containers and/or solid waste receptacles or their enclosures, except for a manufacturer's or installer's identification, appropriate warning signs and placards, and information required by law.
- d. *Clearance from power lines.* Within the horizontal or vertical clearance standards from communications lines and energized electrical power lines prescribed by the laws of the State of California.
- e. *Exits and entrances.* Any sign which is placed in a manner that would prevent or inhibit free ingress to or egress from any door, window, vent, or any exit way required by the Building Code or Fire Code (currently in effect).
- f. *Conflict with traffic signs.* Any location that obstructs the view of any authorized traffic sign, signal, or other traffic control device or which by reason of shape, color, or position interferes with or could be confused with any authorized traffic signal or device.
- g. *Intersections.* Any sign erected or maintained at or near any street intersection that will obstruct the free and clear vision of drivers and pedestrians.
- h. *Obstruction of pedestrian ways.* Any sign mounted or displayed in such a manner that impedes, obstructs, or creates hazards with respect to pedestrian traffic. A minimum unobstructed width of five feet must be maintained on sidewalks at all times.
- i. *Off-site.* Not on the site or premises to which the sign refers, unless the property or business has no street frontage, in which case signs may be located on the nearest property with street frontage that is in front of or adjacent to the subject property with the written permission of the property owner. Off-site billboards designed consistent with Subsection C.8.050.D.2 (Billboard Sign) may be permitted with approval of a Major Sign Permit in compliance with Subsection D.4.070.D.1.b.
- j. *Right-of-way and public property.* Signs located on public property and within the public right-of-way including any sign or handbill attached to a utility pole, street sign pole, or streetlight except those required or permitted by federal, state, or local law. Restrictions also apply to any sign attached to any public structure, tree, fence, fire hydrant, bridge, curb, sidewalk, park bench, statue, memorial, or other location on public property. Exceptions include:
 - (i) Signs approved as part of a special event;
 - (ii) Banner signs permitted by the City on light poles within the right-of-way; and
 - (iii) Signs approved with an Encroachment Permit.

- k. *Easements.* Signs located in public utility easements or other easements that would prohibit signage.
 - l. *Vehicles.* Signs mounted, attached, or painted on a trailer, boat, or motor vehicle when parked, stored, or displayed conspicuously on private premises in a manner intended to attract attention of the public for the purpose of advertising or identifying the business premises. This provision excludes signs indicating the name of the owner or business that are permanently painted or wrapped on the surface of the vehicle, adhesive vinyl film affixed to the interior or exterior surface of a vehicle window, or signs magnetically attached to motor vehicles or rolling stock that are actively used in the daily conduct of the business; however, vehicles must be operable, legally registered, and parked in a lawful or authorized manner within the confines of a striped parking space approved by the City, a residential driveway or residential street, or in a City street for more than 72 hours.
2. **Display Restrictions.**
- a. *Blinking, flashing lights.* Any sign having blinking, flashing, or fluttering lights, or any other illuminating device which has a changing light intensity, brightness, or color is not allowed consistent with Subsection C.8.040.E (Sign Illumination), except for the following:
 - (i) Approved in accordance with Section C.8.050.D.2 (Billboard Sign); or
 - (ii) Approved in accordance with a Sign Program, in accordance with Section C.8.030.C (Sign Programs).
 - b. *Devices affected by movement.* Any sign animated by any means, including fixed aerial displays, airborne balloons, feather banners, pennants, propellers, spinners, streamers, lights, string of flags, tubes or other devices affected by movement of the air or other atmospheric or mechanical means.
 - c. *Exposed light source.* Any sign with an exposed light source, except for neon or LED strip lights incorporated into the design of the sign.
 - d. *Fluorescent colors.* Any sign which uses fluorescent colors.
 - e. *Reflective materials.* Any sign using colors or materials with reflective properties.
 - f. *Rotating signs.* Any sign in which the sign body or any portion of the sign body or any portion of the sign rotates, moves up and down, or any other type of action involving a change in position of the sign body or any portion of the sign, whether by mechanical or any other means. Barber poles no larger than three feet high and 10 inches in diameter, and clocks, are excepted from this restriction.
 - g. *Sound, odors, visible matter, and motion picture projection.* Any sign which emits sound, odor, smoke, laser light display, hologram lights, or other visible matter, including any sign that uses motion picture projection.
3. **Prohibited Sign Types.** See definitions in Chapter E.6 (Definitions of Sign Terms). The following sign types are prohibited:
- a. Any sign which advertises a business that is a prohibited use or no longer in existence or a product or service no longer being sold, except for a cultural

resource designated in accordance with Milpitas Municipal Code Chapter XI-4 (Cultural Resources Preservation Program).

- b. Any advertising sign that is placed on public property or on private property without the consent of the property owner or as authorized in this Title. Includes temporary signs illegally tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or other objects.
 - c. Any sign erected upon a roof or roof-mounted equipment structure and any sign extending above a roof, parapet, or roof-mounted equipment structure of a building or structure.
 - d. Sign walkers.
 - e. Signs which bear or contain statements, words, or pictures of an obscene nature.
 - f. Stuffed or inflated animals or characters used as signs.
4. ***Parking of Mobile Billboards Prohibited.*** No person shall park or convey any mobile billboard advertising display, as defined by California Vehicle Code section 395.5, upon any public street or public lands in the City.
- a. ***Removal of mobile billboard advertising displays authorized.*** In accordance with California Vehicle Code section 22651(v) and (w), a peace officer, or any regularly employed and salaried employee of the City, who is authorized to engage in directing traffic or enforcing parking laws and regulations may remove, or cause to be removed, the mobile billboard, or anything the mobile billboard is attached to including a motor vehicle, located within the City limits when the mobile billboard is found upon any public street or any public lands, if all of the following requirements are satisfied:
 - (i) When a mobile billboard either standing alone or attached to a vehicle, device, or bicycle is parked or left standing in violation of this Title, and the registered owner of the vehicle, device, bicycle, or display was previously issued a warning notice or citation for the same offense;
 - (ii) A warning notice or citation was issued to a first-time offender at least 24 hours prior to the removal of the vehicle, device, bicycle, or display. In accordance with California Vehicle Code section 22651(v)(2) and (w)(2), the City is not required to provide further notice for a subsequent violation prior to enforcement; and
 - (iii) The warning notice or citation advised the registered owner of the vehicle, device, bicycle or display that they may be subject to penalties upon a subsequent violation of the Title that may include removal of the vehicle, device, bicycle, or display.
 - b. ***Permanent advertising signs excepted.*** In accordance with California Vehicle Code section 21100(o)(2) and (o)(3), this Section does not apply to advertising signs that are permanently affixed in a manner that is painted directly upon the body of a motor vehicle, applied to a decal on the body of a motor vehicle, or placed in a location on the body of a motor vehicle that was specifically designed by vehicle manufacturer for the express purpose of containing an advertising sign, such that they are an integral part of, or fixture of a motor vehicle for permanent

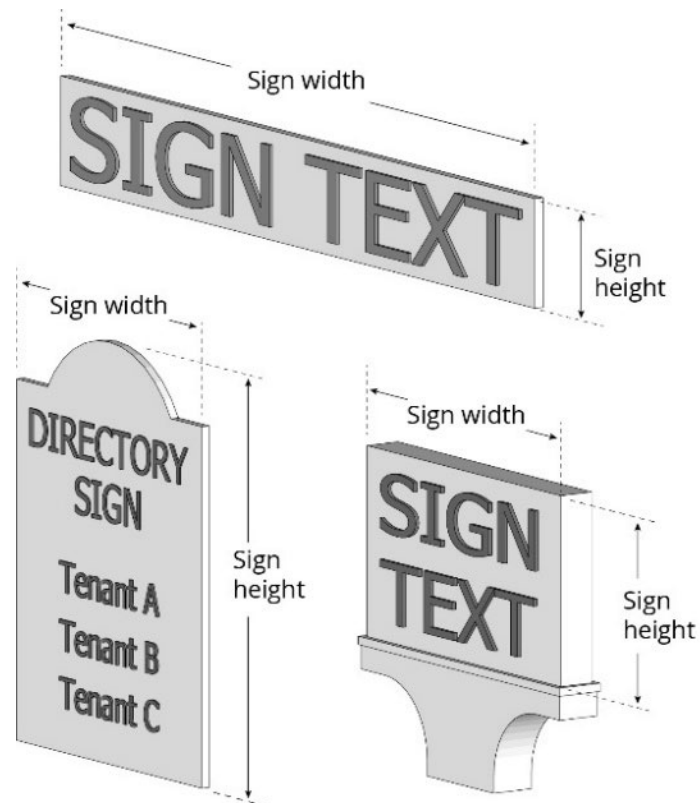
decoration, identification, or display and that do not extend beyond the overall length, width, or height of the vehicle.

- c. *Post storage impound hearing.* California Vehicle Code section 22852 applies to this Section with respect to the removal of any mobile billboard advertising display vehicle. Section 22852 is incorporated by reference and provides, in summary, that whenever an authorized employee of the City shall direct the storage operator to provide the vehicle's registered and legal owner(s) of record, or their agent(s), with the opportunity to for a post-storage hearing to determine the validity of the storage. Notice of the storage shall be mailed or personally delivered to the registered and legal owner(s) of record, or their agent(s), with the opportunity for a post-storage hearing to determine the validity of the storage. Notice of the storage shall be mailed or personally delivered to the registered and legal owner(s) within 48 hours, excluding weekends, as specifically provided by under California Vehicle Code section 22852. To receive a post-storage hearing, the owner(s) of record, or their agent(s), must request a hearing in person, in writing, or by telephone within 10 days of the date appearing on the notice. The City may authorize its own officer or employee to conduct the hearing as long as the hearing officer is not the same person who directed the storage of the vehicle.
- d. *Violation penalties.* A violation of this Section is a misdemeanor, punishable upon conviction by a fine of not less than \$250.00, no more than \$1,000.00, or by imprisonment in the Santa Clara County Jail for not more than six months, or by both fine and imprisonment. At the discretion of the Chief of Police to issue a citation for any violation of this Section, or the Milpitas City Attorney's Office, a violation of this Section may be an infraction enforced through the parking penalty process set forth in California Vehicle Code section 40200 et seq. or may be enforced as an administrative citation consistent with Milpitas Municipal Code Chapter I-21 (Administrative Citation).

D. Rules of Measurement.

1. **Sign Area Measurement.** Sign area is measured as follows:
 - a. *Signs on background panel.* Where the sign copy is mounted, affixed, or painted on a background panel or distinctively painted, textured, or constructed surface, the sign area is measured as the sum of the smallest rectangle(s) that will enclose both the sign copy and the background, as shown in Figure C.8.040-1 (Signs on Background Panel).

FIGURE C.8.040-1: SIGNS ON BACKGROUND PANEL



- b. *Signs with individual letters or symbols.* Where the sign has individual letters or symbols mounted against a wall, fascia, mansard, parapet, or other building surface that has not been distinctively painted, textured, or constructed as a background panel, the sign area is measured as a sum of the smallest rectangle(s) that will enclose each word and each graphic in the total sign except for the descending elements of lower case letters, as shown in Figure C.8.040.D-2 (Signs with Individual Letters). Where any individual type letters or symbols are separated by more than 36 inches from each other, those letters or symbols shall be calculated separately. The area of signs with individual letters or graphics shall be counted as 75 percent of the area enclosing the sign copy (i.e., sign area is determined as 75 percent of the total area enclosing all individual letters).

FIGURE C.8.040.D-2: SIGNS WITH INDIVIDUAL LETTERS



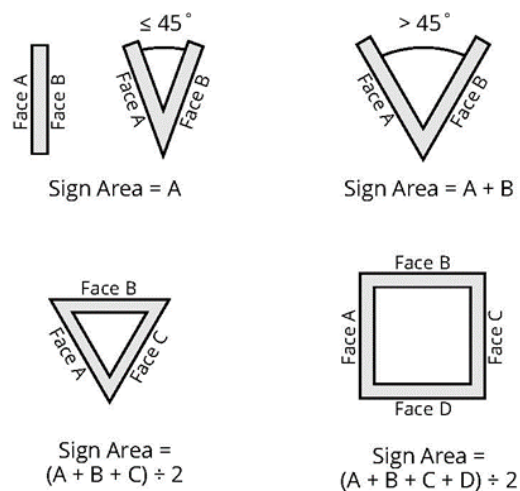
- c. *Irregular shaped signs.* Sign area for irregular shaped signs is determined by dividing the sign into squares, rectangles, triangles, circles, or arcs as shown in Figure C.8.040.D-3 (Irregular Shaped Signs).

FIGURE C.8.040.D-3: IRREGULAR SHAPED SIGNS



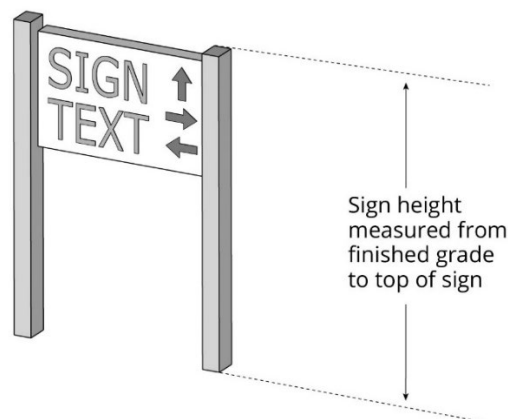
- d. **Multi-face signs.** The sign area for multi-face signs, as shown in Figure C.8.040.D-4 (Multi-Face Signs), are measured as follows:
- (i) **Two-face signs.** Where the interior angle between the two sign faces is 45 degrees or less and the sign faces are less than 42 inches apart, the sign area is measured as the area of one sign face only. Where the angle between the two sign faces is greater than 45 degrees, the sign area is the sum of the areas of the two sign faces.
 - (ii) **Three- or four-face signs.** The allowable sign area is measured as 50 percent of the sum of the areas of all sign faces.

FIGURE C.8.040.D-4: MULTI-FACE SIGNS



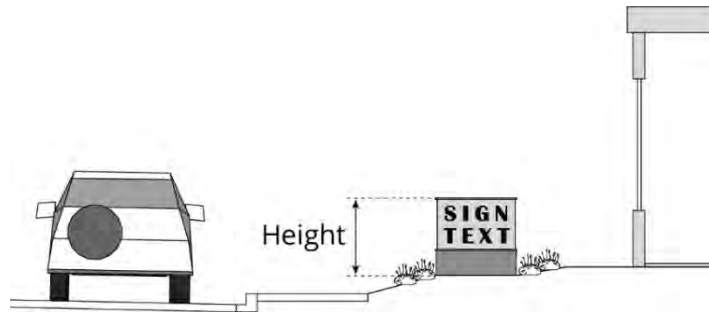
2. **Sign Height Measurement.** Sign height is measured as follows:
- a. **Freestanding signs.** Sign height for freestanding signs is measured as the vertical distance from the finished grade to the top of the sign, as shown in Figure C.8.040.D-5 (Freestanding Sign Height), except that height is measured from a warped plane parallel to natural grade in the “H” Hillside Combining District.

FIGURE C.8.040.D-5: FREESTANDING SIGN HEIGHT



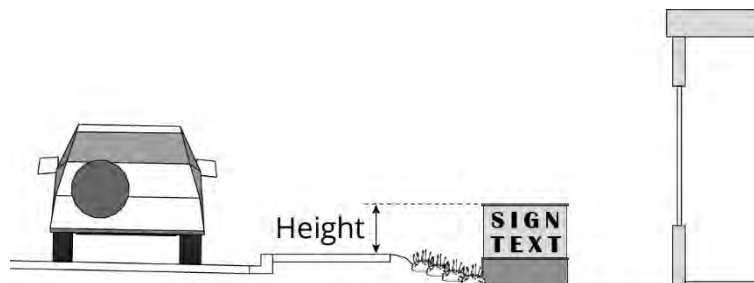
- (i) *Higher than adjacent grade.* Where the grade at the base of a sign is higher than the grade of the adjacent road right-of-way, sign height is measured from the base of the sign, as shown in Figure C.8.040.D-6 (Freestanding Sign, Higher than Adjacent Grade).

FIGURE C.8.040.D-6: FREESTANDING SIGN, HIGHER THAN ADJACENT GRADE



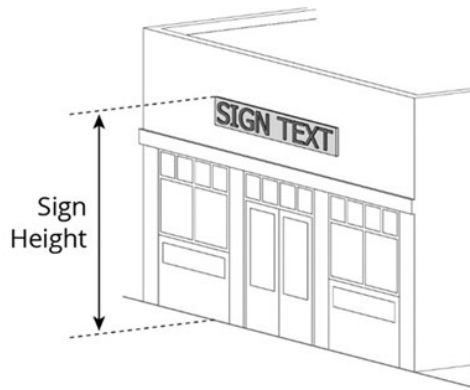
- (ii) *Lower than adjacent grade.* Where the grade at the base of a sign is lower than the grade of an adjacent road right-of-way, the height of the sign is measured from the top of curb elevation, as shown in Figure C.8.040.D-7 (Freestanding Sign, Lower than Adjacent Grade). The portion of the sign below the grade at the edge of the right-of-way shall not be included in determining the sign's overall height.

FIGURE C.8.040.D-7: FREESTANDING SIGN, LOWER THAN ADJACENT GRADE



- b. *Wall Signs.* The height of building-mounted signs is the vertical distance measured from the base of the wall on which the sign is located to the top of the sign structure, as shown in Figure C.8.040.D-8 (Wall Sign Height).

FIGURE C.8.040.D-8: WALL SIGN HEIGHT



E. Sign Illumination.

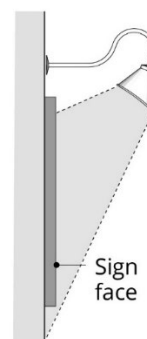
1. Internal Illumination.

- a. Internally illuminated signs include single- and multi-color LED signs, signs constructed with pan channel letters or reverse pan channel letters (i.e., indirect halo illuminated channel letters) on an unlit or otherwise indistinguishable background on a freestanding sign or wall.
- b. Internally illuminated signs must only be illuminated with steady, light sources that give no illusion of movement.

2. External Illumination.

- a. Externally illuminated signs must be illuminated only with steady, stationary, fully shielded light sources directed solely onto the sign without causing glare.
- b. The light source for externally illuminated signs must be arranged and shielded to substantially confine all direct light rays onto the sign face and away from streets and adjacent properties as illustrated in Figure C.8.040.E-1 (External Illumination).

FIGURE C.8.040.E-1: EXTERNAL ILLUMINATION



3. ***Single- or Multi-color LED Signs.***

- a. Single- or multi-color LED signs are only allowed in commercial, industrial, and mixed-use zones.
- b. Single- or multi-color LED signs are exempt from the sign area limitations for window signs.
- c. Single- or multi-color LED signs are included in the total sign area for wall and monument signs.
- d. Any individual single- or multi-color LED sign must not exceed two square feet in area and must be maximum four square feet in total.
- e. Single-color or two-color LED signs must be turned off daily at the close of business or 10:00 pm, whichever occurs last.

4. ***Neon.***

- a. Exposed neon sign lighting on permanent signs are only allowed in commercial, industrial, and mixed-use zones.
- b. Each business is only allowed one neon sign and it must be placed on the primary frontage of the building.
- c. Neon is allowed on no more than 25 percent of the total sign area of a permanent building mounted sign.
- d. Neon signs placed in a window are included in the total sign area limitations for all window signs.
- e. Neon signs must be turned off daily at the close of business or 10:00 pm, whichever occurs last.

5. ***Electronic Message Signs.***

- a. One electronic message sign may be allowed subject to approval of a Major Sign Permit as an integral component of a freestanding sign or wall sign per lot or site for mixed-use and non-residential uses in all zones.
- b. Electronic message signs must not flash, blink, flutter, include intermittent or chasing lights, or display video messages (i.e., any illumination or message that is in motion or appears to be in motion).
- c. Electronic message signs may display changing messages provided that each message is displayed for no less than 15 seconds.
- d. ***Night-time brightness.***
 - (i) ***Automatic control.*** Electronic message signs must be equipped with photocell technology to control and vary the intensity of light output depending on the amount of ambient light that is present to prevent overly bright luminance at night. Automatic controls must limit night luminance to a maximum of 100 nits when the display is set to show maximum brightness in 100 percent full white mode.
 - (ii) ***Manufacturer certification.*** The applicant shall include with the Building Permit application a written certification from the sign manufacturer that

the night-time luminance has been factory pre-set not to exceed the standard in Subsection C.8.040.E.5.d.i (Automatic control), and that this setting is protected from end-user modification by password-protected software or another method as deemed appropriate by the Building Official.

- e. Electronic message signs must be set to a maximum lighting intensity of 0.6 foot-candles as measured using a foot-candle meter placed 100 feet from the sign. Each sign shall have a redundant system for controlling sign brightness, including an automatic light sensing device or photocell that will adjust the brightness as ambient light conditions change, and a backup system based on local sunrise and sunset times.
- f. Electronic message signs shall be located within five feet of the principal building wall.

F. Sign Structure and Installation.

- 1. The installation of signs shall be enforced and administered by the Building Official. All signs and sign structures must be designed to comply with the provisions of this Chapter; the provisions of the California Title 24 Building and Electrical Codes; and constructed to withstand wind loads, dead loads, and lateral forces.
- 2. Signs shall be designed so that the support frameworks for the sign are an integral part of the design of the sign or within the structure of the building to which it is attached in such a manner as to not be visible. Any angle iron, bracing, guy wires, or similar features used to support a sign shall not be visible to the extent technically feasible.
- 3. Where electrical service is provided to freestanding signs, the electrical service shall be placed underground and concealed. Electrical service to building mounted signs, including conduit, transformers, housings, and wire, shall be concealed or, when necessary, painted to match the surface of the structure upon which they are mounted. A Building Permit or Electrical Permit shall be issued prior to installation of any new signs requiring electrical service.
- 4. Raceway cabinets, as illustrated in Figure C.8.040.F-1 (Raceway), may only be used in building mounted signs when access to the wall behind the sign is not feasible, or when the Director determines that a benefit exists to preserve a historic or architectural feature of a building. In such cases, the raceway cabinet must not extend in width and height beyond the area of the sign and must match the color of the building to which it is attached. Where a raceway cabinet provides a contrast background to sign copy, the colored area is counted in the total allowable sign area allowed for the site or business.

FIGURE C.8.040.F-1: RACEWAY



5. All permanent signs allowed by this Chapter shall be constructed of durable, impact-resistant materials capable of withstanding continuous exposure to the elements and the conditions of a built-up environment, and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame, or structure.

G. Sign Maintenance.

1. All signs must be maintained by the property owner, tenant, or permittee. In the event a sign becomes derelict for reasons of lack of maintenance the Sign Permit may be revoked and the sign subject to abatement.
2. Repainting or cleaning a sign does not require a Sign Permit unless a structural change is made, in which case a Minor Sign Permit application shall be completed and submitted to the Director in compliance with the provisions of Section D.4.070 (Sign Permits).
3. All signs, together with their supports and appurtenances, shall be maintained in good structural condition, in compliance with applicable building and electrical codes, and in conformance with this Chapter. Maintenance of a sign includes periodic cleaning, replacement of flickering, burned out or broken light bulbs or fixtures, repair or replacement of any faded, peeled, cracked, or otherwise damaged or broken parts of a sign, and any other activity necessary to restore the sign so that it continues to comply with the requirements and contents of the Sign Permit issued for its installation and the provisions of this Chapter.
4. All signs and supporting structures shall be kept in repair and in proper state of preservation. The display surfaces of all signs shall be kept neatly painted and clean. The immediate surrounding premises shall be maintained free of weeds and rubbish. The Director is authorized to order the painting, cleaning, or repair of signs which become dilapidated and the cleaning of the immediate premises. The maintenance shall be completed within 30 days of receiving written notice.
5. Required landscaped areas around signs shall be maintained consistent with C.4.050.I (Maintenance).
6. The Building Official has the authority to order the repair, maintenance, or removal of any sign or sign structure that has not been maintained and is dangerous or in disrepair, or which is erected or maintained contrary to the requirements of this Chapter.
7. Failure to maintain a sign constitutes a violation of this Chapter and will be subject to enforcement action, in which case the Director may order the removal of any sign that is determined to be in disrepair or dangerous.

C.8.050 Standards for Permanent Signs

A. Applicability.

1. This Section establishes standards for permanent signs.
2. Table C.8.050-A (Allowed Permanent Sign Types by Zone) establishes which permanent sign types are allowed in each zone. Any combination of allowed sign types may be used within a given zone unless specifically prohibited.

3. Table C.8.050-B (Maximum Total Permanent Sign Area) establishes maximum allowed total sign area per lot based on zones. Subsection C.8.050.D (Standards for Specific Permanent Signs) provides the standards and supporting illustrations for allowed sign types.
4. A sign type not specifically included in this Section may be allowed by the Director provided the sign meets the intent of the zone in which it is proposed and all applicable sign standards.

- B. **Allowed Permanent Sign Types by Zone.** Table C.8.050-A (Allowed Permanent Sign Types by Zone) establishes which sign types are allowed in each zone category. Refer to Section B.2.020 (Zones Established) for specific zones within each zone category.

Table C.8.050-A: Allowed Permanent Sign Types by Zone						
• = permitted — = not permitted						
Sign Type	Residential Zones	Commercial Zones	Mixed Use Zones	Industrial Zones	Metro Zones	Other Zones
Awning Sign	—	•	•	•	•	•
Billboard Sign	—	•	—	•	—	—
Blade Sign	—	•	•	•	•	•
Canopy Sign	—	•	•	•	•	•
Directional Sign	—	•	•	•	•	•
Directory Sign	—	•	•	•	•	•
Electronic Message Sign	—	•	•	•	—	•/— ¹
Monument Sign	•	•	•	•	•	•
Post Sign	•	•	•	•	•	•
Projecting Sign	—	•	•	•	•	•
Service Island Canopy Sign	—	•	•	•	—	—
Wall Sign	•	•	•	•	•	•
Window Sign, Permanent	—	•	•	•	•	•

Table Notes:

¹ Electronic message signs only allowed in the Institutional (I) Zone.

- C. **Maximum Total Permanent Sign Area.** Table C.8.050-B (Maximum Total Permanent Sign Area) provides standards for total allowable permanent sign area per lot by zone. See Subsection C.8.050.D (Standards for Specific Permanent Signs) for additional standards.

Table C.8.050-B: Maximum Total Permanent Sign Area Per Lot	
sf = square feet lf = linear feet	
Zones	Sign Area ¹
R1 Zones	Conditional uses shall be allowed sign area not exceeding 1 sf of sign area for each 3 lf of public street frontage ² Max. area: 32 sf; 24 sf in the "H" Hillside Combining District
R2, R3, R4, and MHP Zones	Signs for permitted uses shall not exceed 10 sf Conditional uses shall be allowed sign area not exceeding 1 sf of sign area for each 3 lf of public street frontage ² Max. area: 32 sf
Nonresidential Zones (Commercial, Mixed Use, Industrial, Metro, Other) ³	Max. area: 1 sf of sign for each 2 lf of building perimeter on the subject parcel or not exceed 2 sf of sign for each 1 lf of public street frontage ^{2,3} For buildings or uses containing more than 1 business, the allowable sign area shall be: - Distributed to each business proportionately to the floor area of the subject business to the total floor area for all leasable structures on the parcel or site; or - Distributed to each business proportionately to the building façade of the subject business by 1 sf of sign area per 1 lf of adjacent building façade oriented towards a property line of a site or common parking area ⁴

Table Notes:

¹ See Section C.8.050.D (Standards for Specific Permanent Signs) for which signs are counted or not counted toward the total sign area.

² Public street frontage with non-access rights or no immediate direct access, such as flood control channels, but excluding landscaped planter areas, shall not be considered public street frontage for purposes of sign area calculations.

³ At the applicant's discretion.

⁴ For a 30-acre or larger commercial site with gross building area of at least 1,000,000 sf, private streets that delineate separate parcels within the site may be used instead of its public street frontage (or applicable building perimeter formula) for calculating total allowed sign area.

D. **Standards for Specific Permanent Signs.** In addition to the standards in Table C.8.050-B (Maximum Total Permanent Sign Area), permanent signs must comply with the specific standards provided in this Subsection as applicable to each sign type.

1. **Awning Signs.** Awning signs must comply with the standards provided in Table C.8.050-C (Standards for Awning Signs).

Table C.8.050-C: Standards for Awning Signs	
sf = square feet lf = linear feet	
Standards	Requirements
Sign Area ¹	Max. 50% of the area of the end panel and max. 20% of the area of the street-facing panel of the awning or valance
Sign Height	Min. 8 ft from the bottom of the awning to the nearest grade or sidewalk Max. 20 ft
Sign Placement	Must only be placed above the doors and windows of the ground floor May project into public right-of-way with approval of an Encroachment Permit
Valance Height	Max. 9 in
Horizontal Distance from Back of Curb	Min. 2 ft
Illumination	Non-illuminated or illumination allowed under the awning consistent with Subsection C.2.070 (Lighting and Illumination)

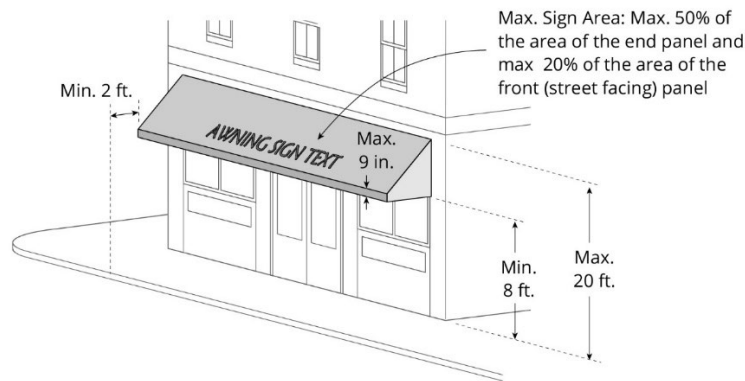


Table Notes:

¹ Included in the total allowable sign area for all permanent signs. See Table C.8.050-B (Maximum Total Permanent Sign Area).

2. **Billboard Signs.** Billboard signs must comply with the standards provided in Table C.8.050-D (Standards for Billboard Signs).

Table C.8.050-D: Standards for Billboard Signs

sf = square feet | lf = linear feet

Standards	Requirements
Sign Area ¹	Max. 1,200 sf ²
Sign Height	Max. 70 ft
Sign Placement	Must be placed adjacent to an interstate highway or state route Must be separated at least 1,000 ft from another billboard on the same side of the interstate or state route To the extent possible, must be located and oriented to avoid or minimize the direct exposure of the display to view from adjacent or nearby residential or lodging uses
Illumination	Non-illuminated, internal illumination, or external illumination (see C.8.040.E (Sign Illumination)) Lighting shall not impair the vision of travelers on any adjacent interstate or state route ³ The lamps/light sources of a static display must be designed and installed so that the angle of the light towards the freeway cannot be altered.
Digital Billboards	Digital billboards shall contain static messages only, and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, lighting, or pictorial segment of the sign Each message must be displayed for a min. of 4 seconds Must not exceed a brightness level of 0.3 foot-candles over ambient light levels, as measured using a foot-candle meter at 250 ft from the sign face (unless a more restrictive standard is otherwise required)
Other Requirements	Must be located in a landscape area that extends min. 3 ft from the base of the sign and is defined by a vertical curb to protect the sign Must include the words "City of Milpitas" and/or the City logo on the structure Must obtain written permission of the property owner Must enter into a Development Agreement or other form acceptable to the City Attorney All advertising on the billboard must conform to California Business and Professions Code § 5200-5486 and other applicable state and federal rules and regulations

Table Notes:

¹ Not included in the total allowable sign area for all permanent signs.

² Ancillary fixed signs or logos may be permitted on the sign's supporting structure and are not counted towards the maximum sign area.

³ Illumination shall be considered vision impairing when its brilliance exceeds standards in California Vehicle Code § 21466, or any successor statute or California Department of Transportation regulations.

3. **Blade Signs.** Blade signs must comply with the standards provided in Table C.8.050-E (Standards for Blade Signs).

Table C.8.050-E: Standards for Blade Signs	
sf = square feet lf = linear feet	
Standards	Requirements
Sign Area ¹	Max. 8 sf
Sign Height	Min. 8 ft from the bottom of the sign to the nearest grade or sidewalk Max. 15 ft
Sign Placement	Must only be placed on the ground floor May project into public right-of-way with approval of an Encroachment Permit
Number of Signs	Max. 1 per business frontage
Projection	May project a max. 4 ft from the wall of a building
Illumination	No internal illumination

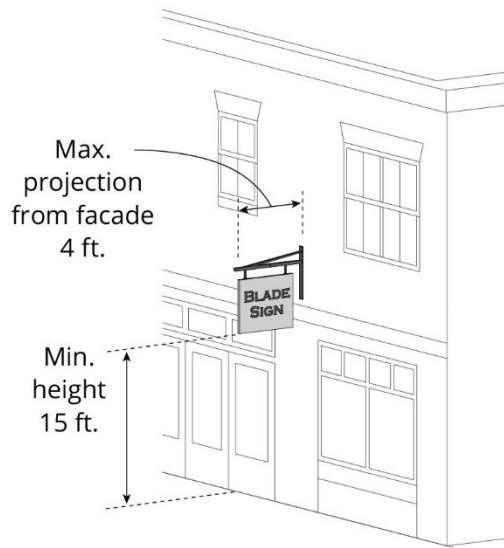


Table Notes:

¹ Included in the total allowable sign area for all permanent signs. See Table C.8.050-B (Maximum Total Permanent Sign Area).

4. **Canopy Signs.** Canopy signs must comply with the standards provided in Table C.8.050-F (Standards for Canopy Signs).

Table C.8.050-F: Standards for Canopy Signs

sf = square feet | lf = linear feet

Standards	Requirements
Sign Area ¹	Max. 1 sf per 1 lf of canopy width
Sign Height	Min. 8 ft from the bottom of the canopy to the nearest grade or sidewalk Max. 20 ft
Sign Placement	Must only be placed above the doors and windows of the ground floor May project into public right-of-way with approval of an Encroachment Permit
Horizontal Distance from Back of Curb	Min. 2 ft
Illumination	Non-illuminated or internal illumination
Other Requirements	Max. height of sign letters is 2 ft measured from the top of the canopy



Table Notes:

¹ Included in the total allowable sign area for all permanent signs. See Table C.8.050-B (Maximum Total Permanent Sign Area).

5. **Directional Signs.** Directional signs must comply with the standards provided in Table C.8.050-G (Standards for Directional Signs).

Table C.8.050-G: Standards for Directional Signs

sf = square feet | lf = linear feet

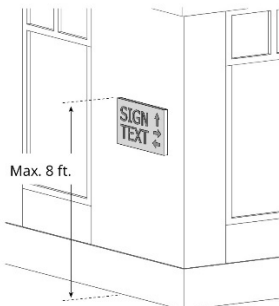
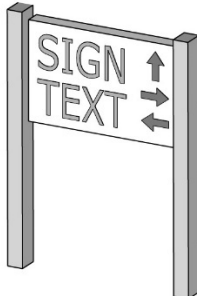
Standards	Requirements	
	<i>Building-Mounted</i>	<i>Freestanding</i>
Sign Area ¹	Max. 12 sf	Max. 3 sf
Sign Height	Max. 8 ft	Max. 6 ft, except max. 4 ft at driveway or drive-through lanes
Sign Placement	n/a	Max. 10 ft setback from the property line
Number of Signs	Max. 1 per driveway entrance Max. 6 signs per site or development	
Illumination	Non-illuminated or external illumination	
Other Requirements	n/a	Must be located in a landscape area that extends min. 3 ft from the base of the sign and is defined by a vertical curb to protect the sign.
		

Table Notes:

¹ Not included in the total allowable sign area for all permanent signs.

6. **Directory Signs.** Directory signs must comply with the standards provided in Table C.8.050-H (Standards for Directory Signs).

Table C.8.050-H: Standards for Directory Signs

sf = square feet | lf = linear feet

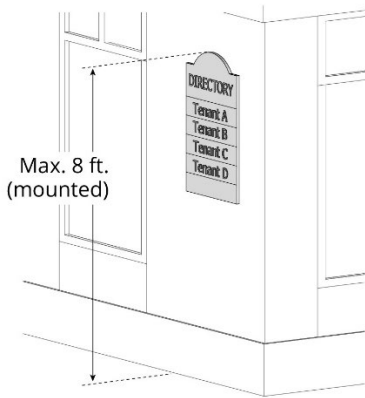
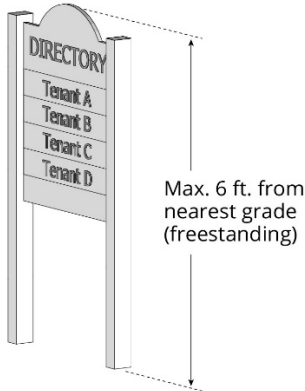
Standards	Requirements	
	<i>Building-Mounted</i>	<i>Freestanding</i>
Sign Area ¹	Max. 2 sf per tenant space Max. 16 sf total sign area	Max. 1 sf per tenant space Max. 12 sf total sign area
Sign Height	Max. 8 ft from the top of the sign to nearest grade	Max. 6 ft from the top of the sign to nearest grade
Sign Placement	n/a	Max. 10 ft setback from the property line
Number of Signs	Max. 1 per primary building entrance	Max. 1 per building
Illumination	Non-illuminated, internal illumination, or external illumination	
Other	n/a	Must be located in a landscape area that extends min. 3 ft from the base of the sign and is defined by a vertical curb to protect the sign.
		

Table Notes:

¹ Not included in the total allowable sign area for all permanent signs.

7. **Monument Signs.** Monument signs must comply with the standards provided in Table C.8.050-I (Standards for Monument Signs).

Table C.8.050-I: Standards for Monument Signs		
sf = square feet lf = linear feet		
Standards	Requirements	
	All Other Zones	Residential Zones
Sign Area ^{1, 2}	As provided in Table C.8.050-B (Maximum Total Permanent Sign Area)	
Sign Height ²	1 ft of height per 8 lf of public street frontage Max. 25 ft For any second sign allowed, only the lf over 300 ft shall be used to determine height	1 ft of height per 25 lf of public street frontage Max. 25 ft; except 4 ft in the "H" Hillside Combining District
Number of Signs ²	Max. 1 per public street frontage; none allowed on the street frontage if a post sign is located on that street frontage 1 additional sign allowed for lots with more than 300 ft of street frontage	
Sign Placement	Only located along a property frontage facing a public street	
Illumination	Non-illuminated, internal illumination, or external illumination	Non-illuminated or external illumination
Other Requirements	The sign base must be at least 60% of the width of the sign. The sign base shall be min. 12 inches in height from finished grade. Must be located in a landscape area, consisting of shrubs and/or perennial ground cover plants, that extends min. 3 ft from the base of the sign in all directions and is defined by a vertical curb to protect the sign.	

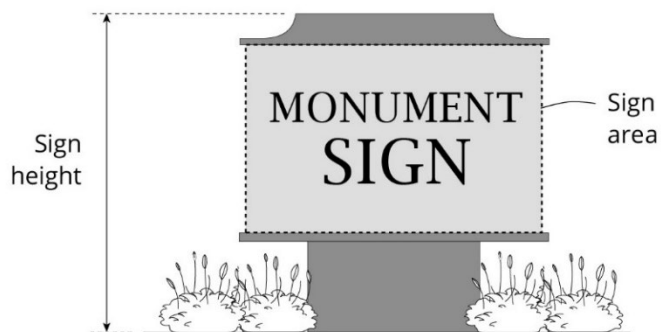


Table Notes:

¹ Included in the total allowable sign area for all permanent signs. See Table C.8.050-B (Maximum Total Permanent Sign Area).

² The following exceptions to these standards may be allowed with Planning Commission approval of a Sign Program:

- For a 5-acre or larger site with 5 or more businesses, an additional monument sign may be allowed that is up to 300 sf and 45 ft in height.

- For a 30-acre or larger commercial development site with gross building area of at least 200,000 sf, an additional monument sign may be allowed that is up to 450 sf and 60 ft in height. One off-site sign may also be allowed subject to issuance of an Encroachment Permit and/or private property owner approval.
- For a 30-acre or larger commercial site with gross building area of at least 1,000,000 sf, two off-site signs may be allowed subject to issuance of an Encroachment Permit and/or private property owner approval; electronic message signs may be allowed on the monument sign(s); and signs that have the illusion of movement may be allowed for tenants with at least 40,000 sf of leasable floor area.
- Additional monument signs in each of the following Town Center subareas: Beresford Square, Shapell Office Building, Main Town Center shopping area (east of Milpitas Boulevard to Hillview Drive), and hotel and offices east of Berryessa Creek.

8. **Post Signs.** Post signs must comply with the standards provided in Table C.8.050-J (Standards for Post Signs).

Table C.8.050-J: Standards for Post Signs	
sf = square feet lf = linear feet	
Standards	Requirements
Sign Area ¹	16 sf
Sign Height	Max. 6 ft
Sign Placement	Max. 10 ft setback from the property line
Number of Signs	Max. 1 per public street frontage; none allowed on the street frontage if a monument sign is located on that street frontage 1 additional sign allowed for lots with more than 300 ft of street frontage
Illumination	Non-illuminated, internal illumination, or external illumination
Other Requirements	Must be located in a landscape area, consisting of shrubs and/or perennial ground cover plants, that extends min. 3 ft from the base of the sign in all directions and is defined by a vertical curb to protect the sign.

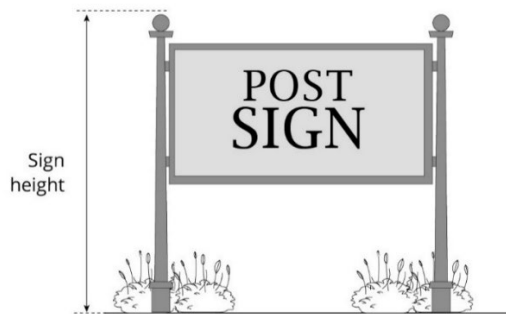


Table Notes:

¹ Included in the total allowable sign area for all permanent signs. See Table C.8.050-B (Maximum Total Permanent Sign Area).

9. **Projecting Signs.** Projecting signs must comply with the standards provided in Table C.8.050-K (Standards for Projecting Signs).

Table C.8.050-K: Standards for Projecting Signs	
sf = square feet lf = linear feet	
Standards	Requirements
Sign Area ¹	Max. 36 sf
Sign Height	Min. 8 ft from the bottom of the sign to the nearest grade or sidewalk, except min. 14 ft above a driveway, alley, or other vehicular access way
Sign Placement	Projecting signs shall not be permitted closer than 20 feet from each other May not extend vertically above the second floor window sill; or when there is no second floor, may not extend above the parapet, eaves, or roof line Must be placed so that the sign causes no harm to street trees May project into public right-of-way with approval of an Encroachment Permit
Number of Signs	Max. 1 per business
Projection	May project a max. 5 ft from the wall of a building
Illumination	Non-illuminated, internal illumination, or external illumination

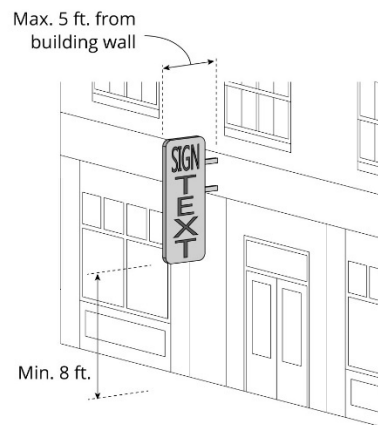


Table Notes:

¹ Included in the total allowable sign area for all permanent signs. See Table C.8.050-B (Maximum Total Permanent Sign Area).

10. **Service Station Island Canopy Signs.** Service station island canopy signs must comply with the standards provided in Table C.8.050-L (Standards for Service Station Island Canopy Signs).

Table C.8.050-L: Standards for Service Station Island Canopy Signs

sf = square feet | lf = linear feet

Standards	Requirements
Sign Area ¹	Max. 60 sf for the total area of all signs on the canopy
Number of Signs	Signs may only be displayed on max. 3 canopy facades
Illumination	Non-illuminated or internal illumination.

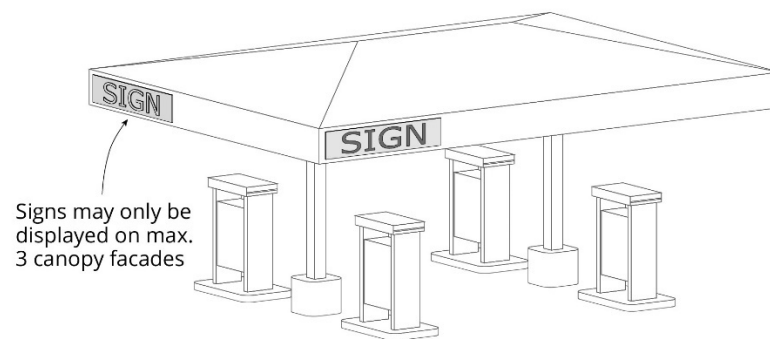


Table Notes:

¹ Included in the total allowable sign area for all permanent signs. See Table C.8.050-B (Maximum Total Permanent Sign Area).

11. **Wall Signs.** Wall signs must comply with the standards provided in Table C.8.050-M (Standards for Wall Signs).

Table C.8.050-M: Standards for Wall Signs

sf = square feet | lf = linear feet

Standards	Requirements
Sign Area ¹	As provided in Table C.8.050-B (Maximum Total Permanent Sign Area)
Sign Placement	The exposed face of a wall sign shall be installed in a plane parallel to the plane of the wall
Sign Depth	Max. depth 1 ft measured from the wall on which the sign is placed
Illumination	Non-illuminated, internal illumination, or external illumination

Table C.8.050-M: Standards for Wall Signs

sf = square feet | lf = linear feet

Standards	Requirements
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Table Notes:

¹ Included in the total allowable sign area for all permanent signs. See Table C.8.050-B (Maximum Total Permanent Sign Area).

12. **Window Signs, Permanent.** Permanent window signs must comply with the standards provided in Table C.8.050-N (Standards for Window Signs, Permanent).

Table C.8.050-N: Standards for Window Signs, Permanent

sf = square feet | lf = linear feet

Standards	Requirements
Sign Area ¹	Window signs shall not exceed 25% of contiguous window area; however, window signs shall not exceed 40% of contiguous window area in the C2 and HS zones.
Sign Placement	Must be mounted or displayed on the interior of the window Allowed on 1 st , 2 nd , and 3 rd story windows only Must be located on a floor that the business is operating (e.g., a business only operating on the first floor may only place a window sign in a first floor window)
Illumination	Non-illuminated, neon, or single- or two-color LED signs



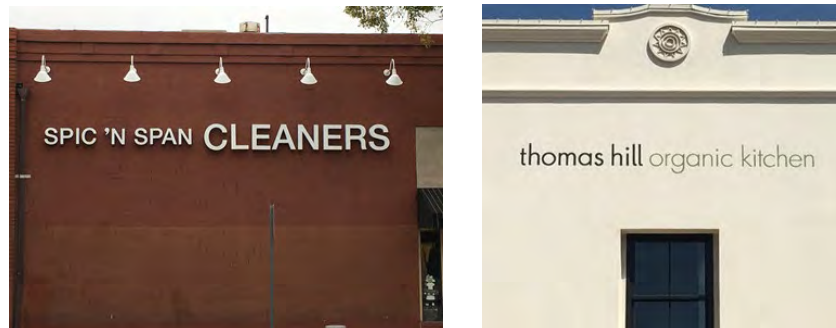
Table Notes:

¹ Not included in the total allowable sign area for all permanent signs.

C.8.060 Sign Design Standards

- A. **Applicability.** The standards established in this Section apply to all permanent signs. These standards complement the mandatory sign regulations established in Section C.8.050 (Standards for Permanent Signs). These standards shall be utilized by the Review Authority when considering the appropriateness of the design of a proposed sign as provided in this Chapter.
- B. **General Sign Design Standards.** These general sign design standards will be utilized during the review of any application for a Sign Permit or Sign Program to ensure the highest level of design quality, while at the same time providing the flexibility necessary to encourage creativity on the part of the sign designer.
 1. **Use a Brief Message.** Signs must be designed with a brief message because the fewer words used, the more effective the sign. A sign with a brief message is quicker and easier to read, looks cleaner, is more effective in conveying its message, and is more attractive.
 2. **Avoid Overly Intricate or Unusual Fonts.** Simple, easy-to-read fonts must be utilized in signs to enhance their readability. Signs that include very intricate font styles are generally difficult to read and reduce a sign's ability to communicate effectively. Signs with unusual fonts may look good today, but soon go out of style, and the image conveyed may quickly become that of a dated and unfashionable business.

FIGURE C.8.060-1: EXAMPLES OF SIGNS WITH A BRIEF MESSAGE AND SIMPLE FONT STYLE



3. **Emphasize One Line of Text.** Signs with more than one line of text must emphasize one line over the others to enhance the message conveyed.
4. **Limit the Number of Fonts to Two.** The number of fonts used in a sign must be limited because the use of more than two font styles makes the sign harder to read. The primary purpose of a sign is to quickly convey information to motorists and pedestrians.
5. **Provide Contrast Between Background and Letters/Symbols.** Signs must be designed with high contrast between the sign's letter/symbol color and its background color to be most effective. Signs with little contrast in the hue (shade or tint) and/or intensity (brightness) between the background and letter/symbol colors are difficult to read.

FIGURE C.8.060-2: EXAMPLES OF SIGNS WITH A SIMPLE COLOR PALETTE, LIMITED FONTS, AND GOOD CONTRAST



6. **Graphic Relief.** Signs must utilize individual lettered business and logo design, or where appropriate, sign copy, logo, and/or decorative embellishments in relief on the face of the sign to enhance readability and project a positive image of the business or use. Signs must be designed to provide three-dimensional relief, i.e., be raised above, or set below the sign background.

FIGURE C.8.060-3: EXAMPLES OF RAISED LETTERS



7. ***Proportion, Scale and Rhythm of Sign Placement.*** Signs must be sized and placed in a manner consistent with the proportions and scale of building elements within a building's facade:
- A large sign may fit well on a large, plain wall area, but could overpower the finer scale and proportion of if placed above a small storefront.
 - Signs should establish rhythm, scale, and proportion on a facade where these elements are weak in the building design. On buildings with a plain facade, signs should establish or continue appropriate design rhythm, proportion, and scale.
 - The proportion of letter area to sign background area must be carefully considered. Letters must not appear to occupy more than 70 percent of the sign's background area. Signs where the letters take up too much of the background area are harder to read. Generally, large letters are not necessarily more legible than smaller ones.

FIGURE C.8.060-4: EXAMPLES OF SIGNS WITH GOOD PROPORTION, SCALE, AND RHYTHM



8. ***Complementary Sign Design.*** Where there is more than one sign for a business (e.g., single tenant buildings) or group of businesses (e.g., multiple tenant buildings, commercial centers, or business or industrial parks), all signs must be designed to ensure consistency of sign design and be complementary to one another in the following ways:
- Type of construction materials used in the sign body, sign copy, sign base, supports, etc.);
 - Letter size and style of copy;
 - Method and design of sign support (wall mounting or monument base);
 - Configuration of sign area; and
 - Proportion of sign copy area to background.
9. ***Artistry and Innovation.*** The use of artistry and innovation in sign design will make the sign stand out and draw attention to the use or activity it is advertising. It can also improve the overall appearance of a building or neighborhood.

10. **Sign Scale.** Signs must be designed and placed relative to the typical position and distance from which the sign is viewed. Signs intended to be read by pedestrians (i.e., usually read from a distance of 15 to 20 feet) must be smaller in scale than a vehicle-oriented sign which is designed to be viewed from a much greater distance. In general, the closer the sign's viewing distance, the smaller the sign needs to be.
11. **Freestanding Signs.** Freestanding signs must incorporate the materials and architectural features used in the building(s) they serve. Freestanding signs are most effective when placed perpendicular to approaching vehicular traffic.

C.8.070 Standards for Portable Signs and Temporary Signs

- A. **Purpose.** The Council finds that the proliferation of portable signs and temporary signs is a distraction to the traveling public and creates aesthetic blight and litter that threatens the public's health, safety, and welfare. In addition to the purpose provisions of Section C.8.040 (General Standards for All Signs), these regulations ensure that portable signs and temporary signs do not create a distraction to the traveling public by eliminating the aesthetic blight and litter caused by these signs.
- B. **Allowed Portable Sign and Temporary Sign Types by Zone.** Table C.8.070-A (Allowed Portable Signs and Temporary Sign Types by Zone) establishes which sign types are allowed in each zone category. Refer to Section B.2.020 (Zones Established) for specific zones within each zone category.

Table C.8.070-A: Allowed Portable Sign and Temporary Sign Types by Zone						
• = permitted — = not permitted						
Sign Type	Residential Zones	Commercial Zones	Mixed Use Zones	Industrial Zones	Metro Zones	Other Zones
Portable Signs						
A-Frame or Upright Sign	•	•	•	•	•	•
Window Sign, Temporary	•	•	•	•	•	•
Yard Sign, Type I	•	•	•	•	•	•
Temporary Signs						
Balloon Sign	—	•	•	•	•	—
Banner Sign	—	•	•	•	•	•
Yard Sign, Type II	•	•	•	•	•	•
Yard Sign, Type III	•	•	•	•	•	•

- C. **General to All Portable Signs and Temporary Signs.** Portable signs and temporary signs are allowed only in compliance with the provisions of this Section.
1. **Information Required for Display.** All portable signs and temporary signs are required to display the name and address of the entity placing the sign and the date the sign was erected.
 2. **Permits.**
 - a. *Portable signs.* No permits are required to place or display portable signs.
 - b. *Temporary signs.* A Temporary Sign Permit is required for all temporary signs. See Section D.4.090 (Temporary Sign Permits).
 3. **General Time, Place, and Manner Restrictions.**
 - a. *Time restrictions.*
 - (i) *Portable signs.* Refer to Table C.8.070-B (Standards for All Portable Signs) for the time restrictions for portable signs.
 - (ii) *Temporary signs.* Refer to Table C.8.070-F (Standards for All Temporary Signs) for the time restrictions for temporary signs.
 - b. *Location restrictions.* Portable signs and temporary signs must be placed in compliance with Subsection C.8.070.B (Allowed Portable Sign and Temporary Sign Types by Zone) and C.8.040.C.1 (Location Restrictions) unless otherwise exempted by this Section.
 - c. *Prohibited elements.*
 - (i) *Illumination.* Any form of illumination, including flashing, blinking, or rotating lights; animation; reflective materials;
 - (ii) *Movement.* Any form of rotation, movement, or moving elements of the sign except for the limited movement from the hanging sign on a Yard Sign, Type II; and
 - (iii) *Attachments.* Attachments including but not limited to balloons, flags, ribbons, loudspeakers, etc.
 - d. *Design and construction.* Portable signs and temporary signs must be of sufficient weight and durability to withstand rain, wind gusts, storms, etc. and must be professionally crafted.
 - e. *Removal.*
 - (i) *Portable signs.* All portable signs must be removed within 14 calendar days after the conclusion of the purpose served by the sign.
 - (ii) *Temporary signs.* All temporary signs must be removed within 14 calendar days after the conclusion of the purpose served by the sign or within 45 calendar days after they are placed, erected, or installed, whichever comes first. In no case shall a temporary sign be allowed more than twice per year.

- D. **Standards for All Portable Signs.** Portable signs are allowed in compliance with the provisions in Table C.8.070-B (Standards for All Portable Signs).

Table C.8.070-B: Standards for All Portable Signs		
sf = square feet lf = linear feet		
Standards	Requirements	
	<i>Residential Only Zones or Residential Uses in Nonresidential Zones</i>	<i>All Other Zones</i>
Total Area of all Portable Signs at Any One Time	Max. 6 sf per lot or parcel	Max. 9 sf per business Excludes the area of window signs
Number of Signs	Unlimited except that the total sign area must not be exceeded	
Time Limitations	No limitation on the length of time they may be displayed	

- E. **Standards for Specific Portable Signs.** Portable signs must comply with the following provisions.

1. **A-Frame or Upright Signs.** A-Frame or Upright signs must comply with the standards provided in Table C.8.070-C (Standards for A-Frame or Upright Signs).

Table C.8.070-C: Standards for A-Frame or Upright Signs	
sf = square feet lf = linear feet	
Standards	Requirements
Sign Area ¹	Max. 6 ft (each side)
Sign Height	Max. 4 ft
Sign Width	Max. 3 ft
Sign Placement	Must be located within 15 ft of the building in which the business is located May be located on a sidewalk or walkway provided a minimum width of at least 5 ft allows for unimpeded pedestrian movement
Number of Signs	Max. 1 per business
Illumination	Non-illuminated
Other	Only permitted during regular business hours Must be professionally crafted and not constructed of molded vinyl or plastic

Table C.8.070-C: Standards for A-Frame or Upright Signs

sf = square feet | lf = linear feet

Standards	Requirements
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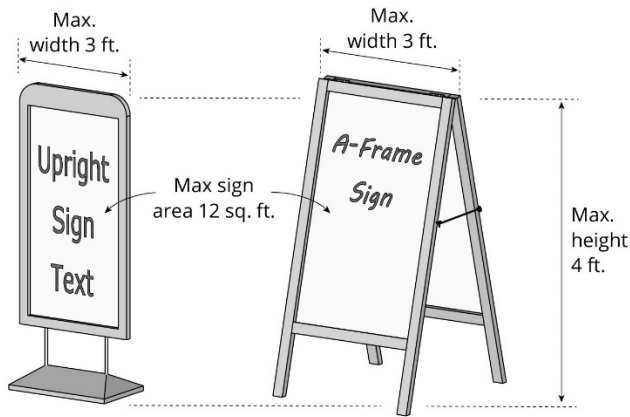


Table Notes:

¹ Included in the total allowable sign area for all portable signs. See Table C.8.070-B (Standards for All Portable Signs).

2. **Political Signs.** Political signs are a necessary part of our political life before an election. After the election is over, political signs become litter, create a health and safety problem, and encourage blight. The City finds and determines that because of the unique nature of political signs, including the frequently short-term nature of the campaigns, committees, and other groups and organizations responsible for these signs, it is necessary and proper to enact regulations to ensure that responsible parties orderly and timely remove these signs after they have served their useful purpose. It is the purpose of these regulations to provide for the prompt removal of these signs after an election.
 - a. **Application.** A “political sign” to which these regulations apply means a portable sign that is designed or designated to influence the action of voters in an upcoming election, including the election or defeat of a candidate for nomination or election to any public office or a recall, referendum, initiative, proposition, measure, or other item appearing on the ballot at any national, state, district, or local election.
 - b. **Regulations.** Except as otherwise specifically exempted in Subsection C.8.020.G (Exempt Signs), political signs and persons or groups erecting or distributing political signs for erection shall meet the following requirements:
 - (i) **Scope of regulations.** Nothing contained in these regulations shall be construed to regulate the content of any political sign.
 - (ii) **Application of other regulations.** Political signs shall be permitted in any zone on private property without a permit. Political signs shall not be included in the maximum sign area or number of signs permitted for any

site or use. Otherwise, political signs must comply with all the provisions of this Chapter and all other applicable laws, including:

- (a) *Location.* Political signs must be located in conformity with Subsection C.8.040.C.1 (Location Restrictions), including by being located off public property, outside the public right-of-way, and unattached to a utility pole, street sign pole, or streetlight or any public structure, tree, fence, fire hydrant, bridge, curb, sidewalk, park bench, statue, memorial, or other location on public property.
- (b) *Required information.* As with all portable signs, political signs must display the name and address of the entity placing the sign and the date the sign was erected. See Subsection C.8.070.C.1 (Information Required for Display).
- (c) *Sign standards.* Political signs must comply with all standards applicable to portable signs, including sign size, location, placement, and any prohibition applicable by sign type. See Section C.8.070 (Standards for Portable Signs and Temporary Signs).
- (iii) *Notification procedures.* Any person or group erecting political signs or distributing political signs for erecting shall provide the Milpitas City Clerk a notice in writing, either by registered mail or in person, including the name, mailing address, e-mail address and telephone number of the person or group responsible for erecting, distributing, and removing the political sign. The notice shall be provided prior to erecting or distributing any political signs. Failure to provide this notice shall not relieve the person or group from their other responsibilities under these regulations. Notifications from the City as required under these regulations may be sent to the responsible person or group by regular or electronic mail to any address so provided or, if no notice was provided, to any current address as is known to the City Manager through the records of any City department.
- (iv) *Removal.* All political signs shall be removed within 14 days following the election or elections to which the political sign pertains. Any political sign that is not removed within this time period is declared a public nuisance. No notice need be given by the City to remove or otherwise summarily abate a political sign that is not removed within this time period, including notice to the responsible person or group who erected or distribute the sign.
- (v) *Responsibility for failure to remove.* The responsibility for timely removal of political signs in the first instance shall be that of the person or group that erected the political sign and/or distributed the political sign for erecting, including at a minimum the person or group identified in the notice given pursuant to Subsection C.8.070.E.2.b.iii (Notification Procedures). If the responsible person or group fails to remove any political sign, the owner of the land shall be additionally responsible for

its removal provided the owner shall be given 14 days' prior notice in writing by the City to remove said sign. Notice hereunder shall be given personally, by regular mail addressed to the owner of the land as shown on the last equalized assessment roll of the County of Santa Clara, or by conspicuous posting on the premises on or near the political sign. In the exercise of the remedies provided by law or by this Chapter or Title, City shall not be required to proceed against the property owner before proceeding against the responsible person or group nor shall it be required to proceed against the person or group as a condition to proceeding against the landowner. Nor shall the City be required to proceed against either the property owner or the responsible person or group prior to summarily abating the nuisance.

- c. *Remedies.* Without limitation to the remedies authorized by law or by this Title or Code for the enforcement of this Chapter, City may exercise one or more of the following remedies for violation of these regulations, which shall be cumulative to all other remedies:
 - (i) Immediately enter on vacant or public property and summarily abate the nuisance.
 - (ii) Immediately enter on occupied property with the consent of the owner or any occupant thereof and summarily abate the nuisance.
 - (iii) After sending a landowner or a person or group erecting political signs or distributing political signs a 14-day prior notice through regular or electronic mail, the City may remove any sign in violation of these regulations, including Subsection C.8.070.E.2.b.iv (Removal), and shall charge a fee of \$25.00 per sign for the reasonable cost of abatement. The \$25.00 fee shall also be assessed against a person or group erecting political signs or distributing political signs for all signs removed by City staff which are installed or posted contrary to the provisions set forth in Subsection C.8.040.C.1 (Location Restrictions) or Section C.8.070 (Standards for Portable Signs and Temporary Signs). The City shall demand payment for the cost of abatement from the responsible person or group or the owner of land or both and institute legal proceedings for the collection thereof.
 - (iv) Abate the nuisance pursuant to Section D.18.080 (Abatement Procedure) and impose a charge therefore on the land for the actual cost of abatement pursuant to Section D.18.100 (Lien Procedure).
 - (v) Institute a civil action for abatement of the nuisance, including collection of the actual cost of abatement, fees, and reasonable costs.
 - (vi) Institute a criminal proceeding against candidate or landowner, or both, for violation of the provisions of this Chapter, including restitution for the actual cost of abatement, fees, and reasonable costs.
- d. *Abated sign materials.* Materials from signs abated under this Chapter shall be disposed of as rubbish by the official abating said signs.

3. **Window Signs, Temporary.** Temporary window signs must comply with the standards provided in Table C.8.070-D (Standards for Window Signs, Temporary).

Table C.8.070-D: Standards for Window Signs, Temporary

sf = square feet | lf = linear feet

Standards	Requirements
Sign Area ¹	See Table C.8.050-N (Standards for Window Signs, Permanent)
Sign Placement	See Table C.8.050-N (Standards for Window Signs, Permanent)
Illumination	Non-illuminated

See graphic in Table C.8.050-N (Standards for Window Signs, Permanent)

Table Notes:

¹ Not included in the total allowable sign area for all portable signs.

4. **Yard Signs, Type I.** Type I yard signs must comply with the standards provided in Table C.8.070-E (Standards for Yard Signs, Type I).

Table C.8.070-E: Standards for Yard Signs, Type I

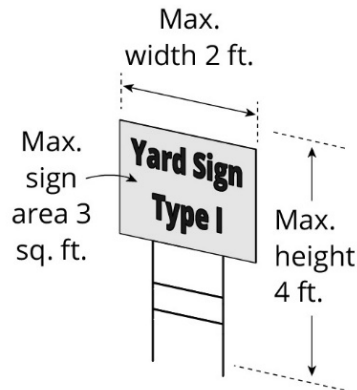
sf = square feet | lf = linear feet

Standards	Requirements
Sign Area ¹	Max. 3 sf
Sign Height	Max. 4 ft
Sign Width	Max. 2 ft
Sign Placement	Shall be at least 2 ft from any driveway or curb-cut access ramp and at least 4 ft from any disabled parking zone Shall not be placed on any median strip or in any bus or light rail stop zone
Illumination	Non-illuminated
Other	Must be installed securely in the ground

Table C.8.070-E: Standards for Yard Signs, Type I

sf = square feet | lf = linear feet

Standards	Requirements
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**Table Notes:**

¹ Included in the total allowable sign area for all portable signs. See Table C.8.070-B (Standards for All Portable Signs).

- F. **Standards for All Temporary Signs.** Temporary signs are allowed in compliance with the provisions in Table C.8.070-F (Standards for All Temporary Signs).

Table C.8.070-F: Standards for All Temporary Signs

sf = square feet | lf = linear feet

Standard	Requirement
Residential and Other Zones	
Total Area of all Temporary Signs at Any One Time	Max. 16 sf
Number of Signs	1 per street frontage
Mixed-Use and Metro Zones	
Total Area of All Temporary Signs at Any One Time	Max. 40 sf per business, with a total of max. 64 sf per lot
Number of Signs	Unlimited except that the total sign area must not be exceeded
Commercial and Industrial Zones	
Total Area of All Temporary Signs at Any One Time	Max. 60 sf per business and max. 72 sf per lot
Number of Signs	Unlimited except that the total sign area must not be exceeded

G. **Standards for Specific Temporary Signs.** Temporary signs must comply with the following provisions.

1. **Balloon Signs.** Balloon signs must comply with the standards provided in Table C.8.070-G (Standards for Balloon Signs).

Table C.8.070-G: Standards for Balloon Signs ¹	
sf = square feet lf = linear feet	
Standards	Requirements
Sign Area ²	n/a
Sign Height	Max. 50 ft above grade
Sign Placement	The balloon shall be securely mounted to the ground or a roof
Number of Signs	Max. 1 per event and max. one per lot
Illumination	Non-illuminated
Duration	Up to 4 times per year Max. 30 days per event, 15 days for subsequent displays during the year Min. 30 days between display occurrences
Other	1 sign may be attached to the balloon (e.g., to identify the name of the shopping center, business, activity, or event) No other smaller balloons shall be attached to the balloon or its supporting or secure lines The balloon shall not move by any other means than normal wind current

Table Notes:

¹ Not permitted in residential zones. These regulations do not apply to balloons used in residential areas for noncommercial purposes.

² Not included in the total allowable sign area for all temporary signs.

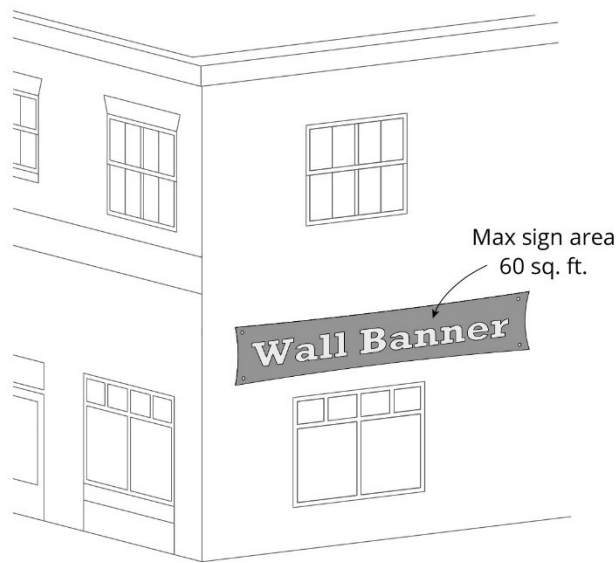
2. **Banner Signs.** Banner signs must comply with the standards provided in Table C.8.070-H (Standards for Banner Signs).

Table C.8.070-H: Standards for Banner Signs ¹	
sf = square feet lf = linear feet	
Standards	Requirements
Sign Area ²	Max. 60 sf
Sign Height	Must not extend above the height of the building to which it is attached
Sign Width	n/a
Sign Placement	Must be securely attached flush to a building and located on the premise of the business or use it advertises May be wrapped around a permitted permanent freestanding sign or wall sign when used to announce a change of business name
Number of Signs	Max. 1 per elevation

Table C.8.070-H: Standards for Banner Signs ¹

sf = square feet | lf = linear feet

Standards	Requirements
	1 additional banner may be allowed when wrapped around a permitted permanent freestanding sign to announce a change of business name.
Illumination	Non-illuminated
Duration	Max. 30 consecutive days for first event; max. 15 consecutive days for subsequent event Displays shall be interrupted by 30 days Max. 4 permits per calendar year If associated with a remodel, the interruption period may be waived

**Table Notes:**¹ Not permitted in residential zones.² Included in the total allowable sign area for all temporary signs. See Table C.8.070-F (Standards for All Temporary Signs).

3. **Yard Signs, Type II.** Type II yard signs must comply with the standards provided in Table C.8.070-I (Standards for Yard Signs, Type II).

Table C.8.070-I: Standards for Yard Sign, Type II

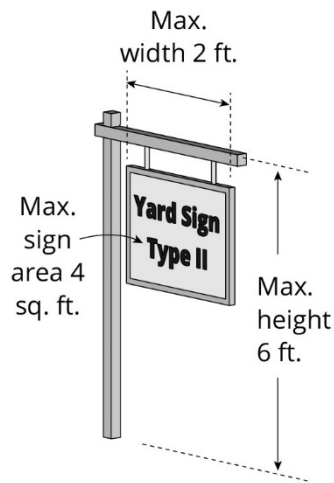
sf = square feet | lf = linear feet

Standards	Requirements
Sign Area ¹	Max. 4 sf
Sign Height	Max. 6 ft
Sign Width	Max. 2 ft
Number of Signs	Max. 1 per street frontage; none allowed on the street frontage if a yard sign, type III is located on that street frontage

Table C.8.070-I: Standards for Yard Sign, Type II

sf = square feet | lf = linear feet

Standards	Requirements
Illumination	Non-illuminated
Other	Must be installed securely in the ground

**Table Notes:**

¹ Included in the total allowable sign area for all temporary signs. See Table C.8.070-F (Standards for All Temporary Signs).

4. **Yard Signs, Type III.** Type III yard signs must comply with the standards provided in Table C.8.070-J (Standards for Yard Signs, Type III).

Table C.8.070-J Standards for Yard Sign, Type III

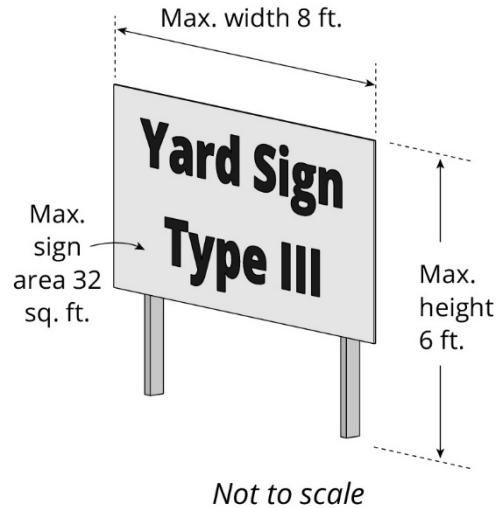
sf = square feet | lf = linear feet

Standards	Requirements
Sign Area ¹	Max. 32 sf
Sign Height	Max. 6 ft
Sign Width	Max. 8 ft
Number of Signs	Max. 1 per street frontage; none allowed on the street frontage if a yard sign, type II is located on that street frontage 1 additional sign allowed for lots with more than 300 ft of street frontage
Illumination	Non-illuminated
Other	Must be installed securely in the ground

Table C.8.070-J Standards for Yard Sign, Type III

sf = square feet | lf = linear feet

Standards	Requirements
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**Table Notes:**

¹ Included in the total allowable sign area for all temporary signs. See Table C.8.070-F (Standards for All Temporary Signs).

C.8.080 Nonconforming Signs

The following provisions shall apply to all nonconforming building mounted or freestanding permanent signs:

- A. **Abandonment, Destruction, or Discontinuance.** Any nonconforming sign that is abandoned, destroyed to less than one-half of the value as determined by the Building Official, or discontinued for a period of six months or more shall be removed by the owner of the property on which the sign is located. A designated cultural resource consistent with Milpitas Municipal Code Chapter XI-4 (Cultural Resources Preservation Program) is exempt.
- B. **Enlargement, Alteration, Reconstruction, or Replacement.**
 1. No nonconforming sign or billboard shall be enlarged, altered, reconstructed, or replaced except for reasonable repair or maintenance, including structural alterations required by law to ensure the public's health, welfare, and safety.
 2. A nonconforming sign may be enlarged, altered, reconstructed, replaced, or moved only in compliance with all the requirements of this Chapter.

C.8.090 Sign Enforcement

It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, display, maintain, or use a sign within the City contrary to, or in violation of, any provision of this Chapter. The

requirements of this Chapter shall be enforced in compliance with the enforcement provisions of Chapter D.18 (Enforcement and Penalty).

C.8.100 Severability

If any section, sentence, clause, phrase, word, portion, or provision of this Chapter is held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect, impair, or invalidate any other section, sentence, clause, phrase, word, portion, or provision of this Chapter which can be given effect without the invalid provision. The invalidation of the application of any section, sentence, clause, phrase, word, portion, or provision of this Chapter to a particular property or structure, or any particular properties or structures, by any court of competent jurisdiction shall not affect the application of such section, sentence, clause, phrase, word, portion or provision to any other property or structure not specifically included in said invalidation.

Chapter C.10 Specific to Uses

Sections:

- C.10.010 Purpose
- C.10.020 Applicability
- C.10.030 Accessory Dwelling Units and Junior Accessory Dwelling Units
- C.10.040 Adult-Oriented Businesses
- C.10.050 Alcoholic Beverage Sales
- C.10.060 Animal Husbandry
- C.10.070 Auto Broker
- C.10.080 Cannabis Uses
- C.10.090 Drive-Through Facilities
- C.10.100 Eating and Drinking Establishments
- C.10.110 Emergency Shelters
- C.10.120 Farmers' Markets
- C.10.130 Home Occupations
- C.10.140 Large Family Child Care and Child Care Centers
- C.10.150 Live-Work Units
- C.10.160 Massage Establishments
- C.10.170 Mobile Food Vending
- C.10.180 Mobile Home Parks
- C.10.190 Service Stations and Car Washes
- C.10.200 Short-Term Rentals
- C.10.210 Single-Family Dwelling
- C.10.220 Single Room Occupancy Residences
- C.10.230 Temporary Uses and Structures
- C.10.240 Wireless Telecommunication Facilities

C.10.010 Purpose

The purpose of this Chapter is to establish standards for specific uses and activities that are permitted or conditionally permitted in several or all zones. These provisions are supplemental standards and requirements to minimize the impacts of these uses and activities on surrounding properties and to protect the health, safety, and welfare of their occupants and of the public.

C.10.020 Applicability

Each land use and activity covered by this Chapter shall comply with the requirements of the section applicable to the specific use or activity, in addition to any applicable standard this Title requires in the zone where the use or activity is proposed and all other applicable provisions of this Title.

- A. The uses that are subject to the standards in this Chapter shall be located only where allowed by the zone, specific plan, and/or overlay zone use regulations.
- B. The uses that are subject to the standards in this Chapter are allowed only when authorized by the planning permit required by zone regulations (Part B) except where this Chapter establishes a different planning permit requirement for a specific use.

C.10.030 Accessory Dwelling Units and Junior Accessory Dwelling Units

- A. **Purpose.** The purpose of this Section is to regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with Government Code section 66310 et seq.
- B. **Applicability.**
 - 1. This Section establishes standards for ADUs and JADUs where allowed by Part XIII-B (Zone Regulations).
 - 2. Where this Chapter does not contain a particular standard or procedure, applicable standards and procedures in this Title shall apply unless otherwise stated.
 - 3. An ADU or JADU that conforms to the development standards in this Section is deemed to be an accessory use and shall not count towards the overall density for the lot on which it is located.
- C. **Number of Unit Types Allowed.**
 - 1. **Single-Family Dwellings.** On lots with an existing or proposed single-family dwelling, up to one attached ADU, one detached ADU, and one JADU shall be allowed.
 - 2. **Multi-family Dwellings.** On lots with existing or proposed attached multi-family dwellings, the following shall be allowed:
 - a. On a lot with an existing multi-family dwelling, up to eight detached ADUs, provided the total number of ADUs do not exceed the number of existing units on the lot; or
 - b. On a lot with a proposed multi-family dwelling, up to two detached ADUs; and
 - c. Livable space, as defined by California Government Code section 66313(e), within the existing main structure may be converted to one or more ADUs provided that the maximum number of such ADUs shall not exceed 25 percent of the number of multi-family units, and each ADU complies with Building Code standards.
- D. **Permit Process, Timing, and Fees.**
 - 1. **Permits Required.** ADUs and JADUs require a Building Permit only, except an ADU that does not comply with the standards of this Subsection may be allowed with the approval of a Minor Site Development Permit approval subject to the finding that the ADU complies

with Subsection C.10.030.H (Minimum Standards for ADUs Requiring Minor Site Development Permit Approval).

2. **Ministerial Review Required.** When an ADU or JADU only requires a Building Permit consistent with Subsection C.10.030.D.1 (Permits Required), the following ministerial review shall apply.
 - a. The City shall act on an application to create an ADU or JADU, either by approving the application or sending a notice of deficiency, within 60 days of receipt of a complete application or 30 days of receipt of a complete application using a pre-approved ADU plan. Such applications resubmitted in response to a notice of deficiency shall be approved or a notice of deficiency sent within 60 days or 30 days of receipt of a complete application using a pre-approved ADU plan.
 - b. When an application to create an ADU or JADU is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the ADU or JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the ADU or JADU shall be considered ministerially without discretionary review or a hearing.
3. **Impact and Utility Fees.** Prior to issuance of a Building Permit for an ADU or JADU, the applicant shall pay all applicable fees.
 - a. No impact fees shall be imposed on a JADU or an ADU less than 750 square feet in size.
 - b. Impact fees charged for ADUs greater than or equal to 750 square feet shall be charged proportionately in relation to the square footage of the primary unit (e.g., the floor area of the ADU, divided by the floor area of the primary dwelling, times the typical fee amount charged for a new dwelling).
 - c. For the purposes of this Section, “impact fee” means a “fee” as defined in Government Code section 66000(b) and a fee specified in Government Code section 66477. Impact fees do not include any connection fee or capacity charge for water or sewer service.
 - d. If an ADU or JADU is constructed with a new single-family home, a separate utility connection directly between the ADU or JADU and the utility and payment of the normal connection fee and capacity charge for a new dwelling shall be required.
 - e. Installation of a separate direct connection between an ADU or JADU contained within an existing structure and the utility shall not be required. ADUs not within an existing structure shall be required to install a new or separate utility connection and be charged a connection fee and/or capacity charge. These charges shall be proportionate to the burden imposed by the ADU on the water or sewer system based upon either its size or number of plumbing fixtures as determined by the City.

E. General ADU and JADU Requirements.

1. **No Separate Conveyance.** An ADU or JADU may be rented, but no ADU and JADU may be sold or otherwise conveyed separately from the primary dwelling unit, nor shall the lot containing the ADU or JADU be subdivided, unless the property was built or developed by

a qualified nonprofit corporation and all provisions of California Government Code section 65852.26 are met.

2. **Short-Term Rental Use Prohibited.** No ADU or JADU may be rented for a term that is shorter than 30 days.
3. **No Minimum Parcel Size.** No minimum parcel size shall be required to establish an ADU or JADU.
4. **Minimum Unit Size.** The minimum size of an ADU or JADU is 150 square feet ("efficiency unit" per Health and Safety Code section 17958.1).
5. **Other Standards.** An ADU or JADU that is accessory to a single-family dwelling must comply with the objective design standards applicable to single-family homes in Section C.10.210 (Single-Family Dwelling), unless those standards are precluded by state law.
6. **Fire Sprinkler Requirements.** ADUs and JADUs shall not be required to include fire sprinklers if they are not required for the primary residence.
7. **Existing Nonconforming Conditions.** An ADU or JADU shall not be required to correct a nonconforming zoning condition. This does not prevent the City from enforcing compliance with applicable building standards in accordance with Health and Safety Code section 17980.12.
8. **Rental Data.** The owner of the lot on which an ADU or JADU is located will be requested to participate in the City's monitoring program to determine rent levels of ADUs and JADUs for the City's Regional Housing Needs Allocation reporting.
9. **Deed Restriction.** A deed restriction shall be recorded against the lot containing the ADU or JADU with the Santa Clara County recorder's office prior to issuance of any certificate of occupancy for the ADU or JADU. The deed restriction shall run with the land and may be enforced against future property owners. Among other requirements, the deed restriction shall state that the ADU or JADU may not be transferred or sold separately from the primary dwelling. The form of the deed restriction shall be provided by the City.
10. **ADU Removal.** If an ADU or JADU is removed or converted to another use after a certificate of occupancy has been issued for the ADU or JADU, any deviations from development standards (e.g., setbacks, parking) or exemptions granted specific to the ADU or JADU use (e.g., reduced or exempt fees) shall be brought into compliance with the standards and regulations in effect at the time. Upon approval of the reversion request by the City, the deed restriction applicable to the ADU or JADU shall be rescinded from title.

F. **Additional ADU Standards.**

1. **Maximum Size.**
 - a. **Detached ADUs.** The total floor area of a detached ADU shall not exceed 1,200 square feet.
 - b. **Attached ADUs.** The total floor area of an attached ADU shall not exceed 50 percent of the existing primary dwelling; however, this standard shall not prevent an attached ADU from being less than 800 square feet.
 - c. **Conversions of existing space to ADUs.**

- (i) ADUs created from the conversion of existing space may exceed these size limits.
- (ii) An addition of up to 150 square feet to accommodate ingress and egress for an ADU created from the conversion of an existing accessory structure shall be exempt from the maximize size standard.

2. **Setbacks.**

- a. Front setbacks shall be those established by the applicable zone district.
- b. Minimum side and rear setbacks shall be four feet or the setback for the applicable zone, whichever is less.
- c. If a detached ADU would be constructed in the same location and to the same dimensions as an existing structure, the ADU may maintain the same setbacks as the existing structure.

3. **Maximum Allowed Height.**

- a. *Generally.* 16 feet.
- b. *Within ½ mile walking distance of a major transit stop or high-quality transit corridor as defined in California Public Resources Code section 21155.* 18 feet.
- c. *Attached to the primary dwelling.* 25 feet or the height limitation of the zone, whichever is lower.
- d. *Accessory to an existing or proposed multi-story multi-family dwelling.* 18 feet.
- e. *Roof pitch.* In addition to the maximum allowed height, an additional two feet in height is allowed to accommodate a roof pitch that is aligned with that of the primary dwelling unit.

4. **Parking.**

- a. One off-street parking space must be provided for each ADU. The parking space may be provided as tandem parking and may be located in setbacks, but not in the front yard unless on the driveway. See Subsection B.4.040.A (R1 Zone Front Yard Coverage) for R1 Zone Front Yard Coverage standards.
- b. When a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with construction of an ADU or is converted to an ADU, those off-street parking spaces shall not be required to be replaced.
- c. Parking for an ADU shall not be required in the following situations:
 - (i) The ADU is located within one-half mile walking distance of public transit.
 - (ii) The ADU is located within an architecturally and historically significant historic district.
 - (iii) The ADU is part of (i.e., within the space of) the proposed or existing primary residence or an existing accessory structure.
 - (iv) When on-street parking permits are required but not offered to the occupant of the ADU.

- (v) When there is an established car-share vehicle stop located within one block of the ADU.
- 5. **Design.** The following standards may only apply to the extent allowed by state law.
 - a. *Location.* A newly constructed detached ADU shall be located behind the street-facing façade of the primary unit.
 - b. *Garage conversions.* When a garage is converted to an ADU, the garage door shall be removed and replaced with either windows or a door, provided the door does not face the street if it is an attached ADU. Windows and doors shall be of the same size, proportion, and spacing as the primary dwelling unit.
 - c. *Fencing and screening.* A solid fence six feet in height or vegetative screening/plantings of species with a mature height of at least 10 feet shall be located or constructed along interior side and rear property lines adjacent to the ADU if the ADU is located less than 10 feet from respective property lines.
 - d. *Colors and materials.* The exterior materials and colors of an ADU shall match the colors and materials of the primary dwelling unit (i.e., use of the same wall and trim material or wall and trim material that visually appears the same as the primary dwelling unit, including color and texture).
- 6. **Other Standards.** Lot coverage, open space, and floor area ratio limitations, where applicable, shall not preclude the development of an ADU of up to 800 square feet and 16 feet in height with a minimum of four-foot side and rear setbacks.
- 7. **Owner Occupancy.**
 - a. An ADU that was permitted after January 1, 2020, but before January 1, 2025, shall not be subject to any owner-occupancy requirement.
 - b. Unless applicable law requires otherwise, all ADUs permitted on or after January 1, 2025 shall be subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property must reside on the property as the person's legal domicile and permanent residence.
- G. **Additional JADU Standards.**
 - 1. JADUs shall be subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property shall reside on the property, in either the primary dwelling or JADU, as the person's legal domicile and permanent residence. However, this owner-occupancy requirement does not apply if the property is entirely owned by another governmental agency, land trust, or housing organization.
 - 2. JADUs shall have an entrance that is separate from the main entrance to the single-family dwelling unit. If the JADU does not have a separate bathroom, the JADU shall have an interior entry to the main living area of the single-family dwelling unit.
 - 3. Parking shall not be required for a JADU.

H. **Minimum Standards for ADUs Requiring a Minor Site Development Permit.** As allowed in Subsection C.10.030.D.1 (Permits Required), ADUs requiring a Minor Site Development Permit must comply with the following minimum standards.

1. ***General Standards.***

- a. Must comply with Subsection C.10.030.E (General ADU and JADU Requirements).
- b. Must comply with ADU design standards in Subsection C.10.030.F.5 (Design).
- c. Must provide a minimum 25-foot front setback and minimum four-foot side and rear setbacks; however, no setback is required for an ADU constructed in the same location and to the same dimensions as an existing structure.
- d. A detached ADU must provide a six-foot separation from the rear wall of the primary dwelling unit.
- e. Lot coverage must not exceed 50 percent, allowing 50 percent of the lot to remain as open space.

2. ***Architectural Design Standards.***

- a. The materials and colors of the exterior walls, roof, and windows and doors shall match the appearance of the existing or proposed primary dwelling.
- b. The roof slope shall match that of the dominant roof slope of the primary dwelling. The dominant roof slope is the slope of the largest portion of the roof.
- c. Exterior lighting must comply with Section C.2.070 (Lighting and Illumination).
- d. The interior horizontal dimensions shall be at least 10 feet wide in every direction, with a minimum interior wall height of seven feet.
- e. Windows and doors shall not have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent a direct line of sight.
- f. The ADU and primary dwelling must use the same driveway to access the street, unless otherwise required for fire-apparatus access, as determined by the Milpitas Fire Department.

3. ***Landscape Design Standards.*** Evergreen landscape screening shall be planted and maintained between the ADU and abutting parcels as follows:

- a. At least one 15-gallon size plant shall be provided for every five linear feet of exterior wall. Alternatively, at least one 24-inch box size plant shall be provided for every 10 linear feet of exterior wall.
- b. Plant specimens must be at least six feet tall when installed. As an alternative, a solid fence of at least six feet in height may be installed.
- c. All landscaping shall be drought tolerant.

C.10.040 Adult-Oriented Businesses

A. **Purpose.** The purpose of this Section is to establish reasonable and uniform regulations regarding the location of adult-oriented businesses, which will permit the location of adult-oriented

businesses in certain areas but which will also reduce or prevent neighborhood blight, maintain property values, and reduce the incidence of unlawful activity by preventing the concentration of adult-oriented businesses or their close proximity to incompatible uses.

B. **Definitions.** Terms used in this Section are defined Chapter E.2 (Definitions of Terms).

C. **Location and Distance Regulations.**

1. No adult-oriented business shall be allowed:
 - a. Within 1,000 feet of any school, public park or recreation area, residential zone, or religious institution; or
 - b. Within 500 feet of any other adult business premises.
2. Any adult-oriented business lawfully established and lawfully operating under the Milpitas Municipal Code is not in violation of these regulations by the subsequent establishment of a school, public park or recreation area, residential zone, or church or religious institution within the respective distances specified above for each type of use. This provision applies only to the renewal of an Adult Business Permit consistent with Milpitas Municipal Code Chapter III-4 (Adult Businesses) and does not apply when an application for an Adult Business Permit is submitted after such permit has been revoked.
3. Distance between any two adult-oriented business premises shall be measured in a straight line, without regard to intervening structures or objects, from the nearest entrance of an adult-oriented business premises to the nearest entrance of the second adult-oriented business premises. The distance between any adult-oriented business premises and any school, public park or recreation area, residential zone, or religious institution shall also be measured in a straight line, without regard to intervening structures or objects, from the nearest entrance of the adult business premises to the nearest property line of a school, public park or recreation area, residential zone, or religious institution.

C.10.050 Alcoholic Beverage Sales

A. **Purpose.** The purpose of this Section is to establish regulations for standalone establishments that sell alcoholic beverages, such as liquor stores. These standards are designed to provide for the appropriate development of alcoholic beverage sales and to protect the health, safety, and welfare of residents.

B. **Separation of Sensitive Uses.**

1. **Sensitive Uses.** For the purposes of this Section, the following uses are considered sensitive:
 - a. Parks;
 - b. Child care centers;
 - c. Large and small family child care homes;
 - d. Schools, public;
 - e. Schools, private;
 - f. Elderly and long-term care uses;

- g. Residential care facilities;
 - h. Supportive housing; and
 - i. Transitional housing.
2. **Separation Standards.** Table C.10.050-A (Separation Standards for Alcoholic Beverage Sales Uses) identifies the separation from sensitive uses required for all alcoholic beverage sales uses.

Table C.10.050-A: Separation Standards for Alcoholic Beverage Sales Uses

Alcoholic Beverage Sales Use	Separation From Sensitive Use ¹
Convenience Store ²	n/a
Grocery Store, Small; Grocery Store, Large ²	n/a
Liquor Store	500 ft
Wine Shop	500 ft

Table Notes:

¹ Minimum horizontal distance measured between the building, or portion of the building, occupied by the alcoholic beverage sales use, and the closest property line of the sensitive use.

² Does not apply to uses not selling alcoholic beverages.

C.10.060 Animal Husbandry

- A. **Minimum Lot Size.** A minimum lot size of one acre is required for the keeping of large livestock. For horses, a minimum lot area of one acre is required per horse.
- B. **Separation of Animal Husbandry Uses.** Any building or enclosure in which large livestock, except domestic pets in household numbers as allowed by Milpitas Municipal Code Section V-210-7 (Maximum Number of Animals), are contained must be a minimum of 200 feet from any residential, mixed-use, or commercial zoned lot, or from any school or institution for human care.

C.10.070 Auto Broker

In zones where auto brokers are allowed, auto brokers may be permitted by right if, in order to assist the City in its efforts to receive direct distribution of the local tax on materials associated with the project, the California Sales and Use Tax (the "Local Tax") is allocated to the project site, to the extent reasonably possible. Evidence of tax allocation or cause as to why such allocation cannot be made shall be submitted at the time of Business License submittal.

C.10.080 Cannabis Uses

- A. **Purpose.** The purpose of this Subsection is to prohibit to the fullest extent allowed by State Law the establishment and operation of all commercial cannabis uses within the City, including all

cannabis dispensaries, cannabis retailers, cannabis manufacturers, cannabis microbusinesses, cannabis testing laboratories, cannabis distribution, cannabis cultivation, and delivery of cannabis. It is also the intent of this Subsection to regulate indoor cannabis cultivation, and to prohibit all outdoor cultivation, for personal use, including by qualified patients and primary caregivers. It is also the intent of this Subsection to entirely prohibit the delivery of non-medical cannabis and only allow the delivery of medicinal cannabis directly to medicinal cannabis patients or their primary caregivers to the minimum extent required by state law, subject to all laws and the additional regulations adopted here.

B. **Definitions.** Terms used in this Section are defined Chapter E.2 (Definitions of Terms).

C. **Finding and Declaration.** The City finds and declares that this local regulatory scheme will not prevent medicinal cannabis patients or their primary caregivers from obtaining medicinal cannabis in a timely and readily accessible manner and in types and quantities that are sufficient to meet demand within the City's jurisdiction.

D. **Personal Cultivation of Cannabis.**

1. ***Indoor Personal Cultivation.*** The indoor personal cultivation of cannabis is prohibited except in compliance with the following:

- a. Cannabis cultivation shall only occur indoors at a private residence, or inside an accessory structure located upon the grounds of a private residence.
- b. Cannabis cultivation shall be limited to six plants total per residence, whether immature or mature, regardless of how many residents reside at the private residence.
- c. Persons engaging in indoor cultivation must comply with all state and local laws regarding fire safety, water use, electrical wiring, buildings, and indoor cultivation, and with Health and Safety Code section 11362.1 and 11362.2.
- d. The use of gas products (carbon dioxide, butane, propane, natural gas, etc.) or generators for cultivation of cannabis is prohibited. Use of gas products shall be limited to those allowed by the California Building, Electrical, and Fire Codes as adopted and amended by the City.
- e. The residence shall maintain fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident(s), and the premises shall not be used primarily or exclusively for cannabis cultivation.
- f. All areas used for cannabis cultivation shall be located within a fully enclosed and secure structure, meaning a space within a building, greenhouse or other legal structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

2. ***Outdoor Personal Cultivation Prohibited.*** Outdoor personal cultivation of cannabis is prohibited in all zones within Milpitas.

E. **Commercial Cannabis Uses Prohibited.** All medical and adult-use commercial cannabis uses as defined herein are prohibited from establishing or operating within Milpitas. No Use Permit, Variance, Building Permit, or any other entitlement or permit, whether administrative or

discretionary, shall be approved or issued for the establishment or operation of a commercial cannabis use in any zone, and no person shall otherwise establish such businesses or operations in any zone.

F. Cannabis Deliveries.

1. ***Deliveries Generally Prohibited.*** Except as set forth in Subsection C.10.080.F.2 (Direct Deliveries to Medicinal Cannabis Patients or Primary Caregivers Excepted), the ban on commercial cannabis uses also prohibits the operation of a cannabis delivery service to customers in Milpitas, including those deliveries originating from a physical location outside of Milpitas. A cannabis delivery service may not deliver, attempt to deliver, or offer to deliver cannabis or cannabis products in violation of this Subsection. Nothing in this Subsection is intended to, nor shall it be construed to, permit and/or legalize any delivery operation, use, and/or activity that is otherwise prohibited under this Subsection and/or any other law. Rather, this Subsection is intended to prohibit the delivery of commercial cannabis to the fullest extent allowed by state law, including by entirely prohibiting the delivery of non-medicinal cannabis.
2. ***Direct Deliveries to Medicinal Cannabis Patients or Primary Caregivers Excepted.*** The direct delivery of medicinal cannabis to a specifically identified medicinal cannabis patient or the primary caregiver for a specifically identified medicinal cannabis patient within the City's jurisdictional limits from a location outside the City's jurisdictional limits is not prohibited by this Subsection only if such deliveries fully comply with each and every one of the following operating conditions:
 - a. All deliveries must be made directly to a specifically identified medicinal cannabis patient or the primary caregiver for a specifically identified medicinal cannabis patient by a duly licensed cannabis delivery service. Prior to delivery, the delivery service must obtain a copy of written documentation for the identified medicinal cannabis patient proving the patient possess a physician's recommendation for medicinal cannabis that is valid at the time of delivery.
 - (i) For deliveries to a medicinal cannabis patient, that written documentation must include either a currently valid copy of a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code or a currently valid identification card issued in compliance with Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code.
 - (ii) For deliveries to a primary caregiver for a medicinal cannabis patient, that written documentation must include either a currently valid identification card for the identified patient issued to the primary caregiver in compliance with Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code or both a currently valid copy of a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code and proof that primary caregiver has consistently assumed responsibility for the housing, health, or safety of the identified patient.

- (iii) Written documentation received by a delivery service for this purpose shall be maintained confidentially and only disclosed in compliance with all applicable laws.
 - b. All deliveries must be to a fixed address for a specifically identified medicinal cannabis patient.
 - (i) For deliveries to a medicinal cannabis patient, that fixed address must be the patient's private residence.
 - (ii) For deliveries to a primary caregiver for a medicinal cannabis patient, that fixed address must be the primary caregiver's primary business address.
 - (iii) Deliveries cannot be to a post office box, any other form of mail, package, or parcel pickup location or locker, or to a mail, package, or parcel receiving agency or business.
 - (iv) Delivery must be to a person 18 years of age or older. The delivery service must record the name of the person receiving the delivery.
 - (v) Upon delivery, and prior to completing delivery, the delivery must be signed for by the identified medicinal cannabis patient or the primary caregiver for the identified medicinal cannabis patient.
 - c. All deliveries must occur between the hours of 6:00 A.M. Pacific Time and 10:00 P.M. Pacific Time. Deliveries may not occur in a manner that would tend to disturb the peace, quiet, and/or enjoyment of a reasonable person of normal sensitivity residing nearby.
 - d. The cannabis delivery service must maintain a log or other record stating the date, time, quantities, and products for each delivery as well as the name of the identified medicinal cannabis patient and the name of any primary caregiver for the delivery.
 - e. The cannabis delivery service must retain for a period of at least two years copies of all records, documentation, signatures, permits, and licenses required by this Subsection and present them to a law enforcement officer upon demand.
 - f. The cannabis delivery service must fully comply with all applicable laws, including this Subsection and Division 10 of the Business and Professions Code, all rules and regulations promulgated by the Department of Cannabis Control, including in Title 4, Division 19 of the California Code of Regulations, and all guidelines, procedures, and regulations promulgated pursuant to this Section by the City Manager.
 - g. Deliveries of medicinal cannabis may not include anything other than medicinal cannabis and medicinal cannabis products. Specifically, deliveries of medicinal cannabis may not include delivery of cannabis accessories or promotional materials, as defined by Section 15000 of Title 4, Division 19, Chapter 1, Article 1 of the California Code of Regulations, or branded merchandise of any kind.
- 3. ***Business Tax and License.*** A cannabis delivery service must obtain a business tax license from the City pursuant to Title III, Chapter 1 (Business Licenses) of this Code prior to commencing any delivery service within the City's jurisdiction or offering or attempting

to deliver within the City's jurisdiction, even if delivering from a physical location outside of the City. A cannabis delivery service must pay all state and local taxes or fees for delivery services occurring within the City's jurisdiction, including taxes or fees imposed by or owed to the City.

4. **Registration.** A cannabis delivery service must register with the Milpitas Police Department in a form acceptable to the Chief of Police prior to commencing any delivery service within the City's jurisdiction or offering or attempting to deliver within the City's jurisdiction, even if delivering from a physical location outside of the City. That registration must be signed by the registrant averring the truth and accuracy of the information contained therein and include all of the following information:
 - a. The name, address, and telephone number of the registrant and the delivery service. If the registrant or the delivery service has done business under any other name, including a fictitious name, the registrant must provide each name and all dates and jurisdictions of use.
 - b. The name, address, and telephone number of the person(s) who will manage and operate the delivery service.
 - c. The name, address, and telephone number for the person(s) authorized to accept service of process and legal notices for the delivery service.
 - d. The business name, license number, license type, license designation, license status, and expiration date for any applicable license issued by the Department of Cannabis Control.
 - e. Any other information required by the Chief of Police.

The delivery service must update its registration annually and within 72 hours of any change to the information contained in its registration or its cessation or suspension of medicinal cannabis delivery services within the City's jurisdiction. Registration may be conditioned, suspended, refused, or revoked under the procedure specified in Subsection C.10.070.E.7 (Suspension or Prohibition). A cannabis delivery service may not re-register, and no registration will be accepted, within one year after its registration is revoked. Where a cannabis delivery service is sold, transferred, merged, acquired, or any person or entity otherwise succeeds in whole or in part to any of the assets, liabilities, facilities, employees, managers, or officers of a cannabis delivery service, the registration of the successor business may be condition, suspended, refused, or revoked upon the same or similar terms as the previous business as the interests of justice require.

5. **Administrative and Criminal Violations.** In addition to all other remedies and actions allowed by law, any violation of this Subsection may be enforced by administrative citation, pursuant to Title I, Chapter 21 (Administrative Citations) of the Milpitas Municipal Code, or criminal prosecution, pursuant to Section I-1-4.09 (Penalty Provisions) of the Milpitas Municipal Code. At the Enforcement Authority's sole discretion, violations of this Subsection may be charged as a misdemeanor, punished by a fine not to exceed the sum of five hundred dollars (\$500) or by imprisonment in the County Jail not to exceed six (6) months or by both such fine and imprisonment, or an infraction, punished by a fine not exceeding one hundred dollars (\$100) for a first violation, a fine not exceeding two hundred dollars (\$200) for a second violation within one year, or a fine not exceeding five

hundred dollars (\$500) for each additional violation within one year. Each day such a violation continues shall be a new and separate violation.

6. **Rebuttable Presumption.** If a cannabis delivery service reports or otherwise discloses to a state, local, or federal governmental entity that it has delivered cannabis or cannabis products, whether for taxation, licensing, tracking, or other purposes, that report or disclosure shall create a rebuttable presumption for the facts and circumstances of each delivery referenced, including a prima facie case for any violation of this Section evidenced thereby.
7. **Suspension or Prohibition.** In addition to all other remedies and actions allowed by law, the Enforcement Authority may immediately suspend, revoke, or otherwise prohibit or condition any delivery service from delivering medicinal cannabis within the City's jurisdictions, or impose additional terms and conditions upon that delivery service, if it fails or has failed to fully comply with all laws, including this Subsection, fails or has failed to register with the Milpitas Police Department prior to delivering, attempting to deliver, or offering to deliver within the City's jurisdiction, fails or has failed to maintain its business license, or fails or has failed to remit any applicable state or local taxes or fees for delivery services occurring within the City's jurisdiction. Pursuant to Title I, Chapter 20, Section 2 (Notices) of the Milpitas Municipal Code, notice of this suspension, revocation, or imposition of additional terms and conditions may be served by mail to the address provided in the delivery service's registration or, if there is no current registration, any other address listed for the delivery service. Within 15 calendar days of that mailing, the delivery service may appeal that determination to a hearing officer appointed by the City Manager pursuant to the procedure provided in Title I, Chapter 20, Section 3 (Hearings) of the Milpitas Municipal Code by filing with the City Clerk a written notice of appeal containing all factual and legal grounds for the appeals as well as all records or other evidence supporting that appeal. Within twelve (12) calendar days of being mailed notice of the hearing officer's decision pursuant to the same notice procedure, the delivery service may appeal the hearing officer's decision to the City Council pursuant to the procedure provided in Title I, Chapter 20, Section 5 (Appeals to Council) of the Milpitas Municipal Code.
8. **Transportation Through City.** This section shall not be construed to prohibit use of the public roads to pass through the City's jurisdiction without making a delivery within the City's jurisdiction pursuant to Business and Professions Code section 26090 or those activities allowed by section 26054, subdivisions (c), (d), or (e).
9. **Implementing Regulations.** The City Manager with due consultation with the Chief of Police, shall have the authority to adopt all necessary guidelines, procedures, and regulations to implement the requirements and fulfill the policies and purposes of this Subsection related to the delivery of medicinal cannabis.

G. Public Nuisance; Effect of State Law.

1. It is hereby declared to be a public nuisance for any person owning, leasing, occupying, or having charge or possession of any real property in the City to cause or allow such real property to be used for a commercial cannabis use or for the cultivation of cannabis except in strict compliance with this Section. Any condition caused or permitted to exist in violation of any of the provisions of this Section may be abated as a public nuisance as provided in this Code and/or under state law.

2. In the event of any conflict between the penalties enumerated under the Milpitas Municipal Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern. The City Attorney or prosecuting attorney has the authority to declare and prosecute the violation as the maximum penalty permitted by state law, including but not limited to, those penalties prescribed by Health & Safety Code section 11362.4. To the extent certain conduct is immune from arrest and criminal liability in compliance with state law, including the Compassionate Use Act of 1996 (Health and Safety Code section 11362.5) or the Medical Marijuana Program (Health and Safety Code section 11362.7 et seq.), criminal penalties shall not apply.

C.10.090 Drive-Through Facilities

- A. **Purpose.** The purpose of this Section is to establish reasonable and uniform regulations regarding the location, development, and design of drive-through facilities.
- B. **Circulation Plan.** A pedestrian and vehicular circulation plan shall be submitted for approval by the Review Authority. The circulation plan shall indicate how drive-through, pedestrian, and vehicular circulation will be designed to allow safe, unimpeded movement of vehicles at street access points and within the travel aisles and parking space areas and provide for pedestrian safety. The plan shall also indicate how vehicles will circulate to and through the drive-through or use drive-up facilities in manner that will not impede traffic flow on any public right-of-way.
- C. **Standards.** Drive-through facilities shall be located, developed, and operated in accordance with the following standards:
 1. **Drive-Through Aisles.** Drive-through aisles shall be designed to allow safe, unimpeded movement of vehicles at street access points and within the travel aisles and parking space areas.
 - a. Drive aisles are prohibited between the building and street unless no alternative exists.
 - b. A minimum 15-foot interior radius at curves and a minimum 12-foot width is required.
 - c. Each drive-through entrance and exit shall be at least 100 feet from an intersection of public rights-of-way, measured at the closest intersecting curbs, and at least 25 feet from the nearest curb cut on an adjacent property.
 - d. Each entrance to an aisle and the direction of flow shall be clearly designated by signs and/or pavement markings or raised curbs outside of the public right-of-way.
 2. **Landscaping.** Each drive-through aisle shall be screened with a combination of decorative walls and landscape to a height of 20 inches to prevent headlight glare and direct visibility of vehicles from adjacent streets and parking lots.
 3. **Pedestrian Walkways.** Pedestrian walkways shall not intersect drive-through aisles, unless no alternative exists. In such cases, pedestrian walkways shall have clear visibility, emphasized by enhanced paving or markings.

C.10.100 Eating and Drinking Establishments

- A. **Purpose.** The purpose of this Section is to provide regulations for eating and drinking establishments, including regulations for establishments to expand dining area into outdoor spaces in a safe, well designed, and attractive manner.
- B. **General Standards.** The following standards shall apply to all eating and drinking establishments.
1. Restaurants shall incorporate measures to reduce odors to acceptable levels, including, but not limited to, installation of a scrubber, carbon filter or similar equipment, on the roof vent to control odors.
 2. All the facility's floor drains, trash compactors and indoor mat and equipment washing areas shall be drained to the sanitary sewer.
 3. Where applicable, a restaurant shall maintain an active account with a tallow hauling company.
 4. Restaurants shall prepare and implement a program assigning restaurant staff responsibility for complying with the following guidelines which shall be adhered to while the restaurant is in operation:
 - a. Wash all containers and equipment in the kitchen areas so that wash water may drain into the sanitary sewer.
 - b. Keep garbage dumpsters clean inside and out; replace very dirty dumpsters with new, clean ones.
 - c. Double bag waste to prevent leaking.
 - d. Place, do not drop or throw, waste-filled bags, to prevent leaking.
 - e. Keep the ground under and around the garbage dumpsters swept.
 - f. Sprinkle the ground lightly after sweeping with a mixture of water and a little bleach.
 - g. Hold training sessions to instruct employees on the proper procedures in the handling and disposal of food items; the general maintenance and use of the compactor and any other procedures that would assist the business in complying with all state and local health and sanitation standards. A record of such training must be kept documenting compliance with this requirement.
 - h. Post signs (in English and multi-lingual) inside the premises for all employees identifying procedures for food delivery and garbage disposal.
 - i. All garbage bins shall be stored in the garbage enclosure except for the 12 hours immediately before and after garbage collection.
- C. **Outdoor Music in C1, C2, and Mixed Use Zones.** Outdoor music in the C1, C2, and mixed use zones shall comply with the following standards.
1. Outdoor music as an accessory use in conjunction with a restaurant or bar shall be permitted for the entertainment and enjoyment of customers at the restaurant or bar during regular operating hours. Outdoor music as an accessory use shall be limited to the hours of 9:00 a.m. to 11:00 p.m.

2. Noise levels for outdoor music, when permitted as an accessory use to a restaurant or bar, shall not exceed a maximum range of 70 to 90 decibels (dB). See also Milpitas Municipal Code Title V (Public Health, Safety and Welfare), Subsection V-213-2 (Definitions), and Subsection V-213-3 (Unlawful to Create or Permit Disturbing Noise) for additional regulations.

D. Outdoor Dining.

1. Review and Approval Procedures.

- a. New or modified outdoor dining areas on private property may be approved with a Minor Site Development Permit in accordance with Subsection D.4.020 (Site Development Permits).
- b. In cases where a Conditional Use Permit is required for an eating and drinking establishment, an existing establishment with an approved Conditional Use Permit may add or modify an outdoor dining area with approval of a Minor Site Development Permit. No amendment to the approved Conditional Use Permit shall be required.
- c. Written permission from the owner of record of the subject property shall be required as part of the application for outdoor dining.
- d. Applications for new or modified outdoor dining areas are also subject to review and approval by the Fire Department.

2. Location and Siting Requirements. Outdoor dining and seating may be conducted as part of a legally established eating and drinking establishment that is located on the same lot subject to the following standards.

- a. Dining areas may be located within outdoor areas adjacent to an enclosed restaurant, such as existing private sidewalks and walkways, patios, etc.
- b. A minimum five-foot wide path of travel shall be maintained along all pedestrian walkways from parking areas and public sidewalks to all public building entrances.
- c. A minimum two-foot setback shall be required between an outdoor dining area barrier and any adjacent parking space(s).
- d. An outdoor dining area shall not be separated from the restaurant by any vehicular drive aisle.
- e. Outdoor dining areas may be located within, and may replace, existing off-street parking spaces on privately owned parcels; however, no existing accessible parking spaces required per Title 24 of the California Building Standards Code and the Americans with Disabilities Act may be removed to accommodate outdoor dining areas. Parking spaces to be converted to outdoor dining areas must be immediately adjacent to the restaurant establishment.
- f. Outdoor dining areas shall not be located within required loading zones or stormwater treatment areas and shall not obstruct access to utilities.
- g. Outdoor dining areas, including permanent canopies, pergolas, or similar shade structures are subject to the setback standards of the applicable zone, with

- encroachments allowed consistent with Subsection C.2.130 (Setbacks and Encroachments into Required Setbacks).
- h. Outdoor dining areas shall be subject to all emergency access regulations of the California Fire Code.
3. ***Allowed Reductions to Required Parking Spaces.*** The required number of parking spaces may be reduced by up to 15 percent to accommodate new or expanded outdoor dining areas in existing parking areas, provided that the size of the outdoor dining area is 800 square feet or less. Exceptions include:
- a. *Mixed use zones and commercial zones.* The total required parking as specified in Subsection C.6.050 (Number of Parking Spaces Required) may be reduced by up to 30 percent to accommodate new or expanded outdoor dining areas in existing parking areas.
 - b. *Multi-tenant commercial properties with shared parking.* Allowed reductions to required parking to accommodate outdoor dining shall be based on the total parking requirement for all uses and establishments on the subject property, not solely on the parking requirement for the restaurant(s) proposing to add or expand outdoor dining areas.
4. ***Design Standards.***
- a. *Barriers.* Outdoor dining areas shall be delineated by a substantial and durable barrier that separates the dining area from vehicular drive aisles and parking spaces. The following standards apply:
 - (i) *Materials.* Barriers should be made from high-quality materials such as wood or iron railings and fencing, planter boxes, and decorative concrete barriers.
 - (a) Materials and design of barriers and associated amenities should be consistent with the design and appearance of the restaurant and complementary to the character and design of the surrounding district.
 - (b) Barrier materials must be painted or covered in siding or other finished materials approved by the Department.
 - (c) Chain link fencing, corrugated metal, unfinished wood materials, stanchions, retractable belts, screens, and small landscape planters are prohibited.
 - (ii) *Barrier height.* Solid portions of barriers for outdoor dining areas shall be no more than three feet in height.
 - (a) Transparent, shatterproof glass (e.g., plexiglass) may be placed above a three-foot solid barrier, up to a total maximum height of six feet.
 - (b) If the outdoor dining area has a permanent shade or roof structure, plexiglass or other transparent materials may extend to the height of the ceiling.

- (iii) If barriers are movable, they must be well secured and designed to support weight leaning against them.
 - (iv) Barriers must have one opening for emergency access, with a minimum width of 36 inches, for every 20 linear feet of barrier.
 - (v) Barriers adjacent to parking spaces shall be marked with reflective material, such as tape or plastic reflective strips.
- b. *Shade structures, tables, chairs, and other amenities.* Permanent overhead shade structures may be allowed for outdoor dining areas. The design and location of any permanent overhead shade structure shall complement the main restaurant and shall be subject to review and approval by the Department. All permanent overhead shade structures require a Building Permit and comply with the following standards.
- (i) *Materials.* Permanent overhead shade structures shall be durable and made from high-quality materials such as wood or metal. Plywood, corrugated metal, and corrugated polycarbonate are prohibited as materials for roofing or shade structures. Tables and chairs should be of a high-quality and visually appealing material such as wood or metal. Inexpensive plastic or vinyl tables and chairs are not permitted.
 - (ii) *Height.* The maximum height for all overhead shade structures for outdoor dining areas shall be 12 feet.
 - (iii) *Non-permanent shade equipment.*
 - (a) Non-permanent shade equipment, such as umbrellas, fabric canopies, or retractable awnings, are permitted provided they are made from high-quality materials and removed or stored when the outdoor dining area is not in use.
 - (b) For retractable awnings projecting from buildings, the minimum vertical clearance shall be eight feet and the maximum extension from the face of a building shall be seven feet.
 - (iv) *Landscaping.* The layout of outdoor dining areas should incorporate spaces for landscape planters with decorative plants and flowers.
- c. *Accessibility Requirements.*
- (i) *Surfaces.* Outdoor dining areas shall have hard, non-slip surfaces, such as concrete, tile, stone, or wood/composite decking. Soft surfaces such as dirt, gravel, and lawn are not permitted.
 - (ii) *Ramps.* If an outdoor dining area is located on a raised platform or in a sunken area, a ramp that meets the requirements of the California Building Code and the Americans with Disabilities Act must be provided.
 - (iii) *Accessible seats.* A minimum of five percent of the seats provided in an outdoor dining area shall be wheelchair accessible. Minimum dimensions for wheelchair accessible seating spaces shall be 30 inches wide by 48 inches deep. Access to all such seating spaces shall be provided via a path with a minimum unobstructed width of 36 inches.

5. **Lighting.** No electrical wires for lighting elements shall cross the required clear path of travel along a public sidewalk or private pedestrian walkway. Solar lighting is encouraged for outdoor dining areas.
6. **Signage.** All restaurant signage shall comply with Chapter C.8 (Signs). No additional signage shall be permitted in outdoor dining areas.
7. **Operational Standards.**
 - a. *Hours of operation.* The hours of operation for outdoor dining areas shall be limited to the hours of operation of the associated eating and drinking establishment. In no case shall outdoor dining be permitted before 7:00 A.M., and not after 10:00 P.M. Sunday through Thursday and after 11:00 P.M. Friday and Saturday.
 - b. *Alcoholic beverages.* All necessary California Department of Alcoholic Beverage Control permits shall be obtained by the eating and drinking establishment operator.
 - c. *Smoking and vaping.* No smoking or vaping shall be permitted within outdoor dining areas.
 - d. *Other outdoor uses.* Outdoor preparation and/or storage of food is not permitted within outdoor dining areas.
 - e. *Performance standards.* All performance standards in Section C.2.110 (Performance Standards) shall be complied with.
8. **Maintenance Requirements.**
 - a. Outdoor dining areas shall be kept clean and free of litter and debris at all times.
 - b. All plants and landscaping shall be maintained in good health.
 - c. All plexiglass or other transparent materials used as part of an outdoor seating barrier shall be regularly cleaned and provide a clear view from the outdoor seating area. Cracked, broken, or discolored materials are prohibited and shall be replaced immediately.

C.10.110 Emergency Shelters

- A. **Purpose.** The purpose of this Section is to establish objective standards specific to emergency shelters in compliance with California Government Code section 65583(a)(4).
- B. **Applicability.** The standards for emergency shelters in this Section apply to all emergency shelters as allowed by Part XIII-B (Zone Regulations).
- C. **Minimum Standards.**
 1. **Management Plan.** A management plan, identifying compliance with this Title, shall be submitted to the Department for review and approval prior to issuance of an occupancy permit. Management plans shall be resubmitted to the Department on an annual basis for review and approval.
 2. **Maximum Number of Beds per Emergency Shelter.** 30.

3. **Outdoor Waiting Areas.** The size of outdoor waiting areas on private property shall accommodate the expected number of clients without encroaching upon the public right-of-way.
4. **On-site Management.** On-site management shall be provided during the hours that the emergency shelter is in operation.
5. **Proximity.** An emergency shelter shall not be located within 300 feet of other emergency shelters. Emergency shelters shall not be required to be more than 300 feet apart.
6. **Length of Stay.** The length of stay for each individual at any emergency shelter shall not exceed 90 days, unless the management plan approved by City provides for longer residency by those enrolled and regularly participating in a training or rehabilitation program.
7. **Lighting.** Exterior lighting of the property shall be designed to provide a minimum maintained horizontal illumination of at least one foot candle of light on parking surfaces and walkways that serve the facility. Exterior lighting must otherwise comply with Section C.2.070 (Lighting and Illumination).
8. **Security.** Security shall be provided during the hours that the emergency shelter is in operation. Security plans shall be submitted to the City for review and approval prior to issuance of an occupancy permit. Security plans shall be resubmitted to the City on an annual basis for review and approval.

C.10.120 Farmers' Markets

- A. **Purpose.** The purpose of this Subsection is to establish reasonable and uniform regulations for the operation of farmers' markets. The standards that follow are minimum performance standards to ensure compatibility with surrounding uses and to promote public health, safety and general welfare.
- B. **Required Permits.** The market operator and vendors shall obtain any permits required in compliance with this Title and secure all necessary licenses, certificates, and health permits; this includes a master business license with the City for participating farmers and other vendors. All permits shall be in the possession of the farmers' market manager or the vendor, as applicable, on site during all market hours of operation.
- C. **Application.** An application for a farmers' market shall be submitted to the Director on a prescribed City application form and shall include all the information that is necessary for review of the application, such as a site plan, traffic handling plan, market layout plan, and a management plan.
- D. **Management Plan.** A management plan shall be prepared and provided to the Director. The management plan shall include the following:
 1. Identification of a market manager or managers, who shall be present during all hours of operation.
 2. A set of operating rules addressing the governance structure of the market, the method of assigning booths and registering vendors, hours of operation, maintenance, security, refuse collection, and parking.

- E. **Hours of Operation.** Market activities may be conducted between the hours of 7:00 A.M. and 10:00 P.M. with specific hours and duration to be approved by the City. Set up of market operations may not begin more than two hours prior to the operational hours of the market and take down shall be completed within two hours of the close of the market.
- F. **Waste Management.** Adequate composting, recycling, and trash containers shall be provided during hours of operation and shall be removed from site for appropriate disposal. The site shall be cleaned at the end of each day of operations, including the removal of all stalls and debris.
- G. **Music and Events.** Music, performances, or special event activities conducted as part of the farmers' market (e.g., cooking show, recipe contests, face painter) shall not be allowed within 200 feet of any residentially zoned property unless specifically approved by the Director.
- H. **Indemnification.** The market operator shall enter into an indemnification agreement by which it agrees to defend, indemnify, and hold harmless the City, its officers, agents, and employees from any and all claims, damages, cost, and other expense, including attorney fees, arising out of the City's approval or as a result of any actions by the market operator in compliance with the City's approval.

C.10.130 Home Occupations

- A. **Purpose.** The purpose of this Section is to provide residents with the ability to conduct business at home yet ensure that the business does not interfere with, detract from, or otherwise adversely affect the character of the neighborhood.
- B. **Home Occupation Permit.** All persons operating a home occupation must obtain a Home Occupation Permit prior to commencing any business.
- C. **General Standards.**
 - 1. **Residents Only.** Only the residents of the dwelling may operate the home occupation. No employees associated with the home occupation shall report to work on the premises.
 - 2. **Client Visitation and Client Vehicle Limit.** A maximum of two clients is allowed on the premises at any time. Only one vehicle at a time for client(s) visiting a home occupation may be parked on a public street.
 - 3. **Inside Only.** The home occupation must be conducted entirely within the dwelling except for those types of occupations which are conducted entirely off-site and away from the dwelling.
 - 4. **Storage.** The storage of materials, supplies, or equipment outdoors in a manner which is visible from adjacent properties or public ways is prohibited.
 - 5. **Exterior Modifications Prohibited.** Modification or exterior alterations directly related to a home occupation use and not consistent with the use of the home as a residential dwelling is prohibited.
 - 6. **Signs and Advertising.** No signs are permitted either on or off the premises in connection with the home occupation, including signs affixed to or painted on vehicles associated with the home occupation and stored at the dwelling. Products or equipment produced or used by home occupation must not be displayed in a manner which is visible from the exterior of the dwelling.

7. **Vehicles.** The business shall not involve the use of commercial vehicles for delivery of materials to or from the premises other than a vehicle not to exceed 8,500 pounds gross vehicle weight, owned by the business owner, which must be stored on the property where the home occupation is conducted, in a driveway or an enclosed garage.
8. **Nuisances.** A home occupation shall be conducted such that no offensive or objectionable noise, dust, vibration, smell, smoke, heat, humidity, glare, refuse, radiation, electrical disturbance, interference with the transmission of communications, interference with radio or television reception, or other hazard or nuisance is perceptible at or beyond any lot line of the unit or structure within which the home occupation is conducted, or outside the dwelling unit if conducted in other than a detached single-unit dwelling.
9. **Prohibited Uses.** The following uses are prohibited as home occupations:
 - a. Adult-oriented businesses;
 - b. Animal care and services, including pet day care, for more than four household pets when the pets are kept indoors;
 - c. All vehicle-related uses;
 - d. Commercial cannabis uses;
 - e. Eating and drinking establishments;
 - f. Food and beverage processing and preparation;
 - g. Hotels and motels;
 - h. Maintenance and repair services;
 - i. Massage establishments;
 - j. Medical offices/clinics;
 - k. Personal services;
 - l. Retail uses, excluding retail sales in which all products are sold over the phone or internet and shipped to the customer; and
 - m. Rentals of residential pools or yards separate from a short-term rental as allowed consistent with Section C.10.200 (Short-Term Rentals).
10. **Cottage Food Operations.** Cottage food operations are allowed as home occupations consistent with California Government Code section 51035 and California Health and Safety Code section 114365 et seq.

C.10.140 Large Family Child Care and Child Care Centers

- A. **Purpose.** The purpose of this Section is to establish standards specific to child care facilities in compliance with state law.
- B. **Applicability.** The standards for large family child care and child care centers in this Section apply to all large family child care centers and child care centers as allowed by Part XIII-B (Zone Regulations).

C. **Development Standards.**

1. ***Separation for Large Family Child Care Homes.***
 - a. Large family child care homes shall be spaced at least 300 feet apart from each other.
 - b. The Planning Commission may allow large family child care homes closer than 300 feet from each other through the approval of a Conditional Use Permit in accordance with Subsection D.2.050.C (Use Permits) of this Title.
2. ***Parking Requirements.*** Off-street parking spaces shall be provided and improved consistent with the requirements of Chapter C.6 (Parking and Loading).
3. ***Hours of Operation.*** Large family childcare homes may not operate before 6:30 a.m or after 7:30 p.m.

C.10.150 Live-Work Units

- A. **Purpose.** The purpose of this Section is to control and regulate land use activities for live-work units. The intent of a live-work unit is to allow small-scale business activities with residential unit, beyond those activities allowed in home occupations, which meet certain standards.
- B. **Applicability.** The provisions of this Subsection apply to the design, development, and operation of live-work units, including new live-work units, conversions of existing residential and nonresidential buildings to live-work buildings, and any change of use or occupancy in a live-work unit.
- C. **Establishment.**
 1. Live-work units may be established through the conversion of existing commercial, industrial, or other buildings or by new construction.
 2. Uses permitted or conditionally permitted within the zone are allowed as the nonresidential use, unless prohibited in Subsection C.10.140.G (Prohibited Uses) .
 3. Uses that may, depending on how they are operated, have the potential to generate impacts or would constitute a change in occupancy under the Building Code shall not be approved as a nonresidential use within a live-work unit unless the Review Authority finds that as proposed to be conducted, or as modified by conditions of approval, they would not conflict with or adversely affect others living or working in or nearby the live-work development.
- D. **Minimum Standards.** All live-work units must meet the following standards:
 1. ***Commercial Component.***
 - a. ***First floor and street entry.*** The commercial component of a live-work unit shall be located on the first floor with the main entry facing the street or common pedestrian space. The main commercial entry facing the street shall have a commercial, storefront appearance.
 - b. ***Restricted to the unit.*** The commercial component shall be restricted to the unit and shall not be conducted in the yard, garage, or any accessory structure. Commercial outdoor storage is not allowed.

2. ***Residential Component.***
 - a. *Living space.* Living space must occupy a minimum of 60 percent of the total gross floor area of the unit.
 - b. *Interior access.* The residential component shall have direct interior access to the commercial unit.
 - c. *Exterior access.* The residential component shall have exterior access that is not through the commercial component.
3. ***Parking and Loading.***
 - a. *Required parking spaces.* Live-work units must comply with Chapter C.6 (Parking) for required parking spaces.
 - b. *Required loading spaces.* Each live-work unit shall have at least one off-street loading area for every 50,000 gross square feet of space occupied by live-work units. No additional loading areas are required if the loading requirements for industrial or commercial occupants of a live-work building exceed the loading requirements for the live-work use.
 - c. *Exceptions and modifications.* Requirements for parking and loading spaces may be waived or modified through the Conditional Use Permit if the Review Authority finds:
 - (i) That the proposed parking will be adequate to meet the demand created by the project given the character of the proposed uses; and
 - (ii) That a waiver or modification of parking requirements will not, under the circumstances of the particular project, either conflict with nor adversely affect commercial or industrial uses or residential zones in the area where the project is proposed.
4. ***Signs.*** Sign size, location, illumination and materials, shall be consistent with the architectural building design and approved through a Sign Program.
5. ***Hazardous Materials.*** Business shall not involve the use of hazardous materials or produce medical or hazardous waste, except those that are below permitted amounts in accordance with the California Fire Code and as amended by the Milpitas Municipal Code V-300-2.10.
6. ***Food Operations.*** All foods must be produced, prepared, packaged, stored, transported, and marketed in compliance with the County of Santa Clara Department of Environmental Health standards.
7. ***Nuisance.*** The live-work unit shall not create external noise, odor, glare, vibration, or electrical interference detectable to the normal sensory perception by adjacent neighbors.
8. ***Nonresident Employees.*** Up to two persons who do not reside in the live-work unit may work in the unit. The employment of three or more persons who do not reside in the live-work unit may be permitted subject to a Conditional Use Permit based on additional findings that such employment will not adversely affect traffic, parking, or other conditions in the area where the live-work unit is located.

9. **Notice to Occupants Required.** The owner or developer of any building containing live-work units shall provide written notice to all live-work occupants and users that the surrounding area may be subject to levels of noise, dust, fumes, or other effects associated with commercial and industrial uses at higher levels than would be expected in residential areas. State and federal health regulations notwithstanding, noise and other standards shall be those applicable to commercial or industrial properties in the zone where the project is located. For purposes of noise control, live-work units shall be classified as commercial property.
10. **On-Premise Sales.** On-premises sales of goods is limited to those produced within the live-work unit. Sales of goods produced within the live-work unit shall be incidental to the primary work use in any building used exclusively for live-work occupancy. These provisions shall permit participation in occasional open studio programs and gallery shows.
- E. **Business License.** A Business License shall be obtained for every commercial space within the live-work units.
- F. **No Separate Sale or Rental of Portions of Unit.** No portion of a live-work unit may be separately rented or sold as a commercial space for a person or persons not living in the premises or as a residential space for a person or persons not working in the same unit.
- G. **Prohibited Uses.** Any use not permitted within the underlying zone is prohibited along with the following:
 1. Adult-oriented businesses;
 2. Massage establishments;
 3. Retail stores, general merchandise;
 4. Smoke/tobacco shops;
 5. Animal care and services;
 6. All vehicle-related uses;
 7. Community assembly;
 8. Group instruction uses;
 9. Educational institutions;
 10. Indoor entertainment uses; and
 11. Eating and drinking establishments.

C.10.160 Massage Establishments

- A. **Purpose.** The purpose of this Section, in conjunction with Chapter III-6 (Massage Establishments and Practitioners) of the Milpitas Municipal Code, is to regulate the establishment, location, and operation of massage establishments and accessory massage establishments in compliance with state law.
- B. **Definitions.** Terms used in this Section are defined Chapter E.2 (Definitions of Terms).

C. Applicability.

1. This Section applies to massage establishments as defined in Milpitas Municipal Code Chapter III-6 (Massage Establishments and Practitioners) and Chapter E.4 (Definitions of Uses). This Section also applies to accessory massage establishments as defined in Chapter E.4 (Definitions of Uses).
2. ***Preexisting Massage Establishments.*** Any legally established massage establishments must comply with the provisions of this Section and the provisions of Milpitas Municipal Code Chapter III-6 (Massage Establishments and Practitioners).
3. ***Exemptions.*** The requirements of this Section do not apply to the following establishments or classes of individuals who perform massage while employed in their professional capacities:
 - a. Physicians, surgeons, chiropractors, osteopaths, nurses, physical therapists, or acupuncturists, who are duly licensed to practice their respective professions in California and persons working directly under the supervision of such licensed persons. "Working directly under the supervision" means that the person is an employee of the licensed person, is working at the same location as the licensed person, has his or her work supervised by the licensed person, and that the licensed person is present when the employee is performing massage. This exemption shall not apply if the business performs massage on persons for whom the licensed person does not provide professional services.
 - b. Barbers, beauticians, cosmetologists, manicurists, and other persons licensed to practice any healing art under the provisions of Division 2 (commencing with Section 500) of the California Business and Professions Code while engaging in practices within the scope of their licenses, and who perform massage only on the neck, face, scalp, hands, arms, or lower limbs up to the knee of their customers.
 - c. Personal fitness training centers, gymnasiums, athletic facilities or health clubs, when the giving of massage for compensation is not a principal function of such businesses.
 - d. Hospitals, nursing homes, sanitariums, or any other healthcare facilities duly licensed by the State.
 - e. Accredited high schools, junior colleges, and colleges or universities whose coaches and trainers are acting within the scope of their employment.
 - f. Trainers of amateur, semi-professional or professional athletes or athletic teams, while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event such as an outdoor road or bike race.
 - g. Sole providers, including sole providers operating an off-premise massage service, who have a valid certificate issued by the CAMTC in accordance with the Act, either as a certified massage practitioner or a certified massage therapist, and who are practicing consistent with the qualifications established by such certificate.

D. **General Requirements.**

1. **Required Permits.**
 - a. Prior to the operation of a massage or an accessory massage establishment, the owner or managing officer/employee must obtain a Massage Establishment Permit in accordance with Milpitas Municipal Code Chapter III-6 (Massage Establishments and Practitioners), a Minor Conditional Use Permit in accordance with Section D.2.050.C (Use Permits), and a Business License in accordance with Milpitas Municipal Code Chapter III-1 (Business Licenses).
 - b. A Massage Establishment Permit, and any renewal thereof, shall be filed with the Chief of Police, in accordance with Milpitas Municipal Code Chapter III-6 (Massage Establishments and Practitioners). The Minor Conditional Use Permit shall not be granted until a Massage Establishment Permit is issued by the Chief of Police.
2. **Compliance with Codes.** Prior to the operation of a massage establishment or accessory massage establishment, the massage establishment must comply with all applicable codes regarding fire, building and safety, health and safety, and other relevant laws.
3. **Operational Standards.** In addition to the restrictions specifically required in the Massage Establishment Permit issued by the Chief of Police and in accordance with Milpitas Municipal Code Title III, Chapter 6 (Massage Establishments and Practitioners), all massage establishments must comply with the regulations applicable to the zone in which it is located. Operating hours must comply with the following:
 - a. Massage establishments may operate between the hours of 7:00 a.m. and 10:00 p.m.;
 - b. Massage services begun before 10:00 p.m. must terminate at 10:00 p.m.; and
 - c. No customer shall be in any massage establishment between the hours of 10:00 p.m. and 7:00 a.m.
4. **Off-Street Parking Requirement.** Two off-street parking spaces per treatment room must be provided. If there are no treatment rooms, then one space for every two massage chairs or two massage tables must be provided. The parking spaces must comply with all development standards set forth in Chapter C.6 (Parking and Loading).
5. **Commercial Purposes Only.** A massage establishment must be used for commercial purposes only. Use of the massage establishments for residential or lodging purposes is prohibited.
6. **Off-Premises Massage Businesses.** No off-premises massage business shall conduct massage in a hotel or motel room, vehicle, or in any private residence other than that of the client receiving the massage. No off-premises massage service may be provided in a private residence or business between the hours of 10:00 p.m. and 7:00 a.m.
7. **Recreational or Special Events.** Persons administering massages to other persons who are participating in a recreational or special event that has been approved in accordance with Section C.10.220 (Temporary Uses and Structures) and the Chief of Police shall be California Massage Therapy Council certified but will not be required to hold a Massage Establishment Permit provided the following conditions are met:

- a. The massage technician shall be registered with the City of Milpitas Police Department;
 - b. Massage services are equally available to all participants in the event;
 - c. The massage services are provided during the event in an open area at the site of the event;
 - d. The sponsors of the event have approved the provision of massage services at the event;
 - e. Massage services were included in the project description in the application for a Special Event Permit in accordance with Subsection D.2.050.L (Special Event Permit).
8. **Signs.** A recognizable and legible sign complying with the requirements of Chapter C.8 (Signs) must be posted at the main entrance of the massage establishment identifying the location as a licensed massage establishment.
- E. **Application Procedure.**
1. **Minor Conditional Use Permit.** The owner of a massage or accessory massage establishment must apply for and obtain a Minor Conditional Use Permit before operating massage establishment. The Minor Conditional Use Permit is subject to the provisions of and issued in accordance with the Minor Conditional Use Permit process in Section D.2.050.C (Use Permits).
 2. **Compliance Review.** The Director will conduct a compliance review on an annual basis concurrent with review of the Massage Establishment Permit and renewal of the Business License for each use. Any failure to conduct a review does not waive any noncompliance or the City's right to conduct a review in the future.
 3. **Change in Ownership.** If there is a change of property ownership, change of owner's agent or representative, or any other change in material facts pertaining to the information contained in the Minor Conditional Use Permit application, the new owner or new owner's authorized agent or representative shall notify the City prior to continuing to operate the massage establishment.
- F. **Violation of Regulations.** Violation of any provision of this Title may result in the revocation of the City's approval of the massage or accessory massage establishment in accordance with Chapter D.16 (Enforcement and Penalty).

C.10.170 Mobile Food Vending

- A. **Purpose.** The purpose of this Section is to allow mobile food vendors to operate in appropriate areas of Milpitas and to protect and maintain public safety, health, and welfare while providing opportunities for small businesses, adding vibrancy and activity to streetscapes and neighborhoods, and expanding food access in areas underserved by brick-and-mortar restaurants.

B. Mobile Food Vending Review Procedures.

1. On Private Property.

- a. One mobile food vehicle operating on a parcel, when permitted in Part B (Zone Regulations), may be approved subject to Minor Site Development Permit approval in accordance with Subsection D.2.050.B (Site Development Permits).
- b. A mobile food park operating for more than seven consecutive days may be approved subject to Minor Conditional Use Permit approval in accordance with Subsection D.2.050.C (Use Permits).
- c. Two or more mobile food vehicles operating on a parcel for a period of seven consecutive days or less shall require a Special Event Permit in accordance with Section D.2.050.L (Special Event Permit).

2. In Public Parks and Open Space.

- a. One mobile food vehicle operating within a public park or open space may be approved subject to approval of a Minor Site Development Permit in accordance with Subsection D.2.050.B (Site Development Permits).
- b. Two or more mobile food vehicles operating together within a public park or open space for a period of seven consecutive days or less shall require a Special Event Permit in accordance with Section D.2.050.L (Special Event Permit).
- c. Mobile food parks shall not be permitted within public parks and open spaces.

3. In Public Right-Of-Way.

- a. Mobile food vending in the public right-of-way is permitted subject to the review and approval of the Department, as follows:
 - (i) *In R1, R2, and R3 zones.* Mobile food vending in the public right-of-way may be permitted as part of a one-time or recurring special event for which a Special Event Permit has been issued in accordance with Subsection D.2.050.L (Special Event Permit), or as part of another official event authorized by the City (e.g., National Night Out).
 - (ii) *In R4, commercial, industrial, mixed use, Metro Specific Plan, and institutional zones.* Mobile food vending in the public right-of-way is permitted upon issuance of all required City and County permits per Subsection C.10.160.G (Other Permits and Licenses Required).

4. Ice Cream Trucks.

- a. Ice cream trucks may operate on public rights-of-way in all zones, including residential zones, and in public parks with no City zoning permits required (i.e., permits administered under this Title). Ice cream trucks shall be required to obtain a Business License.
- b. An operator of an ice cream truck proposing to vend in a stationary location on private property shall be subject to all requirements, standards, and permitting procedures in this Section that apply to mobile food vehicles.

C. Location and Siting Requirements.

1. On Private Property.

- a. The operator of a mobile food vehicle operating on a privately owned parcel shall obtain prior written permission from the property owner and shall have an original signed copy of such permission available at all times while the mobile food vehicle is in operation on the property.
- b. A mobile food vehicle shall be parked outside any designated fire lane and outside any parking or loading space that is required for the primary use on the property.
 - (i) Mobile food vending operations shall not reduce the available parking on the property below the minimum number of parking spaces required to serve the existing use(s) on the lot.
 - (ii) For a property that is nonconforming with respect to parking, mobile food vending operations shall not reduce the total existing amount of parking on the lot.
- c. Unless otherwise approved in accordance with Subsection C.10.160.F (Exceptions to standards and requirements), a mobile food vehicle shall be parked a minimum of 15 feet from a driveway curb cut while in operation.

2. In Public Right-Of-Way.

- a. A mobile food vehicle operating in the public right-of-way shall be parked in a legal parking space and shall comply with all City parking regulations at all times while in operation.
- b. A mobile food vehicle may only serve customers from an adjacent sidewalk or the side of the vehicle closest to the curb and shall not serve customers from the side of the vehicle closest to the motorized travel lanes of the street.

3. In Public Parks and Open Spaces.

- a. The location and siting of mobile food vending operations within a public park or open space shall be subject to the approval of the Recreation and Community Services Department, through the Minor Site Development Permit or Special Event Permit process as required per Chapter D.4 (Permits and Approvals)
- b. A mobile food vehicle operating within a public park shall be parked in a legal parking space on a paved surface outside any designated fire lane.

4. Separation from Other Uses.

- a. A mobile food vehicle in operation shall be located a minimum of 150 feet from any existing restaurant.
- b. A mobile food vehicle in operation shall be located a minimum of 150 feet from a freeway on- or off-ramp.

D. Site Design Standards.

1. Parking.

- a. For one mobile food vehicle operating on private property or in a public park, no parking shall be required to serve the mobile food vending use. The mobile food

vehicle shall comply with Chapter C.6 (Parking) with respect to parking for other existing uses on a lot.

- b. For mobile food parks, parking must comply with Table C.6.050-A (Required Number of Vehicle Parking Spaces). Such parking shall be provided in addition to any required parking serving other existing uses on the lot.

2. ***Access and Circulation.***

- a. All mobile food vending operations shall be located so as not to impede safe movement of vehicular, bicycle or pedestrian traffic, and to maintain a clear line of sight for vehicles, bicycles and pedestrians.
- b. No mobile food vehicle shall obstruct access to or circulation through any parking lot, or access to any public sidewalk or alley.

3. ***Seating Areas.***

- a. For mobile food vehicles operating in the public right-of-way, on-site seating (including tables, chairs, canopies, umbrellas, or similar amenities) are prohibited.
- b. For one mobile food vehicle operating on private property, the site plan submitted for Minor Site Development Permit review per Subsection D.4.020 (Site Development Permits) shall show all proposed temporary amenities and structures for on-site seating and dining. For mobile food parks, the site plan submitted for Minor Conditional Use Permit review per Subsection D.4.030 (Use Permits) shall show all proposed temporary and permanent amenities and structures for on-site seating and dining.
- c. Mobile food vending operations requiring a Special Event Permit shall be subject to the requirements and procedures in Section D.4.120 (Special Event Permit) for seating, dining areas and similar amenities.

4. ***Restrooms.***

- a. For one mobile food vehicle operating on private property or for mobile food vehicles operating in the public right-of-way:
 - (i) If the vehicle operates in the same location on an ongoing basis, for at least one day per week and for more than one hour on each day of operation, the operator must have access to a restroom facility within 200 feet in accordance with California Health and Safety Code section 114315. If the vehicle operates in the same location on an ongoing basis, for at least one day per week and for more than three consecutive hours on each day of operation, the operator must arrange and secure access to a restroom within 200 feet of the site that is available to customers and employees of the mobile food vehicle.
 - (ii) A mobile food vehicle operator to whom Subsection C.10.170.D.4.a.i, above, applies shall submit to the City, concurrently with the permit application, a signed letter from the owner of the property on which the restroom is located to verify that the mobile food vending operation has access to the restroom for use by employees and customers (if required) during its hours of operation.

- b. For mobile food parks, one single-stall, gender-neutral restroom shall be provided for every five mobile food vehicles operating on the site. In calculating the restroom requirement, fractional numbers shall be rounded down to the nearest whole number.
- c. Mobile food vending operations requiring a Special Event Permit shall be subject to the requirements and procedures in Section D.4.120 (Special Event Permit) for restrooms.

E. Operational Standards and Requirements.

1. **Mobility of Operations.** Mobile food vehicles shall not connect to temporary or permanent on-site water, gas, electricity, telephone or cable sources.
2. **Hours of Operation.** Unless otherwise approved in accordance with Section C.10.170.F (Exceptions to Standards and Requirements), hours of operation for mobile food vending shall be between the hours of 7:00 a.m. and 10:00 p.m.
3. **Parking and Storage of Mobile Food Vehicles.** Outside of hours of active operations mobile food vehicles shall be removed from the operating site, whether on private property or in the public right-of-way. Mobile food vehicles shall not be parked overnight at the location of operation.
4. **Noise.** Mobile food vending operations shall comply with the provisions of Milpitas Municipal Code Chapter V-213 (Noise Abatement).
5. **Signage.** A mobile food vehicle may display signage permanently attached to or painted on the vehicle advertising its products and services. A mobile food vehicle may also place one A-frame or upright sign within 10 feet of the vehicle that displays information such as the menu, prices, and specials of the day. Any A-frame or upright sign shall be subject to the provisions of Chapter C.8 (Signs). No other signs or banners that are separate from the mobile food vehicle shall be placed at the operating site or within the public right-of-way.
6. **Trash Management and Disposal.**
 - a. For one mobile food vehicle operating on private property or in the public right-of-way, and for mobile food parks:
 - (i) All mobile food vending operations shall provide separate and clearly marked receptacles for trash, recycling and/or compost (minimum size for each 32 gallons), according to the collection services available, at the operating site. Operators of mobile food vehicles shall properly dispose of all trash, recycling and/or compost generated by their operations daily.
 - (ii) The operator of a mobile food vehicle shall keep the area within a 25-foot radius of the vehicle, including private property, sidewalks, and roadways, clean and free of paper, food waste and other refuse generated by the operation.
 - b. Mobile food vending operations requiring a Special Event Permit shall be subject to the requirements and procedures in Section D.4.120 (Special Event Permit) for trash management and disposal.

- c. Mobile food vending operations, if using disposable food service ware for packaging and serving, shall use products that are recyclable or compostable. Use of polystyrene foam food service ware is prohibited per Milpitas Municipal Code Chapter III-8 (Prohibition of Expanded Polystyrene (EPS) Foam Food Service Ware).
- F. **Exceptions to Standards and Requirements.** Exceptions or reductions to the location and siting requirements, site design standards, and operational and standards in this Section may be granted at the discretion of the Director and the Fire Marshal based on site-specific conditions and subject to the following findings:
 1. The proposed number, configuration, and operation of mobile food vehicles is generally consistent with the overall intent of these regulations;
 2. The proposed mobile food vending activity will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.
- G. **Other Permits and Licenses Required.**
 1. All mobile food vehicles operating within Milpitas must obtain a permit for mobile food facilities from the Santa Clara County Department of Environmental Health. The valid County health permit shall be displayed on the vehicle in a location visible to the public at all times.
 2. All mobile food vehicles operating within the boundaries of Milpitas shall obtain a current City Business License prior to establishing a vending location on public or private property or setting up operations. The license shall at all times be displayed on the vehicle in a location visible to the public.
 3. All mobile food vehicles must have current and valid vehicle registration clearly displayed on their license plates while vending at the operating site or in the public right-of-way.

C.10.180 Mobile Home Parks

- A. **Purpose.** The purpose of this Section is to establish standards for mobile home parks.
- B. **Site Location.** A mobile home park must abut a major street.
- C. **Community Center.** A community recreation center with a floor area of 25 square feet per mobile home unit, but in no case less than a minimum of 3,750 square feet, shall be provided and be centrally located within the mobile home park. Administrative offices, laundry facilities, or other nonrecreational uses may be developed in conjunction with the community center but shall be in addition to the minimum community center floor area.
- D. **Circulation.**
 1. The main entrance of a mobile home park shall consist of two 10-foot travel lanes for ingress and an additional two lanes for egress, separated by a landscaped median, a minimum of 10 feet in width and 100 feet in length.
 2. An illuminated directory map shall be provided at all entrances to the mobile home park in such a manner as to be read by the driver of an entering vehicle without leaving the vehicle and consistent with Chapter C.8 (Signs).

3. All private roadways within the mobile home park shall include a minimum 25 feet travel lane width plus a 10-foot parking lane on each side of the roadway.
 4. All private roadways shall be structurally designed consistent with Public Works Standards and shall include concrete curbs and gutters.
- E. **Parking.** Vehicle parking must be provided consistent with Chapter C.6 (Parking and Loading), and at least one parking space must be provided contiguous to each individual mobile home site.
- F. **Other Regulations.** Mobile home parks must comply with all applicable federal and state regulations.
1. For the state law that governs manufactured home parks (i.e., Mobilehome Parks Act), see California Health and Safety Code section 17910 et seq. and section 65580 et seq.
 2. For the state law that regulates mobile home park, see California Code of Regulations, Title 25, Division 1, Chapters 2 and 2.2.

C.10.190 Service Stations and Car Washes

- A. **Purpose.** The purpose of this Section is to establish reasonable and uniform regulations regarding the location, development, and design of service stations and car washes.
- B. **Minimum Standards.**
1. **Landscaping.** At least 10 percent of the site shall be landscaped. All landscaped areas shall be maintained in compliance with Chapter C.4 (Landscaping Standards), and the following standards:
 - a. A minimum six-foot wide inside dimension and a six-inch high curbed landscaped planter area shall be provided along the front and street property lines, except for vehicular circulation openings. A three-foot wide landscaping buffer shall be provided along all other property lines.
 - b. A 600-square-foot planter with a minimum dimension of 20 feet shall be provided at the corner of intersecting streets unless a building is located at the corner.
 - c. Additional landscaping may be required where necessary to prevent visual impacts on adjacent properties.
 2. **Lighting.** In addition to the lighting standards required in Section C.2.070 (Lighting and Illumination), all exterior light sources, including canopy, perimeter, and flood, shall be energy-efficient, stationary, and shielded or recessed within the roof canopy to ensure that all light is directed away from adjacent properties and public rights-of-way. Lighting shall not be of a high intensity so as to cause a traffic hazard, be used as an advertising element, or adversely affect adjacent properties.
 3. **Pump Islands.** Pump islands shall be located a minimum of 15 feet from any property line to the nearest edge of the pump island. A canopy or roof structure over a pump island may encroach up to 10 feet within this distance.
 4. **Car Wash Facilities.** No building or structure shall be located within 30 feet of any public street or within 20 feet of any interior lot line of a residential use or residential zone. Car wash openings shall be screened from public streets to a height of 40 inches. Screening devices shall consist of walls and/or berms with supplemental plant materials.

5. **Hours of Operation.** Car washing facilities are limited to 7:00 a.m. to 10:00 p.m., seven days a week unless additional hours are allowed subject to Minor Use Permit approval. When abutting a residential zone, the hours of operation shall be between 8:00 a.m. to 8:00 p.m., seven days a week.
- C. **Application Review and Findings for Approval.** In reviewing proposals, emphasis shall be placed on quality design of building materials and landscape features. The Review Authority shall only approve a service station or car wash facility if all required findings in Chapter D.4 (Permits and Approvals) are made in addition to the following findings:
1. The project is designed so that form and scale are harmonious and consistent with the character of the specific site, the adjacent uses and structures, and the surrounding neighborhood;
 2. The site design, including the location and number of driveways, will promote safe and efficient on-site and off-site traffic circulation;
 3. Service bay openings are designed to minimize the visual intrusion on surrounding streets and properties;
 4. Lighting is designed to be low-profile, indirect or diffused, and avoid adverse impacts on surrounding uses; and
 5. The washing facility will comply with all applicable water quality standards and protocols.
- D. **Abandonment.** In the case of abandonment or non-operation of the primary use, a service station must be dismantled and the site cleared and remediated as required by state and federal law within 12 months subsequent to the close of the last business day.

C.10.200 Short-Term Rentals

- A. **Purpose.** The purpose of this Section is to regulate the establishment and operation of short-term rental units (STRs). As such, the City intends to preserve the residential character of neighborhoods, prevent long-term residential uses from being replaced with STRs, and protect all neighborhoods from potential adverse impacts caused by the operation of STRs.
- B. **Applicability.** This Section applies to short-term rental units as defined in Chapter E.4 (Definitions of Uses).
1. **Permitted Zones.** STRs are permitted in dwelling units in the R1, R2, R3, R4, R5, MXD, and MXD3 zones, subject to the requirements of this Section.
 2. **Nonconforming Dwelling Units.** STRs are prohibited within all nonconforming dwelling units, except those that are legal nonconforming with respect to the parking standards of Chapter C.6 (Parking and Loading). If a dwelling is legal and nonconforming only because it does not meet the parking standards of Chapter C.6 (Parking and Loading), an STR may be established when parking for the dwelling unit is provided to meet the applicable requirements of Chapter C.6 (Parking and Loading).
 3. **Permitted in Primary Dwelling Units Only.** STRs are permitted in primary dwelling units only. STRs are not permitted within accessory structures and buildings, ADUs, or recreational vehicles.

C. General Requirements.

1. **Required Permits.** Prior to the operation of a dwelling unit, or a portion thereof, as an STR, the operator must obtain a Short-Term Rental Permit in accordance with this Section and a Business License in accordance with Milpitas Municipal Code Chapter III-1 (Business Licenses). A Short-Term Rental Permit may be terminated or revoked if the standards of this Title are not met.
2. **Compliance.** Occupants of the STR must comply with all applicable federal, state, and local laws. The operator must ensure compliance with this provision.
3. **Rentals per Dwelling Unit.** A maximum of one short-term rental is permitted per dwelling unit at any given time.
4. **Off-Street Parking Requirement.** One off-street parking space must be provided for the STR. Any parking space in excess of the required number of parking spaces for the primary dwelling unit in accordance with Chapter C.6 (Parking and Loading) may be used for the STR. The parking space must comply with all development standards set forth in Chapter C.6 (Parking and Loading).
5. **Exterior Alterations.** The exterior of the dwelling unit must not be altered such that the structure appears to serve a nonresidential use either by color, materials, construction, lighting, signage, landscaping, or by other similar effects.
6. **Hosted Rentals Only.** An operator may only conduct a hosted rental, where an owner or operator is living and present in the dwelling unit during the short-term rental period. Un-hosted rentals, where an owner or operator is not living and present in the primary dwelling unit during the short-term rental period, are prohibited in STRs.
7. **Maximum Occupancy.** The daytime (7:00 a.m. to 9:00 p.m.) and overnight (9:00 p.m. to 7:00 a.m.) occupancy of the STR is limited to a maximum of two persons per bedroom plus one additional person. The operator shall not allow the STR to be used for any gathering where the number of persons will exceed the permitted maximum occupancy limits.
8. **Alternative Contact Person.** The owner must identify and designate an alternative contact person who must be available 24 hours per day, seven days per week, to respond to complaints regarding the condition, operation or conduct of occupants of the STR. The alternative contact person may be the owner, local property manager, or agent of the owner, and must respond in-person to complaints within 60 minutes.
9. **Trash and Refuse.** Trash and refuse must be stored outside of public view, except in proper containers for the purpose of collection by the City's authorized waste hauler on scheduled trash collection days.
10. **Signage.** Signs that advertise the availability of the short-term rental unit are prohibited.
11. **Liability Insurance.** Liability insurance is required of the operator, or hosting platform on behalf of the operator, in the amount of no less than \$500,000. Proof of liability insurance is not required if hosting activity is only handled by a hosting platform that already extends similar liability coverage.

12. **Commercial and Assembly Uses Prohibited.** STRs are limited to dwelling, lodging, and sleeping purposes only. Use of the STR for any other commercial uses or assembly uses such as weddings, corporate events, or parties, is prohibited.
13. **Transient Occupancy Tax (TOT).** Either the operator or hosting platform must collect and remit the transient occupancy tax in accordance with Milpitas Municipal Code Chapter III-13 (Transient Occupancy Tax). The operator must maintain records of TOT paid, even if paid by a hosting platform, for three years.
14. **Good Neighbor Manual Required.** The operator must sign a manual provided by the City that summarizes general rules of conduct and all rules and regulations applicable to the use of the STR in this Section and the Milpitas Municipal Code. The operator must post the manual on the inside of the front door and door to the backyard or a in a conspicuous location near each door.
15. **Indemnification.** To the fullest extent permitted by law, the owner of an STR must defend, indemnify, and hold the City, its officials, officers, and employees free and harmless from any and all claims, demands, causes of action, damage or injury to persons or property arising out of any alleged acts, omissions, or willful conduct of the owner, its employees, or its agents.
16. **Health and Safety.** It is the operator's responsibility to assure that the STR is and remains in compliance with all applicable codes regarding fire, building and safety, health and safety, and other relevant laws.

D. Application Procedure.

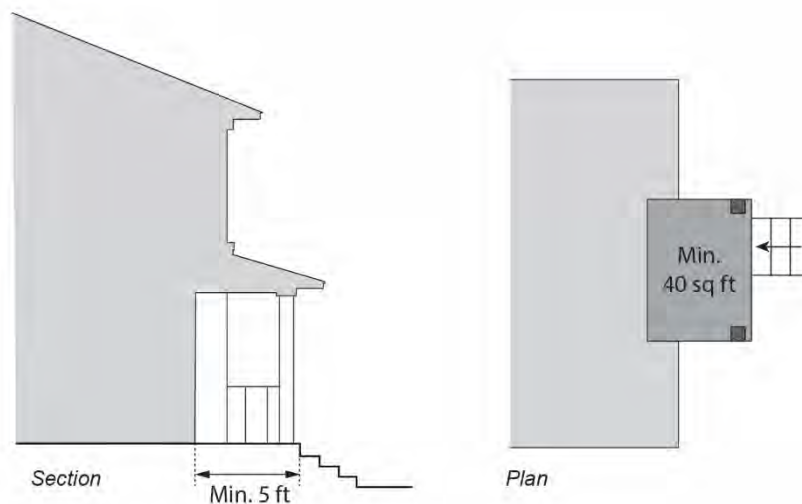
1. **Short-Term Rental Permit.** STRs are subject to a Short-Term Rental Permit, in accordance with this Section. An owner or operator must apply for and obtain a Short-Term Rental Permit before operating an STR.
2. The Director makes the determination on the Short-Term Rental Permit application, based on compliance with provisions in this Subsection.
3. The application must contain the following information and documentation:
 - a. The name, address, and telephone number of the owner of the subject short-term rental unit;
 - b. If the applicant is not the owner, the applicant must demonstrate written consent of the owner to operate a short-term rental unit on the property;
 - c. The name, address, and telephone number of the owner's authorized agent or representative, if any;
 - d. The name, address, and 24-hour telephone number of the Alternative Contact Person;
 - e. Verification that the Alternative Contact Person can respond in person to the site of the short-term rental unit within 60 minutes of notification of a complaint;
 - f. The address of the proposed STR;
 - g. The number of bedrooms in the STR;

- h. The location and dimensions of the off-street parking space designated for the STR;
 - i. For STRs located in any area governed by a homeowners' association or community association (association) and subject to CC&Rs, the applicant must additionally submit a copy of a letter to the association's governing board stating the applicant's intent to operate a short-term rental unit and inviting the association to submit a letter to the City stating one of the following: (1) that short-term rentals are not prohibited at the proposed unit by the CC&Rs; or (2) that a short-term rental is allowed at the proposed unit under the CC&Rs, but only under certain conditions, and a statement of whether or not the conditions here are met; or (3) that the CC&Rs do not allow short-term rentals as defined herein. The association's response is not determinative, but it is a factor that may be considered by the Director;
 - j. A copy of the Good Neighbor Manual, signed by the owner, certifying that the owner has read and understands the guidelines for responsible operation;
 - k. The operator must attach a copy of the "Smoke Alarm & Carbon Monoxide Alarm Self Certification" for the property to be used as a short-term rental to the application in order to ensure the space has smoke alarms and carbon monoxide alarms and spark arrestors installed; and
 - l. Such other information as the Director deems reasonably necessary to administer this Section.
- E. **Compliance Review.** The Director will review the Short-Term Rental Permit within one year after issuance for compliance with this Section. The Director will conduct a similar compliance review of Short-Term Rental Permits on an annual basis, or as needed, concurrent with renewal of the Business License for each use. Any failure to conduct a review does not waive any noncompliance or the City's right to conduct a review in the future.
- F. **Change in Ownership.** If there is a change of property ownership, change of owner's agent or representative, or any other change in material facts pertaining to the information contained in the Short-Term Rental Permit application, the new owner or new owner's authorized agent or representative shall obtain a new Business License and notify the City prior to continuing to rent the subject unit as a short-term rental. The Director will conduct a compliance review of the Short-Term Rental Permit for the subject property in conjunction with the application for a Business License by the new property owner.
- G. **Violation of Regulations.** Violation of any provision of this Title, including the requirement to maintain a current Business License, may result in the revocation of the Short-Term Rental Permit after notice and an opportunity for a hearing has been given to the permittee, in accordance with Section D.18.070 (Modification, Revocation, and Suspension).
- H. **Enforcement.** Where prompt compliance is not forthcoming, the City may take any appropriate enforcement action to secure compliance. All remedies in the Milpitas Municipal Code are considered cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing these provisions.

C.10.210 Single-Family Dwelling

- A. **Purpose.** The purpose of this Section is to provide standards for single-family dwellings.
- B. **Applicability.** Newly constructed single-family dwellings must comply with the standards in this Section. Existing single-family dwellings shall not be required to comply with these standards or deemed nonconforming because the dwelling does not comply with these standards.
- C. **Limits on Blank Walls.** No wall on any level except for garages may run in a continuous plane of more than 20 feet without a window or a projection, offset, or recess of the building wall at least one foot in depth.
- D. **Entrances.**
1. **Orientation.** The primary entrance of any single-family dwelling located along public rights-of-way or pathways must be at least partially visible from the public street or pathway. Exceptions to this requirement may be approved where the site is located on a major street, or topographic conditions, existing trees, or lot configuration prevent this visibility.
 2. **Protection.** The primary entry must incorporate a projection, recess, or combination of projection and recess at least 40 square feet in area, with a minimum depth of five feet.

FIGURE C.10.210-1: ENTRANCE PROTECTION



- E. **Privacy.** New second-story windows that are five feet or less from an interior side property line or 15 feet or less from a rear property line shall incorporate at least one of the following:
1. The proposed second-story window shall be positioned such that the window sill is at least five feet above finished floor; or
 2. The proposed second-story window shall utilize frosted or obscured glass in the glazing portion of the window (i.e., glass that is patterned or textured such that objects, shapes, and patterns beyond the glass are not easily distinguishable).
- F. **Street-Facing Facade Design.** All street-facing buildings facades must be designed at an equivalent design level to the primary facade in the extent of building articulation, level of detail, and quality

of exterior materials, and consistent with the color scheme of the primary facade. Details include but are not limited to door recesses, door trim, cornices, belt courses, columns/piers, posts/beams, brackets, columns/arches, and roof forms.

G. Building Materials.

1. Exterior timber must be protected from decay by stain and sealant.
2. Exterior ferrous metals must be protected from corrosion either through the use of galvanized, stainless, weathering steel, or powder coating.
3. Plywood, corrugated metal, sheet metal, and unfinished aluminum are prohibited.

C.10.220 Single Room Occupancy Residences

- A. Purpose.** The purpose of this Section is to provide standards for single room occupancy (SRO) residences.
- B. Applicability.** The standards for SRO residences in this Section apply to all SRO residences as allowed by Part XIII-B (Zone Regulations).
- C. Location.** SRO residences must be within one-half mile of a fixed rail or bus stop with 30-minute minimum headways during peak hours.
- D. Minimum Unit Standards.** Each SRO unit must:
1. Be a minimum of 150 square feet;
 2. Not exceed 400 square feet; and
 3. Contain a closet within the unit.
- E. Minimum Facility Standards.** An SRO facility shall meet the following standards:
1. **Full Bath.** If an individual full bath is not provided in each unit, common bath facilities shall be provided in accordance with the California Building Code for congregate residence with at least one full bathroom per floor.
 2. **Full Kitchen.** An SRO unit is not required to but may contain partial or full kitchen facilities. A full kitchen includes a sink, a refrigerator and stove, range top or oven. A partial kitchen is missing at least one of these appliances. If a full kitchen is not provided, common kitchen facilities shall be provided with at least one full kitchen per floor.
 3. **Laundry.** Laundry facilities shall be provided in a separate room at the ratio of one washer, dryer, and laundry tub with hot and cold running water for every 20 units, with at least one washer, dryer, and laundry tub per floor.
 4. **Open Space.** A minimum of 200 square feet of interior usable common space must be provided, excluding janitorial storage, laundry facilities and hallways.
 5. **Management Plan.** A management plan shall be submitted to the Department for review and approval prior to issuance of a Certificate of Occupancy. Management plans shall be resubmitted to the Department on an annual basis for review and approval. A facility with 10 or more units shall provide on-site management.

C.10.230 Temporary Uses and Structures

- A. **Purpose.** This Section establishes standards for uses that are intended to be of limited duration of time and that will not permanently alter the character or physical facilities of the site where they occur.
- B. **Applicability.** This Section applies to the temporary uses and structures on private property and certain public rights-of-way described in this Section. All other temporary uses shall be prohibited on private property.
- C. **General Standards.**
1. **Business License Required.** Where applicable, a separate Business License is required for each vendor.
 2. **Removal of Temporary Use.** Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the temporary use.
 3. **Security.** A performance security (including a bond or financial deposit) in a form and amount acceptable to the Director may be required before initiation of the temporary use to ensure the following:
 - a. Cleanup after the use has ceased; and
 - b. To guarantee removal of all temporary structures within 30 days following the expiration of the Temporary Use Permit or completion of the use or activity, whichever occurs first.
- D. **Temporary Uses Not Requiring a Temporary Use Permit.** The following types of temporary uses may be conducted without a Temporary Use Permit. Other permits, such as building permits, may be required.
1. **Yard/Garage Sales.** Sales of personal property conducted by a resident of the premises with a maximum term of three consecutive calendar days and occurring no more than two times a year.
 2. **Nonprofit Fundraising.** Fundraising activities by tax exempt organizations pursuant to 501(C) of the Federal Revenue and Taxation Code are allowed in nonresidential zones with no limitation on the number of occasions and duration where there is no disruption to the normal circulation of the site; encroachment upon driveways, pedestrian walkways, or required parking or landscaped areas; obstruction to sight distances; or other created hazard for vehicle or pedestrian traffic.
 3. **Seasonal Sales.** The annual sales of holiday related items such as Christmas trees, pumpkins, and similar items may be permitted in accordance with the following standards. This Subsection is only applicable to temporary seasonal sales that are not in conjunction with an existing business and are not applicable to farmers' markets or the sale of fireworks.
 - a. **Location.** Seasonal sales are limited to commercial, mixed use, and institutional zones and to properties in other zones that have primary educational institution or community assembly uses.

- b. *Number of events.* The subject lot shall not be used for seasonal sales more than three times within the calendar year.
 - c. *Time period.* Temporary seasonal sales shall be limited to 45 days of operation per calendar year.
 - d. *Merchandise.* Temporary seasonal sales shall not engage in the sale of any merchandise not directly associated with the holidays with which the seasonal sales are associated.
 - e. *Elimination of Parking.* Areas used for temporary seasonal sales shall not eliminate the required parking for the primary use on the site, if there is one, or for any other site.
 - f. *Removal.* Each site occupied by a temporary use shall be left free of debris, litter, or any other evidence of the temporary use upon completion or removal of the use, and shall thereafter be used, in compliance with the provisions of this Title.
4. **Commercial Special Events and Sales.** Commercial special events and sales including, but not limited to, grand opening events and other special sales events, are allowed in accordance with the following standards:
- a. *Location.* Events are limited to nonresidential zones and shall be located on the site of, and associated with, a permanent commercial use.
 - b. *Number of events.* No more than six events at one site shall be allowed within any 12-month period.
 - c. *Duration.* The maximum duration of a single event is five consecutive calendar days, with a minimum of 14 calendar days between each event.
 - d. *Display.* Location of the event or displayed merchandise shall not disrupt the normal circulation of the site, nor encroach upon driveways, pedestrian walkways, or required parking or landscaped areas, or obstruct sight distances or otherwise create hazards for vehicle or pedestrian traffic.
5. **Temporary Construction Office Trailers.** On-site temporary construction offices during the period of construction may be allowed in accordance with the following standards:
- a. *Location.* Trailers shall not obstruct driveways or traffic access aisles.
 - b. *Parking impacts.* The applicant shall demonstrate that parking will not be negatively impacted.
 - c. *Colors and materials.* The colors and materials shall complement the main building, if one exists.
 - d. *Screening.* The Director may require screening in addition to other applicable screening requirements in this Title.
 - e. *Noise.* Any exterior noise-generating equipment associated with trailers shall not be within 300 feet of a residential zone or use.
 - f. *Removal.* Trailers shall be removed upon cessation of permitted construction activity.

- i. *Signs.* Signs for model homes shall comply with Chapter C.8 (Signs). The location of all proposed street numbering, fire routes, ground and wall signage shall be clearly identified on the site plan.
2. ***Temporary Structures.***
 - a. Temporary structures, including but not limited to industrial shipping containers, in a nonresidential zone may be allowed for less than one year, subject to the following standards:
 - (i) The temporary structure shall not be visible from adjacent streets or rights-of-way;
 - (ii) The temporary structure must serve an allowed use on the site; and
 - (iii) The temporary structure shall not obstruct any required parking spaces, and the required dimensions for drive aisles must be provided.
 - b. Temporary self-storage portable containers in a residential zone may be allowed, subject to the following standards:
 - (i) Allowed only when associated with home improvements and moving;
 - (ii) Must be located on the site of the home improvement or residence being moved into or out of;
 - (iii) Must be located on private property (i.e., outside of the public right-of-way);
 - (iv) Must be placed on level finished grade;
 - (v) Must maintain a minimum five-foot separation from any structure;
 - (vi) Must not obstruct any required parking spaces;
 - (vii) The required dimensions for drive aisles must be maintained;
 - (viii) Allowed for a maximum of 180 days per year;
 - (ix) Nothing may be stacked on top of a single container;
 - (x) May not be habitable or used as a residence;
 - (xi) May not have any plumbing connections;
 - (xii) Must include a warning device (e.g., a horn) placed inside each container to address safety;
 - (xiii) Must comply with Fire and Building Code requirements (e.g., flammable or hazardous materials); and
 - (xiv) May not have any signage.
3. ***Community Services Operated by a Nonprofit.*** Community services and temporary operations by tax exempt organizations pursuant to 501(C) of the Federal Revenue and Taxation Code may be allowed subject to Temporary Use Permit approval. Nonprofit fundraising is exempt from a Temporary Use Permit consistent with Subsection C.10.230.D.2 (Nonprofit Fundraising).

- F. **Special Events Requiring a Special Events Permit.** Short-term special events that are not considered regulated under Subsection C.10.230.D.4 (Commercial Special Events and Sales) may be permitted pursuant to the Special Event Permit standards and procedures in Subsection D.4.120.
- G. **Temporary Uses Requiring a Minor Conditional Use Permit.** Other temporary uses that do not meet the standards for temporary uses not requiring a permit or requiring a Temporary Use Permit may be allowed in nonresidential zones with the approval of a Minor Conditional Use Permit provided they are temporary in nature, and will not unreasonably impair circulation or the operation of other uses in the area, or otherwise create significant impacts.

C.10.240 Wireless Telecommunication Facilities

- A. **Purpose.** The purpose of this Section is to provide uniform and comprehensive standards for the approval, placement, and design of telecommunication facilities. These regulations are intended to protect and promote public health, safety, and community welfare while at the same time not unduly restricting needed telecommunication facilities. They have also been developed to further the policies of the General Plan. It is intended that these regulations specifically accomplish the following:
 - 1. Ensure that new telecommunication facilities are installed in a manner that minimizes their visual impact on the community;
 - 2. Protect the environmental resources of Milpitas;
 - 3. Create telecommunication facilities that will serve as an important and effective part of the City's emergency response network; and
 - 4. Simplify and shorten the process for obtaining necessary permits for telecommunication facilities while protecting the legitimate interests of Milpitas residents.
- B. **Definitions.** Terms used in this Section are defined Chapter E.2 (Definitions of Terms).
- C. **Applicability and Exemptions.** The requirements of this Section apply to all telecommunication facilities on private property and public property not including the public right-of-way that transmit and/or receive electromagnetic signals, including, but not limited to, personal communications services (cellular and paging) and radio and television broadcast facilities. The requirements apply to telecommunication facilities that are the primary use of a property and those that are accessory facilities, except that the following accessory facilities are exempt:
 - 1. Licensed amateur (ham) radio and citizen band operations;
 - 2. Handheld, mobile, marine, and portable radio transmitters and/or receivers;
 - 3. Public safety communications radio;
 - 4. Radio and television mobile broadcast facilities;
 - 5. Antennas and equipment cabinets or rooms completely located inside of permitted structures;
 - 6. A temporary telecommunication facility mounted on a trailer or a portable foundation, with approval of the City Manager for an emergency for a period of up to one year;

7. A single ground- or building-mounted dish antenna not exceeding the maximum height permitted by this Section, including any mast, subject to the following restrictions:
 - a. *Satellite dish 39.37 inches (one meter) or less.* A satellite dish antenna 39.37 inches (one meter) or less in diameter and:
 - (i) Intended for the sole use of a person occupying the same parcel to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite; or
 - (ii) A hub or relay antenna used to receive or transmit fixed wireless services that are not classified as telecommunications services, is permitted anywhere on a lot provided it does not exceed the height of the ridgeline of the primary structure on the same parcel.
 - b. *Non-satellite dish 39.37 inches (one meter) or less.* A dish antenna 39.37 inches (one meter) or less in diameter or diagonal measurement and:
 - (i) Intended for the sole use of a person occupying the same parcel to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, or to receive or transmit fixed wireless signals other than via satellite; or
 - (ii) A hub or relay antenna used to receive or transmit fixed wireless services that are not classified as telecommunications services, is permitted anywhere on a lot;
8. An antenna that is less than 25 feet in height and that is mounted on any existing building or other structure. The antenna shall be for the sole use of a person occupying the same parcel on which the antenna is located to receive television broadcast signals;
9. Any antenna or wireless telecommunications facility that is exempt from local regulation pursuant to the rules and regulations of the Federal Communications Commission (FCC) or a permit issued by the California Public Utilities Commission (CPUC). The owner or operator of such facility shall provide the Director with a copy of a current FCC or CPUC permit or a copy of applicable FCC regulations prior to its installation; and
10. Minor Deviations to existing wireless facilities as determined by the Director that replace existing equipment in-kind or with smaller or less visible equipment, that meet the standards set forth in this Section, and will have little or no change in the visual appearance of the facility.

D. **Permits Required.**

1. **Colocation Facilities.** Colocation facilities (California Government Code section 65850.6) are allowed by right when proposed on a wireless telecommunications colocation facility that was subject to a discretionary permit issued and an Environmental Impact Report was certified, or a Negative Declaration or Mitigated Negative Declaration was adopted for the wireless telecommunication colocation facility in compliance with CEQA and the colocation facility incorporates required mitigation measures specified in that Environmental Impact Report, Negative Declaration, or Mitigated Negative Declaration.

2. **Eligible Facilities Request (EFR).** For Eligible Facilities Requests, colocation of new transmission equipment, removal of transmission equipment, or the replacement of transmission equipment is allowed by right provided the modification of an existing tower or base station does not substantially change the physical dimensions of the tower or base station.
 3. **Telecommunication Facility, Major.** Non-exempt major telecommunication facilities (see Chapter E.2 (Definitions of Terms)) are permitted subject to Conditional Use Permit.
 4. **Telecommunication Facility, Minor.** Non-exempt minor telecommunication facilities (see Chapter E.2 (Definitions of Terms)) are permitted subject to a Minor Site Development Permit.
- E. **Application Requirements and Review Process.** The following are the minimum criteria applicable to all telecommunication facilities. In the event that a project is subject to discretionary and/or environmental review, mitigation measures, more restrictive criteria than presented in this Section, other conditions of approval may also be necessary. All telecommunication facilities shall comply with:
1. **Application Requirements.**
 - a. **Filing.** An application for approval of a telecommunication facility shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
 - b. **Responsibility.** It is the responsibility of the applicant to provide the necessary information in support of findings required for the approval of the telecommunication facility, including the findings required by this Section and Chapter D.2 (Procedures).
 2. **Expert Review.** The Director is explicitly authorized to hire on behalf of the City an independent technical expert to review any technical materials submitted including, but not limited to, those required under this Section and in those cases where a technical demonstration of feasibility or unavailability of alternatives is required. The applicant shall pay all the costs of the review, including any administrative costs incurred by the City. Any proprietary information disclosed to the City or the expert hired shall remain confidential and shall not be disclosed to any third party.
 3. **Public Notice.** In addition to the public notice required in Section D.2.040.F (Public Hearing Notice) the following special noticing requirements apply:
 - a. Notice of a public hearing on a Conditional Use Permit application as required in this Section shall be provided to the operators of all telecommunication facilities within one mile of the subject parcel by mailing the standard legal notice by first class mail.
 - b. Notice of any application for a major telecommunication facility shall be mailed to all adjacent property owners within 500 feet. The notice shall include the date by which public comments regarding the application shall be submitted for consideration and the date of the scheduled public hearing or date that the Director shall make a determination on the application.

4. ***Required Findings.***

- a. *General Findings.* In approving any telecommunication facility except for a colocation facility request or an eligible facilities request, the Review Authority shall make the following findings:
 - (i) The proposed use conforms with the specific purposes of this Section and any special standards applicable to the proposed facility;
 - (ii) The applicant has made good faith and reasonable efforts to locate the proposed facility on a support structure other than a new ground-mounted antenna or to accomplish colocation;
 - (iii) The proposed site results in fewer or less severe environmental impacts than any feasible alternative site; and
 - (iv) The proposed facility uses a stealth design.
- b. *Additional Findings for a Major Facility.* To approve a major telecommunication facility, the Review Authority shall find that a minor telecommunication facility is not feasible because of technical, aesthetic, or legal considerations including that the siting:
 - (i) Would have more significant adverse effects on views or other environmental considerations;
 - (ii) Is not permitted by the property owner;
 - (iii) Would impair the quality of service to the existing facility; or
 - (iv) Would require existing facilities at the same location to go off-line for a significant period of time.
- c. *Findings for Colocation Facilities Requests.* The proposed colocation facility meets the requirements of Section C.10.240.D.1 (Colocation Facilities).
- d. *Findings for Eligible Facilities Requests.*
 - (i) The proposed colocation or modification meets all of the applicable criteria for an eligible facilities request stated in 47 C.F.R. section 1.6100(b)(3)-(9), or any successor provisions, after application of the definitions in 47 C.F.R. section 1.6100(b). The Review Authority shall make an express finding for each criterion;
 - (ii) The proposed facility complies with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, except to the extent preempted by 47 C.F.R. section 1.6100(b)(7)(i) through (iv), or any successor provisions; and
 - (iii) That the proposed facility will comply with all generally applicable laws.
- e. *Additional Findings for Setback Reductions.* Except for a colocation facility request or an eligible facilities request, to approve a reduction in setback, the Review Authority shall make one or more of the following findings:

- (i) The facility will be colocated onto or clustered with an existing, legally established telecommunication facility; and/or
 - (ii) The reduced setback enables further mitigation of adverse visual and other environmental impacts than would otherwise be possible.
 - f. *Additional Findings for Any Other Exception to Standards.* The Planning Commission may waive or modify requirements of this Section upon finding that strict compliance would result in noncompliance with applicable federal or state law. Requirements may be waived or modified only to the minimum extent required to avoid the noncompliance. An applicant seeking an exception must provide all supporting evidence for the exception request at the time of application submittal.
- 5. ***Conditional Use Permit Conditions of Approval.*** In addition to compliance with the requirements of this Section, all facilities shall be subject to all of the following conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the Review Authority:
 - a. Facilities shall not deny access to, or otherwise interfere with, any public utility, easement, or right-of-way located on the site. The City shall be allowed reasonable access to, and maintenance of, all utilities and existing public improvements within or adjacent to the site, including, but not limited to, pavement, trees, public utilities, lighting, and public signage.
 - b. At all times, all required notices and signs shall be posted on the site as required by the FCC and CPUC, and as approved by the City. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.
 - c. At all times, the permittee shall ensure that the facility complies with the most current regulatory and operational standards, including, but not limited to, radio frequency emissions standards adopted by the FCC.
 - d. The permittee and owner of any site on which a telecommunication facility is located shall cooperate and exercise good faith in colocating telecommunication facilities on the same support structures or site. Good faith shall include sharing technical information to evaluate the feasibility of colocation and may include negotiations for erection of a replacement support structure to accommodate colocation. A competitive conflict to colocation or financial burden caused by sharing information normally will not be considered as an excuse to the duty of good faith.
 - (i) No colocation may be required where it can be shown that the shared use would or does result in significant interference in the broadcast or reception capabilities of the existing telecommunication facilities or failure of the existing facilities to meet federal standards for emissions.
 - (ii) Failure to comply with colocation requirements when feasible or cooperate in good faith as provided for in this Section is grounds for denial of a permit request or revocation of an existing permit.

- e. Within one month after construction of the wireless telecommunications facility, the permittee shall verify compliance with FCC radio frequency emissions standards. The verification shall be submitted to the Director. If at any time while the permit is in effect the Director determines there is good cause to believe that the facility may emit RF emissions that are likely to exceed FCC standards, the Director may require the permittee to submit a report described by this Section. Failure to comply with this Section shall be grounds for revocation of the Conditional Use Permit.
 - f. Within 60 days after the applicant commences full, unattended operations of the permitted facility, the applicant shall provide the Director with documentation that the permitted facility has been installed and/or constructed in compliance with the approved construction drawings and photo simulations and a technically sufficient written report by a qualified radio frequency emissions engineer certifying that the facility is in compliance with the radio frequency emissions guidelines or standards of the FCC.
6. **Conditions of Approval for Colocation Facilities Requests.** In addition to compliance with the requirements of this Section, all facilities shall be subject to each of the following conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the Review Authority:
- a. *Permit subject to conditions of underlying permit.* Any permit granted in response to an application qualifying as a colocation facility request shall be subject to the terms and conditions of the underlying permit.
 - b. *No permit term extension.* The City's grant or grant by operation of law of a permit for a colocation facility will not extend the permit term for the permit for the underlying wireless telecommunication colocation facility or any other underlying regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject wireless telecommunication colocation facility.
7. **Eligible Facilities Requests Conditions of Approval.** In addition to compliance with the requirements of this Section, all facilities shall be subject to each of the following conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the Review Authority:
- a. *Permit subject to conditions of underlying permit.* Any permit granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit.
 - b. *No permit term extension.* The City's grant or grant by operation of law of an eligible facilities request permit constitutes a federally mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the City's grant or grant by operation of law of an eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.

8. ***Life of Approvals.***

- a. A Conditional Use Permit issued in accordance with to this Section authorizing establishment of a telecommunication facility must be renewed every 10 years through the approval process specified in Section D.4.030 (Use Permits). The grounds for non-renewal shall be limited to a showing that one or more of the situations listed below exist:
 - (i) The use involved is no longer allowed in the applicable zone;
 - (ii) The facility fails to comply with the relevant requirements of this Section as they exist at the time of renewal and the permittee has failed to supply assurances acceptable to the Director that the facility will be brought into compliance within 120 days; and
 - (iii) The permittee has failed to comply with the conditions of approval imposed.
- b. The grounds for appeal of issuance of a renewal shall be limited to a showing that one or more of the situations listed above does in fact exist or that the notice required under Subsection C.10.240.E.4 (Required Findings) was not provided.

9. ***Standard Agreement Required.***

- a. The property owner(s) and the permittee shall enter into a performance and maintenance agreement with the City. The terms of the agreement shall:
 - (i) Ensure compliance with this Section and all applicable conditions of approval;
 - (ii) Require the facility to be appropriately maintained;
 - (iii) Ensure new landscaping is installed and existing landscaping is maintained, preserved, and protected, as indicated on the approved plans; and
 - (iv) Require the property owners to defend, indemnify, and hold harmless the City.
- b. The agreement shall be signed and notarized and submitted to the Department when located on private property. The agreement shall run with the property to ensure that future property owner(s) are aware of the requirement for ongoing maintenance of the existing and approved landscaping.

F. **Design and Location Standards.** Telecommunication facilities shall be located, developed, and operated in compliance with all of the following standards and with applicable standards of the zone in which they are located.

1. ***Location and Siting.***

- a. No new freestanding facility, including a tower, shall be located within 1,000 feet of another freestanding facility, unless mounting on an existing building or existing pole or tower is not feasible.

- b. All wireless telecommunication facilities shall meet the building setback standards of the zone in which they are to be located unless findings for a setback reduction are made in accordance with Subsection C.10.240.F.1.a, above.
 - c. Major and minor telecommunication facilities are not permitted on properties within the “H” Hillside Combining District.
- 2. **Support Structures.** Support structures for telecommunication facilities may be any of the following subject to owner approval:
 - a. An existing nonresidential building.
 - b. An existing structure other than a building, including, but not limited to, light poles, electric utility poles, water towers, smokestacks, billboards, lattice towers, and flag poles. This term includes an electric utility pole erected to replace an existing electric utility pole, if the replacement pole will serve both electric and wireless telecommunications functions, and if the replacement pole is substantially equivalent to the predecessor pole in placement, height, diameter, and profile.
 - c. An alternative tower structure such as a clock tower, steeple, functioning security light pole, functioning recreational light pole, or any similar alternative-design support structure that conceals or camouflages the telecommunication facility to achieve a stealth design. The term "functioning" as used in this subsection means the light pole serves a useful and appropriate lighting function as well as a wireless telecommunications function.
 - d. An existing publicly owned and operated tower exceeding the maximum height limit.
 - e. A single pole (monopole) sunk into the ground and/or attached to a foundation. Any new monopole shall be constructed to allow for colocation of at least one other similar communications provider.
- 3. **Height Limitations.**
 - a. *Freestanding wireless telecommunications facility.* A freestanding wireless telecommunications facility shall not exceed a height of 15 feet above the height limit of the zone in which it is located.
 - b. *Building-mounted facilities.* Building-mounted telecommunication facilities shall not exceed a height of 15 feet above the height limit of the district or 15 feet above the existing height of a legally established building, whichever is lower, measured from the top of the facility to the highest point of attachment to the building.
 - c. *Facilities mounted on structures.* Telecommunication facilities mounted on an existing structure shall not exceed the height of the existing structure unless camouflaged as part of the structure design, except that antennas may extend up to 15 feet above the height of an electric utility pole.
 - d. *Facilities mounted on light poles.* A functioning security light pole or functioning recreational light pole shall have a height consistent with existing poles in the surrounding area or height usually allowed for the light poles.

- e. *Height determination.*
 - (i) The height of a telecommunication tower shall be measured from the natural undisturbed ground surface below the center of the base of the tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached to the tower.
 - (ii) In the case of building-mounted towers, the height of the tower includes the height of the portion of the building on which it is mounted and to the tip of the highest antenna or piece of equipment attached to the tower. In the case of “crank-up” or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it can be raised including any antenna or other equipment attached to the tower.
- 4. ***Design and Screening.*** All telecommunication facility structures and equipment shall be located, designed, and screened to blend with the existing natural or built surroundings, as well as any existing support structures, to reduce visual impacts.
 - a. *Minimum functional height.* All free-standing wireless telecommunications facilities shall be designed to be the minimum functional height and width required to support the proposed antenna installation, unless it can be demonstrated that a higher facility will facilitate colocation.
 - b. *Guy wires.* Guy wires shall only be used as a means of support for telecommunication facilities 20 feet or less in height.
 - c. *Stealth design.* State of the art stealth design technology shall be utilized as appropriate to the site and type of facility. Telecommunication facilities that are mounted on buildings or structures shall be designed to match existing architectural features, incorporated in building design elements, camouflaged, or otherwise screened to achieve a stealth design in a manner that is compatible with the architectural design of the building or structure. All finishes shall be non-reflective.
 - d. *Equipment cabinets.* Equipment cabinets shall be located within the building upon which antennas are placed, if technically feasible. Otherwise, equipment cabinets and buildings, and associated equipment such as air conditioning units and emergency generators, shall be screened from view by a wall or landscaping, as approved by the City. Any wall shall be architecturally compatible with the building or immediate surrounding area.
 - e. *Vegetation protection and facility screening.* All telecommunication facilities shall be installed in such a manner so as to maintain and enhance existing native vegetation and to install suitable landscaping to screen the facility where necessary. To this end the following measures shall be implemented:
 - (i) Existing trees and other vegetation in the vicinity of the facility and along the access roads and power/telecommunication line routes involved shall be protected from damage, both during the construction period and thereafter.

- (ii) Where mature trees exist near the construction site, a tree protection plan shall be submitted with the Building Permit or improvement plan submittal. This plan shall be prepared by a certified arborist and include specific measures to protect trees during project construction.
 - (iii) No actions shall be taken subsequent to project completion to disturb, damage, or remove the existing vegetation present that would increase the visibility of the facility itself or the access road and power/telecommunication lines serving it.
 - f. *Lighting.* Artificial lighting of a telecommunication facility, including its components, is prohibited, unless required by the Federal Aviation Administration. A motion-sensor light may be used for security purposes if the beam is directed downwards, shielded from adjacent properties, and kept off except when personnel are present at night.
 - g. *Advertising.* No advertising shall be placed on telecommunication facilities, equipment cabinets, or associated structures.
 - h. *Colocation of additional wireless facilities on an approved major telecommunications facility.*
 - (i) All facilities shall make available unused space for colocation of other telecommunication facilities, including space for these entities providing similar, competing services. Colocation is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service or cause the host to go offline for a significant period of time. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the Director may require the applicant to obtain a third-party technical study at applicant's expense. The Director may review any information submitted by applicant and permittee(s) in determining whether good faith has been exercised.
 - (ii) All colocated and multiple-user telecommunication facilities shall be designed to promote facility and site sharing. Telecommunication towers and necessary appurtenances, including but not limited to, parking areas, access roads, utilities, and equipment buildings, shall be shared by site users whenever possible.
- 5. **Security Features.** All facilities shall be designed to minimize opportunities for unauthorized access, climbing, vandalism, graffiti, and other conditions that would result in hazardous conditions, visual blight, or attractive nuisances.
 - a. *Fencing.* Security fencing, if any, shall not exceed the fence height limit of the base zone. Fencing shall be effectively screened from view through the use of landscaping. No chain link fences shall be visible from public view.
 - b. *Maintenance.* The permittee shall be responsible for maintaining the site and facilities free from graffiti.
- 6. **Roads and Parking.** All telecommunication facilities shall be served by the minimum roads and parking areas necessary. To this end, existing roads shall be used for access

whenever possible, and be upgraded the minimum amount necessary to meet standards specified by the Fire Chief and City Engineer.

7. ***Radio Frequency Emissions Standards, Interference, and Noise.***

- a. *Radio frequency.* Telecommunication facilities shall comply with federal standards for radio frequency emissions and interference. Failure to meet federal standards may result in termination or modification of the permit.
- b. *Interference.* Telecommunications facilities shall not interfere with public safety radio communications.
- c. *Noise.* Telecommunication facilities and any related equipment, including backup generators and air conditioning units, shall not generate continuous noise in excess of 40 decibels (dBa) measured at the property line of any adjacent residential property, and shall not generate continuous noise in excess of 50 dBa during the hours of 7:00 a.m. to 10:00 p.m. and 40 dBa during the hours of 10:00 p.m. to 7:00 a.m. measured at the property line of any nonresidential adjacent property. Backup generators shall only be operated during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:00 a.m. and 5:00 p.m.

8. ***Fire Prevention.*** All telecommunication facilities shall be designed and operated in a manner that will minimize the risk of igniting a fire or intensifying one that otherwise occurs.

- a. At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings.
- b. The exterior walls and roof covering of all above-ground equipment shelters and cabinets shall be constructed of materials rated as non-flammable in the Building Code.
- c. Monitored automatic fire extinguishing systems shall be installed in all equipment buildings and enclosures.
- d. Openings in all above-ground equipment shelters and cabinets shall be protected against penetration by fire and wind-blown embers to the extent feasible.

G. ***Vacation and Removal of Facilities.*** The service provider shall notify the Director of the intent to vacate a site at least 30 days prior to the vacation. The operator of a telecommunications facility shall remove all unused or abandoned equipment, antennas, poles, or towers within 60 days of discontinuation of the use and the site shall be restored to its original, pre-construction condition.

Chapter C.12 Density Bonus for Affordable Housing Developments

Sections:

- C.12.010 Purpose
- C.12.020 Definitions
- C.12.030 Implementation
- C.12.040 Types of Incentives Allowed
- C.12.050 Requirements for Density Bonus Projects
- C.12.060 Development Standards
- C.12.070 Processing of Density Bonus Requests
- C.12.080 Density Bonus Agreement
- C.12.090 Changes in State Density Bonus Laws

C.12.010 Purpose

The purpose of this Chapter is to provide incentives for the production of housing for very low income, lower income, moderate income, and senior households in accordance with California Government Code section 65915-65918. In enacting this Chapter, it is the intent of the City to facilitate the development of affordable housing and to implement the goals, objectives, and policies of the Housing Element of the General Plan.

C.12.020 Definitions

All terms used in this Chapter shall have the meanings established by this Title or as superseded by state density bonus law.

C.12.030 Implementation

The City shall grant a density bonus or development bonus and/or incentives or concessions, waivers or reductions of development standards, and/or parking ratios as described in state density bonus law to a qualifying project in compliance with state density bonus law. The provisions of this Chapter shall be administered by the Department consistent with Part XIII-D (Administration and Procedures).

C.12.040 Types of Incentives Allowed

- A. **Types of Incentives.** If requested by the applicant, a qualifying project shall be entitled to at least one of the following incentives, unless the City makes the findings required by California Government Code section 65915(d)(1):
 - 1. ***Reduction or Modifications of Development Standards.*** A reduction in site development standards or a modification of the requirements of this Title, which exceed the minimum

building standards provided in California Health and Safety Code section 18901-18949.31. These may include, but are not limited to, one or more of the following:

- a. Reduced minimum lot sizes and/or dimensions.
 - b. Reduced minimum lot setbacks.
 - c. Reduced minimum common and/or private open space.
 - d. Increased maximum building height.
 - e. Reduced on-site parking standards.
 - f. Other site or construction conditions applicable to a residential development.
2. **Mixed Use Zoning.** Mixed use zoning to allow the project to include nonresidential uses and/or allow residential uses within a nonresidential zone. Approval of mixed use activities in conjunction with a housing development is allowed if other land uses will reduce the cost of the housing development and is consistent with the General Plan.
 3. **Other Cost-Reducing Regulatory Incentive.** Another regulatory incentive or concession proposed by the applicant and agreed to by the City, that results in identifiable, financially sufficient, and actual cost reductions. Permissible incentives include direct financial aid (e.g., redevelopment set-aside) in the form of a loan or a grant to subsidize or provide low interest financing for on or off-site improvements, land, or construction costs.
 4. **Additional Density Bonus.** A density bonus of more than that allowed under state density bonus law.
 5. **Waived, Reduced, or Deferred Fees.** Waived, reduced, or deferred fees, including City fees for plan check, construction permit, and/or development impact fees.
- B. **Eligibility for Incentives.** A project shall be eligible for one or more incentives only if it complies with all requirements in Milpitas Municipal Code Chapter XII-1 (Affordable Housing Ordinance), as applicable, and with no exceptions under Milpitas Municipal Code Section XII-1-4 (Exceptions to On-Site Development of 15 Percent Affordable Units).
- C. **Additional Incentives.** The approval of an additional incentive or incentives above that allowed by state density bonus law shall be determined on a case-by-case basis by the Review Authority.

C.12.050 Requirements for Density Bonus Projects

- A. **Density Bonus Agreement.** The entry into and execution of the density bonus agreement shall be a condition of any application for a housing development proposed in compliance with this Chapter. The agreement shall be recorded at the applicant's cost as a restriction running with the land on the parcel or parcels on which the target units will be constructed.
- B. **Time Period of Affordability.** Target units shall remain restricted and affordable to the designated group for a period of 55 years (or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program), or otherwise as provided by law.
- C. **Moderate Income For-Sale Units.** An applicant shall agree that the initial occupants of moderate-income units in a condominium project or a planned unit development are persons and families of moderate income, as defined in Health and Safety Code section 50093. Upon resale, the seller

of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in Health and Safety Code section 33334.2(e), that promote homeownership. For purposes of this Subsection, the City's proportionate share of appreciation shall be equal to the percentage by which the initial sale price to the moderate-income household was less than the fair market value of the home at the time of initial sale.

- D. **Certificate of Compliance.** The owner shall submit annually, and within 30 days of occupancy of a target rental unit, a Certificate of Compliance, which shall include the name, address, and income of each tenant occupying the target unit.
- E. **Income Statements and Tax Returns.** The owner shall maintain and keep on file annual sworn and notarized income statements and current tax returns for all tenants occupying the target rental units.
- F. **Provide Additional Information.** The owner shall provide to the City any additional information required by the City to ensure the long-term affordability of the target units by eligible households.
- G. **Right to Inspection.** The City shall have the right to inspect the owner's project-related records at any reasonable time and shall be entitled to audit the owner's records once a year.
- H. **Owner Occupation.** All for-sale target units shall be occupied by their purchasers; no renting or subleasing shall be permitted.

C.12.060 Development Standards

- A. **Concurrent Construction.** Target units shall be constructed concurrently with non-restricted units unless both the City and the applicant agree within the density bonus agreement to an alternative schedule for development.
- B. **Distribution of Units.** Target units shall be built on-site and be dispersed throughout the project. Where feasible, the number of bedrooms of the target units shall be equivalent to the bedroom mix of the non-target units of the project, except that the developer may include a higher proportion of target units with more bedrooms. All projects shall comply with all applicable development standards, except those standards, which may be modified as provided by this Chapter. Deviations from these provisions may only be permitted as allowed by this Title or as part of an approved density bonus agreement.
- C. **Parking.** Upon request of the developer qualifying for a density bonus pursuant to this Chapter, the City shall not require vehicular parking ratios, inclusive of handicapped and guest parking, that exceed state law.

C.12.070 Processing of Density Bonus Requests

- A. A request consistent with this Chapter shall be processed as part of the project application as required by Part XIII-B (Zone Regulations) or Chapter D.4 (Permits and Approvals).
- B. The applicant shall submit all required items on the City's application form, including a description of the proposed number of total units, target units, density bonus units, and any incentives or waivers being requested.

- C. The Planning Commission shall conduct a public hearing on the density bonus request consistent with Section D.2.040.G (Public Hearings) and shall forward a recommendation to the Council. Upon receiving the Planning Commission's recommendation, the Council shall conduct a public hearing consistent with Section D.2.040.G (Public Hearings) prior to final action on the density bonus request.

C.12.080 Density Bonus Agreement

- A. **Agreement.** A legally binding agreement between a developer and the City, which ensures that the requirements of this Chapter and state density bonus law are satisfied, shall be executed. This density bonus agreement (the "agreement") shall be reviewed and approved by the Director and the City Attorney who shall formulate a recommendation to the review authority for approval.
- B. **Recordation.** Following execution of the agreement by the applicant and the City, the completed agreement, or memorandum thereof, shall be recorded. The conditions contained in the agreement shall be filed and recorded on the parcel or parcels designated for the construction of target units as a condition of final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The agreement shall be binding upon all future owners and successors in interest for this property, which is the subject of the housing development application.
- C. **Required Contents.** At a minimum, the agreement shall include the following:
1. The total number of units proposed within the housing development, including the number of target units;
 2. A description of the household income group to be accommodated by the housing development, and the standards for determining the corresponding affordable rent or affordable sales price and housing cost;
 3. The location, unit sizes (square feet), and number of bedrooms of target units;
 4. Tenure of use restrictions for target units;
 5. A schedule for completion and occupancy of target units;
 6. A description of any additional incentive being provided by the City;
 7. A description of remedies for breach of the agreement by either party (the City may identify tenants or qualified purchasers as third-party beneficiaries under the agreement); and
 8. Other provisions to ensure implementation and compliance with this Chapter and state density bonus law.
- D. **Sale Conditions.** In the case of for-sale housing developments, the agreement shall provide for the following conditions governing the initial sale and use of target units during the applicable use restriction period:
1. **Income.** Target units shall, upon initial sale, be sold to and occupied by eligible very low, lower income, or, in the case of a condominium or planned unit development, moderate income households at an affordable sales price and housing cost, or to qualified senior citizen residents (i.e., maintained as senior citizen housing).

2. **Restriction Sales.** The initial purchaser of each target unit shall execute an instrument or agreement, approved by the City Attorney, restricting the sale of the target unit in accordance with this Chapter and state density bonus law during the applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the target unit and shall contain provisions as the City may require to ensure continued compliance with this Chapter and the state density bonus law.
- E. **Rental Conditions.** In the case of rental housing developments, the agreement shall provide for the following conditions governing the use of target units during the use restriction period:
1. The rules and procedures for qualifying tenants, establishing affordable rent, filling vacancies and the proper management and maintenance of target units for qualified tenants;
 2. Provisions requiring owners to verify tenant incomes and maintain books and records to demonstrate compliance with this Chapter; and
 3. Provisions requiring owners to submit an annual report to the City, which includes the name, address and income of each person occupying target units, and which identifies the bedroom size and monthly rent or cost of each target unit.

C.12.090 Changes in State Density Bonus Laws

It is the intent of the Council that the provisions of this Chapter shall be interpreted so as to fulfill the requirements of Government Code section 65915 et seq., notwithstanding changes in state laws revising percentages, numerical thresholds, and/or other standards applicable to the granting of density bonuses or related incentives that may occur after the effective date of this Chapter. Accordingly, it is the further intent of the Council that any such changed percentages, numerical thresholds, or other standards shall be deemed to supersede and govern any conflicting percentages, numerical thresholds, or other standards contained in this Chapter, to the maximum extent permitted by law.

Chapter C.14 Reserved

Chapter C.16 Condominium Conversions

Sections:

- C.16.010 Purpose
- C.16.020 Determining Allowance of Converting Apartment Units
- C.16.030 Development Standards
- C.16.040 Equal Housing Opportunities
- C.16.050 Review Requirements

C.16.010 Purpose

The City is concerned with maintaining an adequate supply of housing for its citizens, including rental housing. In accordance with Goal HE-2 of the General Plan's Housing Element, the City must maintain high-quality residential and mixed-use neighborhoods and preserve existing housing resources, including units affordable to extremely low, very low, low, and moderate-income households and market rate units.

C.16.020 Determining Allowance of Converting Apartment Units

- A. **Declaration of Housing Shortage.** When the number of vacant apartments being offered for rent or lease in Milpitas is equal to or less than six percent of the total number of apartment units offered for and under rental or lease agreement in Milpitas, a housing shortage exists which is inconsistent with the purposes of this Chapter and with the declared goals of the City relating to its General Plan Housing Element.
- B. **Determination of Vacancy Rate and Surplus.** Whenever an application for a condominium conversion is filed, the Department shall conduct a vacancy rate survey of the existing rental apartment dwelling units in Milpitas. This survey shall be completed within 45 days from the date the application for condominium conversion is deemed complete.
- C. **Surplus Required for Conversion Application.** An application for condominium conversion of existing multi-family rental housing units to residential condominium ownership shall not be approved unless there is a vacancy surplus of existing apartments which equals six percent or greater of the total number of apartment units within Milpitas, and if all of the adult tenants lawfully in possession of two-thirds of the units indicate their desire to convert such project to condominium ownership, in writing, to the City. In no event shall a number of lots, parcels, units, or rights of exclusive occupancy proposed exceed the vacancy surplus by 40 percent. Nothing in this Chapter shall be construed to prevent the payment of any consideration by landlord to tenant, provided however, consent obtained by payment to a tenant shall not be considered by the Council to be a free and willing consent unless payment of the same consideration is made to all tenants regardless of consent.

C.16.030 Development Standards

The following standards are required for any residential condominium conversion development.

- A. **Off-Street Parking.** Conformance to the current off-street parking standards, see Chapter C.6 (Parking and Loading).
- B. **Landscape and Open Space.** Conformance to the current landscape and open space requirements, see Chapter C.4 (Landscaping Standards) and Part XIII-B (Zone Regulations).
- C. **Housing and Fire.** Conformance to the City's current Building Code (Title II: Building Regulation) and Fire Code (Chapter V-300).
- D. **Meters and Control Valves.** The consumption of gas and electricity within each unit shall be separately metered so that the unit owner can be separately billed for each utility. A water shut-off valve shall be provided for each unit or for each plumbing fixture.
- E. **Overcurrent Protection.** Each unit shall have its own panel board for all electrical circuits which serve the unit.
- F. **Impact Sound Insulation.** Wall and floor-ceiling assemblies shall conform to the sound installation performance criteria in the California Administrative Code (Title 25, Section 1092 or its successor) and may be only replaced by another floor covering that provides the same or greater insulation.
- G. **Affordable Housing Supply.** Affordable housing requirements of Chapter XII-1 (Affordable Housing Ordinance) shall apply to condominium conversions.

C.16.040 Equal Housing Opportunities

In no case shall a project limit initial sales in a manner that is discriminatory against households with children, based on source of income, or other characteristic protected by fair housing laws.

C.16.050 Review Requirements

Condominium conversions are subject to a Conditional Use Permit consistent with Section D.4.030 (Use Permits) and the filing of a Tentative Map in accordance with Milpitas Municipal Code Chapter XI-1 (Subdivisions).

- A. **Staff Report.** A copy of the public hearing staff report shall be provided to the applicant and each tenant of the subject property consistent with California Government Code section 66452.3.
- B. **Public Hearing Notice.** Notice of the public hearing(s) on the application for a condominium conversion shall be provided by the City to all tenants of the subject property consistent with California Government Code section 66451.3.
- C. **Tenant Notice.** The applicant shall give notice to tenants of the intention to convert to condominium ownership, as required by the Subdivision Map Act. The applicant shall provide the City with copies of all required notices, a complete list of all tenants served with the notice, and the dates and methods by which the notice was served.
- D. **Protection of Tenant Rights.** In addition to the general findings required for approval of a Conditional Use Permit, approval of a Conditional Use Permit for a condominium conversion is

subject to the Council finding that the requirements of California Government Code section 66427.1 have been completed in accordance with state law, which relate to:

1. Notice to tenant(s) of intention to convert; and
2. Tenant(s) exclusive right to purchase their unit(s) upon the same terms and conditions that such unit(s) will be initially offered to the general public or terms more favorable to the tenant(s).

Chapter C.18 Nonconforming Buildings, Structures, Uses, and Parcels

Sections:

- C.18.010 Purpose
- C.18.020 Continuance and Maintenance
- C.18.030 Nonconforming Uses
- C.18.040 Nonconforming Parcels
- C.18.050 Nonconforming Buildings and Structures
- C.18.060 Nonconformity with Other Development Standards

C.18.010 Purpose

- A. This Chapter provides regulations for nonconforming buildings, structures, uses, and parcels that were lawful before the adoption or amendment of this Ordinance, but which would be prohibited, regulated, or restricted differently under the current terms of this Ordinance or an amendment that changed the applicable requirements.
- B. It is the intent of this Ordinance to discourage the long-term continuance of nonconformities, providing for their eventual elimination, while allowing them to exist under the limited conditions outlined in this Chapter.
- C. The City recognizes that until nonconforming buildings, structures, uses, and parcels are converted, improvements to them which promote their compatibility with their neighborhoods, enhance the quality of development, and do not increase nonconformity should be encouraged and allowed.

C.18.020 Continuance and Maintenance

- A. Any nonconforming use or building or structure may be continued, used, and maintained in compliance with this Chapter.
- B. Any nonconforming parcel may be used, developed, and maintained in compliance with this Chapter.
- C. A nonconforming use, building, structure, and/or parcel may be transferred or sold, provided that no such use or structure shall be enlarged or altered except as otherwise provided in this Chapter.

C.18.030 Nonconforming Uses

- A. A nonconforming use may be continued, expanded, or replaced subject to the following standards:
 - 1. ***Continuation of Nonconforming Use.*** A nonconforming use shall be allowed to continue indefinitely, absent discontinuation of the use for a year or more and failure to comply with the re-establishment provisions of Subsection C.18.030.B (Re-establishment of

Discontinued Nonconforming Uses Within the Midtown and Metro Specific Plan Areas) if applicable.

2. ***Discontinuation of Nonconforming Use.***

- a. A nonconforming use which is discontinued for a continuous period of one year or more may only be replaced with a conforming use. However, a nonconforming use within the Midtown or Metro Specific Plan areas may be re-established consistent with Subsection C.18.030.B (Re-establishment of Discontinued Nonconforming Uses Within the Midtown and Metro Specific Plan Areas).
- b. A nonconforming use which has been discontinued for a period of less than one year may be replaced with a conforming use or a nonconforming use of the same use classification as a matter of right. For example, a nonconforming service station may be changed to an vehicle washing use, since both uses fall within the same use classification of vehicle-related use. However, a nonconforming use within the Midtown or Metro Specific Plan areas that has been discontinued for a period of less than one year, may be replaced with a nonconforming use of a different use classification consistent with Subsection C.18.030.B (Re-establishment of Discontinued Nonconforming Uses Within the Midtown and Metro Specific Plan Areas).

3. ***Change of Use Within the Same Use Classification.*** A nonconforming use may be changed to a different use within the same use classification as a matter of right.

4. ***Change of Use to a Different Nonconforming Use Classification.*** A nonconforming use may be changed to a nonconforming use of a different use classification only if it can be found that the proposed use is equivalent to or more appropriate than the existing nonconforming use at the project location. The proposed use may be allowed with Conditional Use Permit approval only after the following findings are made:

- a. The proposed nonconforming use would not cause a nuisance to the surrounding properties and zone (e.g., excessive parking demand, traffic, noise, etc.);
- b. The proposed nonconforming use would be compatible with the general character of the surrounding neighborhood or zone; and
- c. The proposed nonconforming use is necessary to allow gainful economic use of structures or improvements until such structures or improvements can be permanently converted to conforming uses.

5. ***Expansions of Nonconforming Use.***

- a. A nonconforming use shall not be enlarged or expanded in size or capacity, or extended to occupy a greater area of land or building floor area than it legally occupied before it became nonconforming; however, the Director may approve an expansion of up to 25 percent of the gross floor area if the expansion brings the nonconforming use into more conformity with this Title or the findings in Subsection C.18.030.A.4 (Change of Use to a Different Nonconforming Classification) are made.
- b. Expansions of nonconforming community assembly uses in the M2 Zone requires Conditional Use Permit approval by the Planning Commission and must comply with the requirements in this Subsection.

B. Re-establishment of Discontinued Nonconforming Uses Within the Midtown and Metro Specific Plan Areas.

1. Discontinued nonconforming uses within the Midtown and Metro Specific Plan areas may be re-established with Director approval if the findings in Subsection C.18.030.A.4 (Change of Use to a Different Nonconforming Classification) are made.
2. Approval of a Conditional Use Permit by the Commission shall be required in the following instances:
 - a. The proposed use lies within 1,000 feet of any residential use; or
 - b. The proposed use would require Conditional Use Permit approval at the time the use became nonconforming.
3. This Subsection shall become inoperative July 1, 2027, and shall be considered repealed on that date, unless a later enacted ordinance that becomes effective on or before July 1, 2027, deletes or extends that date. All other provisions of this Chapter shall be unaffected by this sunset clause.

C.18.040 Nonconforming Parcels

- A. **Legal Building Site.** A nonconforming parcel that does not comply with the applicable lot requirements for the zone (e.g., lot area, lot width, etc.) in which it is located shall be considered a legal building site if it meets at least one of the following:
1. The parcel was created by a recorded subdivision;
 2. The parcel is under one ownership and of record, and was legally created by a recorded deed prior to the effective date of the zoning amendment that made the parcel nonconforming; or
 3. The parcel was approved through a Variance or resulted from a lot line adjustment.
- B. **Development of Legal Building Sites.** A legal building site may be developed provided that any structure or development complies with the standards for the applicable zone unless standards are specifically waived or altered through a Variance or as otherwise allowed by this Title.
- C. **Subdivision or Adjustment of a Nonconforming Parcel.** No subdivision or lot line adjustment shall be approved that would increase the nonconformity of an existing parcel.

C.18.050 Nonconforming Buildings and Structures

- A. **Repair, Maintenance, Aesthetic Improvements.** Repairs and alterations may be made to a nonconforming building or structure, provided that no structural alterations shall be made except those required by law.
- B. **Energy Efficiency and Sustainability Upgrades.** Improvements may be made to a nonconforming building or structure related to improving the energy efficiency, reducing the energy usage, and reducing the greenhouse gas emissions impact of the building or structure.
- C. **Restoration of Damaged Buildings and Structures.** A nonconforming building or structure which is involuntarily damaged by fire, flood, wind, earthquake, or other calamity or act of God or the public enemy, may be reconstructed, restored, or rebuilt consistent with the following.

1. ***Not More Than 75 Percent.*** If the involuntarily damage or partial destruction is not more than 75 percent of the nonconforming building or structure's true value immediately prior to the damage, the building or structure may be restored and the use of the building or structure immediately prior to the damage may be continued or resumed, provided the following:
 - a. The total cost of such reconstruction, restoration, and rebuilding does not exceed 75 percent of the true value of the building or structure immediately prior to the damage;
 - b. The Building Permit for reconstruction, restoration, and rebuilding is issued within one year of the damage;
 - c. Reconstruction, restoration, and rebuilding is diligently pursued to completion; and
 - d. Reconstruction, restoration, and rebuilding is found to not be detrimental to public health or safety by the Director.
 2. ***More Than 75 Percent.*** If the involuntary damage exceeds 75 percent of the nonconforming building or structure's true value immediately prior to the damage, the building or structure shall not be reconstructed, restored, or rebuilt except in conformity with the requirements of this Title.
 3. ***Multi-story Single-family Dwellings in the "H" Hillside Combining District.*** If a multi-story single-family dwelling within the "H" Hillside Combining District is involuntarily damaged, it may be rebuilt to its approved height and setbacks and is subject to the zoning regulations in effect at the time the multi-story single-family dwelling was built.
 4. ***Duplex and Multi-Family Dwellings.*** If a duplex or multi-family dwelling is involuntarily damaged, the City may only prohibit the reconstruction of the duplex or multi-family dwelling if the findings required by Government Code section 65852.25 are made.
- D. **Additions to, Enlargements, and Moving of Nonconforming Buildings and Structures.**
1. ***Compliance with Current Standards.*** A nonconforming building or structure shall not be added to or enlarged in any manner unless the addition or enlargement conforms to all development standards and regulations of the applicable zone (e.g., building height, setbacks, maximum lot coverage, impervious surface coverage, etc.) and does not increase the degree of nonconformity.
 2. ***R1, R2, and R1-H Zones.*** A nonconforming building or structure in the R1, R2, or R1-H zones shall not be added to or enlarged unless consistent with this Subsection and existing the front yard paving complies with the standards of Subsection B.4.040.A (R1 Zone Front Yard Coverage).
 3. ***All Other Zones.*** A nonconforming building or structure in a zone other than R1, R2, or R1-H may be added to or enlarged consistent with this Subsection and the following:
 - a. The addition or enlargement shall not exceed 30 percent of the existing floor area (i.e., 30 percent of gross floor area if associated with a non-residential use, or 30 percent of all habitable space if associated with a residential use); and
 - b. A Conditional Use Permit for the addition or enlargement is approved by the Planning Commission.

4. **Location Change Prohibited.** A nonconforming building or structure shall not be moved in whole or in part to any other location unless every portion of such building or structure is made to conform to all regulations of the applicable zone.

C.18.060 Nonconformity with Other Development Standards

- A. **Nonconforming Parking.** No existing use of land or existing structure, where parking for said use or structure was conforming at the time of establishment or modification, shall be deemed to be nonconforming solely because of the lack of parking facilities prescribed in Chapter C.6 (Parking and Loading), but rather shall retain conforming status for as long as the use or structure remains unmodified.
 1. **Residential Expansions.** For additions or enlargements of existing residential structures or buildings that would increase the number of parking spaces required, the additional parking shall be required only for the addition or enlargement or new dwelling units, and not for the preexisting structure or building or preexisting dwelling units. However, the Review Authority may grant a waiver of the parking requirement for the addition, enlargement, or new dwelling units if it is determined that sufficient parking is not available on or near the site, and the project is consistent with the General Plan, otherwise consistent with this Title, and the waiver would not create a negative impact for neighboring properties.
 2. **Change in Use.** For any change of use or manner of operation that would increase the number of parking spaces required, no additional parking shall be required unless the Review Authority determines that the change in use would require 15 percent or more parking spaces than currently exist. The number of parking spaces required for the change of use shall be the difference between the number required by Chapter C.6 (Parking and Loading) and 115 percent of the number of spaces that currently exist.
- B. **Nonconforming Landscaping.** No existing use of land or existing structure, where landscaping or screening for said use or structure was conforming at the time of establishment or modification, shall be deemed to be nonconforming solely because of the lack of landscaping and screening prescribed in Chapter C.4 (Landscaping Standards), but rather shall retain conforming status for as long as the use or structure remains unmodified.
 1. **Expansion of Structure.** For additions or enlargements of existing structures or buildings that would increase the amount or type of landscaping or screening required, the additional landscaping or screening shall be required only for such addition or enlargement, and not for the preexisting structure or building.
 2. **Change in Use.** For any change of use or manner of operation that would increase the amount or type of landscaping or screening required, such additional landscaping and/or screening shall be provided.
- C. **Nonconforming Lighting.**
 1. All lighting must be brought into compliance with the requirements of this Title for a change of use or an addition or modification that requires or includes an increase of 25 percent of the number of required on-site parking spaces, additional dwelling units, gross floor area, seating capacity, or other units of measurement.

2. For a change of use or addition or modification that requires or includes an increase in the number of on-site parking spaces, additional dwelling units, gross floor area, seating capacity, or other units of measurement that is less than 25 percent, the applicant must comply with the requirements of this Title only for any new outdoor lighting provided.
 3. In the event that an outdoor lighting fixture is abandoned or is damaged and requires repairs for safe operation, the repaired or replacement fixture must comply with the provisions of this Title.
- D. **Nonconforming Signs.** This Chapter does not regulate nonconforming signs, which are instead subject to the requirements of Section C.8.080 (Nonconforming Signs).

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City of Milpitas

PART D: Procedures and Administration

Public Review Draft

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Chapter D.2 Procedures

Sections:

- D.2.010 Purpose
- D.2.020 Authorities and Administration
- D.2.030 Summary of Review Authorities for Decisions and Appeals
- D.2.040 Common Procedures

D.2.010 Purpose

The purpose of this Chapter is to identify the assignment of authority and review procedures for zoning decisions related to land use and development applications as defined in this Title.

D.2.020 Authorities and Administration

Review Authorities are authorized to administer this Title as follows.

- A. **Director.** The Director shall have the duties assigned by this Title as may be required to fulfill the purposes of this Title. These duties include environmental determinations on any approval that is subject to environmental review under the California Environmental Quality Act and where the final approval for the project is made by the Director. These duties shall be in addition to those contained in California Government Code section 65900 et seq.
- B. **Zoning Administrator.** The Zoning Administrator shall have the duties assigned by this Title as may be required to fulfill the purposes of this Title. These duties include environmental determinations on any approval that is subject to environmental review under the California Environmental Quality Act and where the final approval for the project is made by the Zoning Administrator.
- C. **Planning Commission.** The Planning Commission is established by Milpitas Municipal Code Chapter I-500 (Planning Commission) with duties and powers outlined in Section I-500-1.12. The authority and responsibilities of the Planning Commission shall also include, but are not limited to the following:
 - 1. Authority to hear and decide:
 - a. Applications identified in Table D.2.030-A (Review Authorities); and
 - b. Environmental determinations on any approval that is subject to environmental review under the California Environmental Quality Act and where the final approval for the project is made by the Planning Commission.
 - 2. Authority to review and make recommendations to the Council on:
 - a. Applications for Zoning Amendments;
 - b. Applications for General Plan Amendments;
 - c. Applications for Specific Plans;
 - d. Development Agreements;

- e. Environmental determinations on any approval that is subject to environmental review under the California Environmental Quality Act and where the final approval for the project is made by the Council; and
 - f. Any other action that state law requires the Planning Commission to consider and recommend before Council consideration.
- 3. Authority to hear an appeal from any determination made by an administrative or appointed official, such as the Director or Zoning Administrator, in the administration or enforcement of this Title. See also Table D.2.030-A (Review Authorities) and Section D.2.040.N (Appeals).
 - 4. Other powers and responsibilities assigned by this Title or directed by the Council.
- D. **City Council.** The Council is established through the incorporation of the City and has final review and decision-making authority on matters relating to planning and zoning, subject to delegation of this authority as provided in this Title. These duties shall be in addition to those contained in California Government Code section 65900 et seq.

D.2.030 Summary of Review Authorities for Decisions and Appeals

Table D.2.030-A (Review Authorities) identifies the types of applications authorized by this Title and the Review Authority responsible for recommending and making decisions on each type of application.

Table D.2.030-A: Review Authorities ¹				
Type of Action	Chapter/Section	Recommending Authority	Review Authority (Decision-Making Body)	Appeal Authority
Site Development Permits				
Site Development Permit	Subsection D.4.020 (Site Development Permits)	Director	Planning Commission	Council
Site Development Permit in “H” Hillside Combining District		Director and Planning Commission	Council	n/a
Minor Site Development Permit		n/a	Director or Zoning Administrator ²	Planning Commission
Use Permits				
Conditional Use Permit (CUP)	Subsection D.4.030 (Use Permits)	Director	Planning Commission	Council
Minor Conditional Use Permit (MC)		Director	Zoning Administrator	Planning Commission
Minor Conditional Use Permit (MCS)		n/a	Director	Planning Commission
Temporary Use Permit	Subsection D.4.040 (Temporary Use Permits)	n/a	Director	Planning Commission

Table D.2.030-A: Review Authorities ¹

Type of Action	Chapter/Section	Recommending Authority	Review Authority (Decision-Making Body)	Appeal Authority
Minor Deviations and Variances				
Minor Deviation ³	Subsection D.4.050 (Minor Deviations)	Director	Zoning Administrator	Planning Commission
Variance	Subsection D.4.060 (Variances)	Director	Planning Commission	Council
Variance in “H” Hillside Combining District		Director and Planning Commission	Council	n/a
Sign Permits				
Major Sign Permit	Subsection D.4.070 (Sign Permits)	Director	Planning Commission ⁴	Council
Minor Sign Permit	Subsection D.4.070 (Sign Permits)	n/a	Director or Zoning Administrator ^{4, 5}	Planning Commission
Sign Program	Subsection D.4.080 (Sign Programs)	Director	Planning Commission ⁴	Council
Temporary Sign Permit	Subsection D.4.090 (Temporary Sign Permits)	n/a	Director	Planning Commission
Other				
Home Occupation	Subsection D.4.100 (Home Occupation Permits)	n/a	Director	Planning Commission
Reasonable Accommodation	Subsection D.4.110 (Reasonable Accommodation)	n/a	Director	Planning Commission
Special Event Permit	Subsection D.4.120 (Special Event Permits)	n/a	Director	Zoning Administrator
Amendments and Legislative Decisions				
Zoning Amendment	Chapter D.6 (Zoning Ordinance and Zoning Map Amendments)	Director and Planning Commission	Council	n/a
General Plan Amendment	Chapter D.8 (General Plan Amendments)	Director and Planning Commission	Council	n/a
Specific Plan	Chapter D.10 (Specific Plans)	Director and Planning Commission	Council	n/a
Planned Unit Development	Chapter D.12 (Planned Unit Development)	Director and Planning Commission	Council	n/a

Table D.2.030-A: Review Authorities ¹

Type of Action	Chapter/Section	Recommending Authority	Review Authority (Decision-Making Body)	Appeal Authority
Development Agreement	Chapter D.14 (Development Agreements)	Director and Planning Commission	Council	n/a

Table Notes:

¹ For projects that require multiple applications, see Subsection D.2.040.B.30 (Multiple Applications).

² See Subsection D.6.020.B (Applicability) for when the Director or the Zoning Administrator is the decision-making body.

³ Minor Deviation refers to modifications or adjustments to zoning standards, not a modification to an approved permit or project. See Subsection D.4.050 (Minor Deviation).

⁴ The Council is the decision-making body for Sign Permits and Sign Programs in the "H" Hillside Combining District.

⁵ See Subsection D.4.070.D (Authority) for when the Director or the Zoning Administrator is the decision-making body.

D.2.040 Common Procedures

- A. **Purpose.** The purpose of this Section is to establish common procedures and requirements for the preparation, filing, and processing of development applications required by this Title. These common procedures and the development review processes established in this Part XIII-D (Procedures and Administration) are intended to provide a consistent and efficient method for the City to implement the General Plan and other adopted goals, policies, and standards. For procedures specific to individual permit types, refer to Chapter D.4 (Permits and Approvals).
- B. **Application Process and Fees.**
1. **Applicant.** Only the following persons or entities may apply for a permit or other approval:
 - a. The owner of the property;
 - b. An authorized agent or representative of the owner; or
 - c. A person acting in accordance with a purchase contract or exclusive option to purchase the property.
 2. **Applications.**
 - a. The Director shall specify the form and content of all applications for permits or approvals required by this Title.
 - b. Applications for development approvals and amendments shall be submitted to the Director on a prescribed City application form and shall include all the information that is necessary for review of the application, such as plans, elevations, facts, and information deemed by the Director to be necessary to show details of the proposed use or development as specified in the application checklist attached to the application form.
 - c. Applications shall be accompanied by applicable fees as identified in the City's Master Fee Schedule, deposits, and other materials required by this Title and Department handouts.

- d. Applications shall include the property owner's written authorization for any permit, permit amendment, permit extension, or other approval required by this Title.
 - e. Unless precluded by law, the Director may require the submission of supplemental materials and information as part of an application submittal, including statements, photographs, plans, drawings, renderings, models, material samples, special studies, and other information necessary to describe existing conditions and the proposed project, and to determine the level of environmental review in accordance with Subsection D.2.040.E (Environmental Review).
 - f. The Director may waive the submission of specific material or information upon a finding that it is not needed to reach a decision on the application.
 - g. It is the responsibility of the applicant to provide the necessary information in support of the findings required for approval as identified in Chapter D.4 (Permits and Approvals).
 - h. The Director may adopt regulations or guidelines for the form, content, and processing of all applications for permits or approvals required by this Title.
3. **Multiple Applications.** A project that includes more than one application may be combined and processed concurrently provided all applicable processing requirements are satisfied. The purpose for allowing concurrent review is to consolidate final action on the project with the highest Review Authority responsible for making a decision on the applications for a project. The following provisions apply to concurrently processed applications:
- a. If a project requires more than one discretionary permit or other approval, all permits or other approvals shall be processed concurrently.
 - b. When an application requiring a public hearing is combined with an application that does not require a public hearing, the combined applications shall require a public hearing.
 - c. When more than one discretionary permit or other approval is required and the Review Authority is both the Planning Commission and Council, the final action on all discretionary permits or other approvals shall be taken by the Council. In these cases, the Planning Commission's actions shall consist of a recommendation to the Council.
 - d. When the Planning Commission is the highest Review Authority for a project, the review by all other Review Authorities shall be in the form of a recommendation to the Planning Commission.
 - e. When concurrently processed applications are needed for a project, and both a review by the Planning Commission and Zoning Administrator are required, the Zoning Administrator review shall be omitted and the Planning Commission review substituted.
 - f. When a subdivision is proposed, the provisions of Milpitas Municipal Code Chapter XI-1 (Subdivisions) and this Title shall apply. Review Authorities may combine review and decisions in a single action, provided the required procedures of Milpitas Municipal Code Chapter XI-1 and this Title are followed;

the single approval shall have the same effect as though each action were taken individually, provided each separate approval required is appropriately entered in the record.

4. ***Withdrawn and Denied Applications.***

- a. *Withdrawn applications.* An application may be withdrawn by the applicant prior to the opening of the public hearing or thereafter with the consent of the Review Authority. A request to withdraw an application must be submitted by the applicant in writing. Withdrawal of an application shall terminate all further action on the application.
- b. *Effect of withdrawn or denied applications.* Where an application has been withdrawn by the applicant or denied by the Review Authority, an application for the same or substantially similar project may not be filed within one year from the date of withdrawal or denial. Any subsequent application shall be considered a new application and shall be processed accordingly.

- 5. ***Fees.*** A schedule of fees shall be maintained by the Director and made available to the public. All applications required by this Title shall be accompanied by the required fees set by resolution of the Council. Applications shall not be accepted without payment of all required fees. If an application is erroneously accepted without payment of all required fees, or if an applicant fails to promptly pay further fees as they become due, an application may be deemed withdrawn if the applicant fails to pay all required fees within 30 days of being mailed notice by the Department or such other time as may be agreed to in writing by the Director.

C. **Pre-Application Review.**

1. ***Pre-Application Review.***

- a. A Pre-Application Review is an optional process that occurs prior to the submittal of any new development application.
- b. The purpose of a Pre-Application Review is generally to:
 - (i) Familiarize the Director and other City staff, as may be applicable, with the development proposal;
 - (ii) Discuss application requirements and familiarize the applicant with the review process and procedures;
 - (iii) Identify any potential problems as early in the process as possible; and
 - (iv) Identify land use and development policies which may apply to or affect the development proposal.
- c. Failure by the Director or other City staff to identify all required studies or all applicable requirements in the Pre-Application Review shall not constitute a waiver of those studies or requirements. A Pre-Application Review is meant to be informative but is not a substitute for the applicant's responsibility to know and comply with the law.

2. ***Application Requirements.*** An application for a Pre-Application Review shall be submitted on a form prescribed by the City in accordance with Section D.2.040.B (Application Process and Fees).
3. ***Pre-Application Review Meeting.*** After reviewing the application, the Director shall meet with the applicant or representative. Neither the Pre-Application Review nor the provision of information by the Director and the discussion of City policies shall be construed as either a recommendation for approval or denial of the application or development. No formal action is taken by the Director at a Pre-Application Review meeting. Following the meeting, the Director may provide the applicant with a written summary of comments.

D. **Review of Planning Applications.**

1. ***Initial Completeness Review.*** The Director shall determine whether an application is complete within 30 days of the date the application is filed and the required fee is received in accordance with California Government Code section 65943 et seq.
2. ***Incomplete Application.***
 - a. ***Incomplete application.*** If an application is deemed incomplete, the Director shall provide a written notification to the applicant listing information necessary to complete the application.
 - b. ***Submittal of additional information.*** The applicant shall provide the additional information within 180 days from the date the application is deemed to be incomplete. The Director may grant one extension of up to 90 days.
 - c. ***Expiration of application.*** If an applicant fails to correct the identified deficiencies within the specified time limit, the application shall expire and be deemed withdrawn, unless the Director grants an extension. After the expiration of an application, a new complete application, together with all required fees, shall be submitted for review.
3. ***Complete Application.*** When a planning application is deemed complete, the Director shall make a record of that date and proceed with processing the application. If an application requires a public hearing, the Director shall schedule a hearing when the project is ready and notify the applicant of the date and time, in accordance with Section D.2.040.F (Public Hearing Notice).
4. ***Referral of Application.***
 - a. When the Director or Zoning Administrator is the Review Authority, the Director may determine that based on a unique or special circumstance, it is in the public interest for an application to be considered by the Planning Commission. In this case, the Director shall forward the application to the Planning Commission for review at a public hearing.
 - b. At the discretion of the Director, or where otherwise required by this Title, state or federal law, any application filed in compliance with this Title may be referred to any City department, public agency, or interest group that may be affected by, or have an interest in, the proposed project for review and comment on the application.

5. **Extensions for Review of Application.** The Director may, upon written request, grant extensions of any time limit for review of applications imposed by this Title unless precluded by state or federal law.
- E. **Environmental Review.** The City has the responsibility to comply with the California Environmental Quality Act (California Public Resources Code section 21000 et seq.) and California Environmental Quality Act Guidelines (California Code of Regulations, Title 14), collectively referred to as California Environmental Quality Act. The City shall evaluate each project according to California Environmental Quality Act before any recommendation or decision on a project is made.
- F. **Public Hearing Notice.**
 1. **Applicability.**
 - a. Notice for public hearings is required as part of the approval process for all applications subject to a public hearing.
 - b. Any changes to state law notice requirements, in accordance with California Government Code section 65090 et seq., shall control over the requirements in this Section regarding the manner for providing notice.
 2. **Public Hearing Notice Requirements.** Unless otherwise required by law, whenever notice of hearing is required by this Title, notice shall be mailed and community meetings shall be held as provided in Table D.2.040-A (Public Hearing Notice Requirements).

Table D.2.040-A: Public Hearing Notice Requirements		
Project/Approval/Action Requested ¹	Notification Required Radius ²	Community Meeting Required ³
Site Development Permit	300 feet	No
Minor Site Development Permit ⁴	300 feet	No
Conditional Use Permit	500 feet	No
Minor Conditional Use Permit ⁵	300 feet	No
Minor Deviation	300 feet	No
Variance	500 feet	No
Major Sign Permit	300 feet	No
Sign Program	300 feet	No
Zoning Amendment	1,000 feet	Yes
General Plan Amendment	1,000 feet	Yes
Specific Plan	1,000 feet	Yes
Planned Unit Development	300 feet	No
Development Agreements	300 feet	No
Appeals	Same as the original approval requested that is the subject of the appeal	No

Table Notes:

- ¹ For revisions to an approved project, see Subsection D.2.040.M (Revisions to an Approved Project).

² The Director may expand the notification area based on the location and context of the subject property if it is determined that the potential impact of the project extends beyond the required notification boundary or if the proposed project is deemed to be potentially controversial.

³ A community meeting shall be held a minimum of 30 days prior to the public hearing.

⁴ A public hearing is only required when subject to Zoning Administrator approval. See Subsection D.4.020 (Site Development Permits).

⁵ A public hearing is only required when subject to Zoning Administrator approval. See Subsection D.4.030 (Use Permits).

3. **Contents.** Every posted, published, or mailed notice for a public hearing shall be consistent with the requirements of Milpitas Municipal Code Subsection I-310-2.40 (Public Notice Requirements) and include:
 - a. The date, time, location, and purpose of the hearing;
 - b. The name of the Review Authority conducting the hearing;
 - c. Contact information to receive additional information;
 - d. A brief description of the matter to be considered and the approval(s) requested;
 - e. The address or location of the subject property;
 - f. A statement that any interested person or authorized agent may appear and be heard; and
 - g. A statement describing how and when to submit written comments.
4. **Noticing Procedures.** The following noticing procedures shall be observed when a public hearing is required by this Title.
 - a. *Timing.* All forms of notice shall be given not less than 10 days prior to the public hearing, except that for a Zoning Amendment that would affect the permitted uses of real property, all forms of notice shall be given not less than 20 days prior to the public hearing.
 - b. *Mailed notice.* Mailed notice in accordance with Milpitas Municipal Code Subsection I-20.2.02 (Notice by Mail) shall be given to the following:
 - (i) All property owners as specified in Table D.2.040-A (Public Hearing Notice Requirements);
 - (ii) Any person or group who has filed a written request for notice regarding the specific application;
 - (iii) The owner of the property that is the subject of the application;
 - (iv) The applicant; and
 - (v) Any other person or entity the Director deems necessary or desirable, including any other local agency expected to provide essential facilities and services to the project and whose ability to provide those facilities and services may be significantly affected.
 - c. *Newspaper notice.* A notice shall be published in at least one newspaper of general circulation in the city, or, if no such newspaper is available, by posting in at least three public places within the city.

- d. **Posted notice.** A notice sign shall be posted in a format approved by the Department, in a prominent place on or near the subject property. At minimum, this shall include the posting of one sign per 1,000 lineal feet of the subject property's street frontage that is visible from the public right-of-way. If the subject property has no street frontage, no less than one sign shall be posted.
- e. **Additional notice.** In addition to the types of notice required above, the Director may require or provide additional notice using alternative methods including, but not limited to the following:
 - (i) Posting on the City's website;
 - (ii) Electronic mail to persons that have signed up or subscribed for electronic mail notifications;
 - (iii) Placing an insert with any generalized mailing sent by the City to property owners or residents in the area affected by the proposed application;
 - (iv) Posting through City accounts on social media platforms; or
 - (v) Messaging on City electronic message signs.
- 5. **Failure to Receive Notice.** The validity of the proceedings shall not be affected by the failure of any property owner, resident, or organization to receive notice.

G. Public Hearings.

- 1. **Requirements.** When a public hearing is required by this Title, public notice shall be given consistent with Subsection D.2.040.F (Public Hearing Notice), and the public hearing shall be conducted as provided by this Subsection and Milpitas Municipal Code Section I-20-3 (Hearings).
- 2. **Scheduling of Hearing.** After an application is deemed complete, any environmental document required by California Environmental Quality Act has been prepared, and a Department staff report has been prepared, a matter requiring a public hearing shall be scheduled at the Director's discretion on an agenda reserved for public hearings.
- 3. **Decision.** When the public hearing is closed, the Review Authority shall approve (with or without conditions) or deny the application in compliance with the required findings provided in Chapter D.4 (Permits and Approvals) and this Title.
- 4. **Continuance.** The Review Authority, by motion, may continue a public hearing. No additional notice shall be required for the continuance of a noticed public hearing to a specific date and time. At their own discretion, applicants may request the Review Authority to act upon their project rather than be continued.
- 5. **Recommendation by Planning Commission.** At the conclusion of any public hearing on a project that requires Council approval, the Planning Commission shall forward a written recommendation, including all required findings, to the Council for final action. The Planning Commission's recommendation could be to approve, approve in modified form, or deny the application.
- 6. **Council Hearings.** Upon receiving the Planning Commission's recommendation on a project that requires Council approval, the Council shall hold a public hearing. When the

public hearing is closed, the Council shall make a final decision, which could be to approve, approve in modified form, or deny the application.

H. **Findings and Decision.**

1. When making a decision to approve, approve with modifications and/or conditions, or deny any application, the Review Authority shall make findings as required by this Title to support their decision. Findings shall be based upon consideration of the application, plans, testimony, reports, and other materials that constitute the administrative record. Findings may be stated, including in any resolution or record of the action, or may be implied from the administrative record and the record of proceedings taken as a whole.
2. If the Review Authority imposes conditions of approval, the conditions shall be consistent with Subsection D.2.040.I (Conditions of Approval).

I. **Conditions of Approval.**

1. In considering an application authorized by this Title, a Review Authority may require changes and impose conditions of approval in order to implement the policies of the General Plan and this Title. Conditions of approval, which may include dedication of land; installation of specific improvements; limitations on the size, design and placement of buildings or structures; landscaping; or limitations on use and hours of operation; or other similar requirements, shall be reasonably related to the type of impacts caused by the use of the property for which the application is requested. Conditions of approval may be necessary to ensure the proposed use or project satisfies the required findings for approval and complies with any applicable environmental mitigation measures. See Section D.2.040.E (Environmental Review).
2. All conditions of approval shall be binding upon the applicant, their successors, and assigns; shall run with the land; shall limit and control the issuance and validity of Certificates of Occupancy; and shall restrict and limit the construction, location, use, and maintenance of all land and structures within the project.

J. **Effect of Decisions.**

1. **Issuance of Approval.** The issuance of a permit or approval described in this Title authorizes the holder to proceed in compliance with the terms of the permit or approval. The applicant must follow all City requirements and procedures for any additional applicable permits or approvals in order to complete the development project and to meet the occupancy requirements for the subject property.
2. **Effective Date of Decision.**
 - a. The effective date of a decision is the date the Review Authority approves or denies the permit or approval, except as otherwise provided in this Chapter for a specific approval or type of permit.
 - b. If the decision by the Review Authority is appealed in accordance with Section D.2.040.N (Appeals), the date of decision shall be the date the Review Authority makes a final determination on the Appeal.
3. **Ownership and Transferability of Permits and Approvals.** An approved permit or other approval applies to the subject property and runs with the land, except as specifically provided in this Title. Once approved, a permit or approval remains effective unless

terminated, abandoned, revoked, or modified. An approved permit or other approval is transferable to any future owner of the subject property.

4. **Inspections.** All approvals may be subject to periodic review to determine compliance with the permit and applicable conditions. If a condition specifies that activities or uses allowed under the permit are subject to periodic reporting, monitoring, or assessments, it shall be the responsibility of the permit holder, the property owner, or successor property owners to comply with the conditions.

K. **Expiration of Permits.**

1. **Lapse of Permit.** Unless otherwise specified in the permit or approval, all permits and approvals for projects not subject to the Subdivision Map Act shall be implemented within two years following the effective date, or they shall expire and be deemed void unless a Time Extension is approved consistent with Subsection D.2.040.L (Extension of Time).
2. **Time Limits.**
 - a. A Review Authority may establish a time limit that differs from the time limit contained in Subsection D.2.040.K.1 (Lapse of Permit); however, the time limit shall be based upon the size and nature of the proposed project as described in the written findings for project approval.
 - b. For concurrent applications, the longest time limit associated with any one permit or approval shall apply to all of the other concurrent permits. All permits associated with the approval of a tentative map shall have the same expiration date as the tentative map.
3. **Implementation.**
 - a. A permit or approval shall not be deemed implemented until the applicant has obtained a grading permit and/or building permit and commenced construction, or where no grading or building permit is required, has commenced the allowed use on the subject site in compliance with the approval.
 - b. Construction shall be diligently pursued towards completion. If after construction commencement, work is discontinued for a minimum period of two years, the permit or approval shall expire and be deemed void.
 - c. If a project is phased, each subsequent phase shall have the same time limit identified for the previous phase. The time limit for a subsequent phase shall begin when the previous phase commences construction, unless otherwise specified in the permit of approval.
 - d. "Commence construction" shall mean any of the following, whichever occurs soonest:
 - (i) Completes a foundation associated with the project;
 - (ii) Dedicates any land or easement as required from the approval; or
 - (iii) Complies with all legal requirements necessary to commence the use or obtains a Certificate of Occupancy permit.

4. **Lapse of Approved Use.** A permit or approval for a use or activity shall be deemed to have lapsed if the following applies:
 - a. When the use or activity ceases operation and/or the business closes at the permitted location for a period of at least one year; or
 - b. In compliance with Section C.18.030 (Nonconforming Uses) regarding nonconforming uses.
5. **Renewal of an Expired Application.** An approved permit or approval which has been allowed to expire shall require the filing of a new application in accordance with the procedures in Section D.2.040.B (Application Process and Fees).

L. **Extension of Time.**

1. **Initiation.** An application for a Time Extension of a previously approved permit or other approval may be initiated by the applicant who filed the original application or their successor.
2. **Suspension of Expiration.** The filing of a Time Extension request shall suspend the actual expiration of the permit or approval until the Time Extension has been acted upon by the Review Authority. No construction permits (e.g., grading or building permits) for the project shall be issued during the period of suspension.
3. **Application Requirements.** A Time Extension request shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
4. **Authority.** The Director shall make the decision on a Time Extension.
5. **Approval Procedures.** After a Time Extension application has been filed with the Department, the Director shall review the application to determine whether it conforms with the provisions of this Section in accordance with Section D.2.040.D (Review of Planning Applications).
6. **Findings.** A Time Extension may be granted, with or without conditions, only after the following findings are made:
 - a. There have been no changes in circumstances, law, General Plan, or this Title that would preclude the Review Authority from making the findings upon which the original approval was based; or
 - b. The original conditions of approval have been modified or new conditions of approval have been imposed as deemed reasonable and necessary to ensure that the permit or approval will remain in compliance with the findings required by this Title; and
 - c. The applicant has made a good faith effort to implement the permit or approval and comply with any applicable conditions of approval in a timely manner.
7. **Length of Time Extension.** The Review Authority may grant a Time Extension for a period or periods not exceeding two years beyond the expiration date of the original permit or approval, or for as long as any subdivision concurrently approved is extended, whichever is longer.

- M. **Revisions to an Approved Project.** If an applicant would like to revise or modify an approved permit for a use, structure, or other project, the Director shall determine the level of revision based on criteria, as follows:
1. **Minor Revisions.** Minor revisions to approved plans and permits may be approved by the Director if the revisions:
 - a. Are consistent with the original findings and conditions of approval;
 - b. Do not substantially expand the approved floor area, alter the number or type of dwelling unit(s), or height of a building; and
 - c. Would not result in any new or intensified detrimental effects, unless waived by the Director.
 2. **Major Revisions.** Major revisions to approved plans and permits are any revisions not considered to be minor revisions. Major revisions shall be decided by the same Review Authority as the original approval, and a public hearing shall be required if a public hearing was required for the original approval.
- N. **Appeals.** Any action by the Director, Zoning Administrator, or Planning Commission in the administration or enforcement of the provisions of this Title may be appealed in accordance with this Section. Failure to meet the deadlines and follow this procedure for appeal shall constitute a failure to exhaust administrative remedies and be sufficient grounds to reject the appeal.
1. **Appeal Bodies.**
 - a. *Decisions of the Director.* The Planning Commission is the appeal body for decisions of the Director unless the Zoning Administrator is specifically designated in this Title.
 - b. *Decisions of the Zoning Administrator.* The Planning Commission is the appeal body for decisions of the Zoning Administrator.
 - c. *Decisions of the Planning Commission.* The Council is the appeal body for decisions of the Planning Commission.
 2. **Who May File an Appeal.** Any interested party may appeal a Review Authority's decision during the appeal period.
 3. **Time Limits.** Unless otherwise specified by law, the appeal and all documents submitted in support of the appeal, shall be filed in writing within 14 days of the date which the action was taken.
 4. **Procedures for Filing an Appeal.**
 - a. *Filing.* An application for an appeal shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
 - b. *Required Information.* At minimum, the appeal shall include the following:
 - (i) The specific action being appealed and the reason for the appeal;
 - (ii) A written description of the specific grounds for the appeal, including why the appellant contends the action is not in accordance with this Title, where there was an error or abuse of discretion, where the record

includes inaccurate information, or how a decision is not supported by evidence in the record;

- (iii) A description of how the appellant requests the action be reversed or modified; and
- (iv) The name, address, and telephone number of the appellant or contact person if there are multiple appellants.

5. **Appeal Review.** Within three working days of receipt of the appeal, the City Clerk shall examine the appeal, and if it is found to be incomplete, return it by certified mail to the appellant for revision. The appellant shall have five working days to file an amended appeal. Upon failure to file an amended appeal within the five-day period, the appeal shall be deemed withdrawn.
6. **Appeal Hearing and Standards of Review.**
 - a. The Director, upon the City Clerk finding the application for an appeal to be complete, shall schedule the appeal, together with City staff's report on the appeal, for a public hearing before the appeal body in compliance with Section D.2.040.G (Public Hearings).
 - b. When reviewing any decision on appeal, the appeal body shall use the same standards for decision-making required for the original decision. The appeal body shall render an independent judgment but may consider the decision being appealed and the grounds stated for the appeal. The appeal body shall consider all evidence submitted in support of the decision being appealed and, at its discretion, may also hear and consider new evidence, including testimony, that could not with reasonable diligence have been presented to the original Review Authority.
7. **Decision on Appeal.** The appeal body may affirm wholly or partly, reverse, or modify the prior decision.

Chapter D.4 Permits and Approvals

Sections:

- D.4.020 Site Development Permits
- D.4.030 Use Permits
- D.4.040 Temporary Use Permits
- D.4.050 Minor Deviations
- D.4.060 Variances
- D.4.070 Sign Permits
- D.4.080 Sign Programs
- D.4.090 Temporary Sign Permits
- D.4.100 Home Occupation Permits
- D.4.110 Reasonable Accommodation
- D.4.120 Special Event Permit
- D.4.130 Short-Term Rental Permit

D.4.010 Purpose

This Chapter provides the procedures for the preparation, filing, and processing of applications for planning permits and other entitlements required by this Title.

D.4.020 Site Development Permits

- A. **Purpose.** The purpose of a Site Development Permit (Site Development Permit and Minor Site Development Permit) is to provide a process for the review and approval or denial of development applications for physical improvements to a site based on their scale, proximity to environmentally sensitive resource areas, or unique design features. See Chapter B.22 (“H” Hillside Combining District) for requirements and review procedures for projects within the “H” Hillside Combining District. The Site Development Permit process is intended to encourage site and structural development which:
1. Respects the physical and environmental characteristics of the site;
 2. Ensures safe and convenient access and circulation for pedestrians and vehicles;
 3. Exemplifies the best professional site planning and design practices;
 4. Encourages individual identity for specific uses and structures
 5. Encourages a distinct community or neighborhood identity; and
 6. Minimizes adverse visual impacts.

B. **Applicability.**

1. **Site Development Permit.** A Site Development Permit is required for the projects identified in Table D.4.020-A (Projects Requiring a Site Development Permit).

Table D.4.020-A: Projects Requiring a Site Development Permit		
Project Category	Project Type and Review Authority ¹	
	Planning Commission	City Council
New nonresidential development	Any new nonresidential development with over 10,000 sf of new gross floor area, except: • Over 25,000 sf of new or expanded gross floor area in commercial, mixed use, or Metro Specific Plan zones not adjacent to any residential zone • Over 50,000 sf of new or expanded gross floor area in industrial zones not adjacent to any residential zones	Appeal Authority
New multi-family projects or new subdivisions with single-family dwellings	Any new multi-family residential projects (including attached townhomes) with 5 or more units, or new subdivisions with 5 or more single-family dwellings	Appeal Authority
Single-family dwellings and accessory structures in the “H” Hillside Combining District ²	Recommending Authority	New construction of a single-family dwelling or accessory structure in the “H” Hillside Combining District All additions or expansions to single-family dwellings and accessory structures located in the “H” Hillside Combining District
Required by Specific Plans or Planned Unit Developments	Any project for which a Site Development Permit is required according to an applicable Specific Plan or Planned Unit Development.	Appeal Authority

Table Notes:

¹ The Review Authority (decision-making body) is indicated by the column in which the project type is described.

² See C.2.040.D (Standards for Fences and Walls within the “H” Hillside Combining District) for the Review Authority for fences and walls in the “H” Hillside Combining District.

2. **Minor Site Development Permit.** A Minor Site Development Permit is required for the projects identified in Table D.4.020-B (Projects Requiring a Minor Site Development Permit).

Table D.4.020-B: Projects Requiring a Minor Site Development Permit

Project Category	Project Type and Review Authority ¹	
	Director	Zoning Administrator
New nonresidential development	Recommending Authority	Any new nonresidential development with up to 10,000 sf of new gross floor area, except: • Up to 25,000 sf of new floor area in commercial, mixed use, institutional, or Metro Specific Plan zones and not adjacent to any residential zone • Up to 50,000 sf of new floor area in industrial zones not adjacent to any residential zone
New multi-family residential or new single-family subdivisions	Recommending Authority	Any new multi-family residential projects (including attached townhomes) with 2 to 4 units, or new subdivisions with 2 to 4 single-family dwellings, unless the project involves an urban lot split consistent with MMC Section XI-1-31 (Urban Lot Splits).
Additions/expansions to multi-family residential, commercial, industrial, or mixed-use buildings	Recommending Authority	Any additions or expansions to existing multi-family residential, commercial, industrial, or mixed-use buildings with a gross floor area of: • Over 10,000 sf for multi-family residential buildings • Over 15,000 sf for commercial and mixed-use buildings • Over 50,000 sf for industrial buildings Over 5,000 sf (or 10% of the gross floor area, whichever is less) for commercial, industrial, and mixed-use buildings adjacent to residential zones
Additions to existing nonresidential buildings	Additions to existing commercial and mixed-use buildings with new gross floor area up to 15,000 sf	Appeal Authority

Table D.4.020-B: Projects Requiring a Minor Site Development Permit

Project Category	Project Type and Review Authority ¹	
	Director	Zoning Administrator
	Additions to existing industrial buildings with new gross floor area up to 50,000 sf	
Additions to existing multi-family residential buildings	Additions to existing multi-family residential buildings with new gross floor area up to 10,000 sf	Appeal Authority
Minor exterior changes to existing nonresidential buildings	Minor changes to the exterior of existing nonresidential buildings that require a Building Permit (e.g., façade changes, changes in materials, relocation of windows and storefront doors) Changes to exterior building color Addition, modification, or removal of minor architectural elements	Appeal Authority
New single-family dwelling ²	Recommending Authority	New construction of a single-family dwelling
Additions or alterations to existing single-family dwellings ²	Alterations, modifications, or additions to existing single-family dwellings that are below the thresholds for Zoning Administrator approval, unless exempt (see Subsection D.4.020.B.3 (Exemptions from Site Development Permit))	Additions to existing single-family dwellings that are greater than 100% of the existing gross floor area Upper story additions to single-family dwellings that are greater than 50% of the existing gross floor area
New accessory structures ²	New construction of accessory structures, unless exempt (see Subsection D.4.020.B.3 (Exemptions from Site Development Permit))	Appeal Authority
Accessory Dwelling Units and Junior Accessory Dwelling Units	Accessory dwelling units consistent with Subsection C.10.030.H (Minimum Standards for ADUs Requiring a Minor Site Development Permit)	New or converted accessory dwelling units that do not comply with the design standards in Section C.10.030 (Accessory Dwelling Units and Junior Accessory Dwelling Units)
Small Projects in the “H” Hillside Combining District	Building Additions: All single-family dwellings in “H” Hillside PUDs which specifically allow for staff approval (refer to Section C.18.050)	Building Additions: All single-family dwellings in “H” Hillside PUDs which are specifically conditioned not to require Planning Commission or Council review for

Table D.4.020-B: Projects Requiring a Minor Site Development Permit

Project Category	Project Type and Review Authority ¹	
	Director	Zoning Administrator
	(Nonconforming Buildings and Structures) regarding nonconforming buildings). In addition to other development standards, the following shall also apply: - Existing front yard paving shall be brought into conformance. - The addition shall comprise building materials, colors and style which complement the existing structure. Color Change: Color changes for residences including homes within an “H” Hillside PUD which does not specify color choices, so long as the proposed colors are earth tone, muted and compatible with the surrounding development.	building additions (refer to Section C.18.050 (Nonconforming Buildings and Structures) regarding nonconforming buildings). In addition to other development standards, the following shall also apply: - Existing front yard paving shall be brought into conformance. Minor Exterior Building Changes: Minor exterior building changes as described below, provided that the project complements the colors, materials and design of the building. - Minor changes to architectural elements which do not change the overall design of a building. - Windows, window awnings and person doors which match existing or which complement the building facade
Fences/Walls (Refer to Section C.2.040 (Fences, Walls, and Hedges)) ³	Nonresidential zone or use: - Fences between 6 and 8 feet in height within the rear and side setback Residential zones or uses, and/or all other projects as applicable: - Minor Site Development Permit required if a building permit is required	Appeal Authority
Parking lots	Construction of a new parking lot for a multi-family residential, commercial, mixed use, or industrial use	Appeal Authority
Required by Specific Plans or Planned Unit Developments	Any project for which a Minor Site Development Permit is required according to an applicable Specific Plan or Planned Unit Development	Appeal Authority

Table D.4.020-B: Projects Requiring a Minor Site Development Permit

Project Category	Project Type and Review Authority ¹	
	Director	Zoning Administrator
All other projects	Any other project that is not subject to a Site Development Permit and is not exempt per D.4.020.B.3 (Exemptions from Site Development Permit)	Appeal Authority

Table Notes:

¹ The Review Authority (decision-making body) is indicated by the column in which the project type is described.

² Not located in the “H” Hillside Combining District.

³ See C.2.040.D (Standards for Fences and Walls within the “H” Hillside Combining District) for the Review Authority for fences and walls in the “H” Hillside Combining District.

3. **Exemptions from Site Development Permit.** The following projects are exempt from the requirements for Site Development Permit and are only reviewed with an application for a Building Permit, if required:
- Multi-family and mixed-use projects that comply with the Milpitas Residential and Mixed-Use Objective Design Standards and are eligible for ministerial review consistent with state law.
 - Construction, reconstruction, alterations, improvements, and landscaping for a project developed in compliance with a previously issued Site Development Permit.
 - Any form of repair or maintenance work where the work solely involves the replacement of materials in like kind and form (e.g., re-roof, window replacement, etc.), or to any repair or maintenance work in areas not visible to the public from the public right-of-way or areas accessible to the public.
 - Routine maintenance that does not result in a change in color, materials, or design.
 - Installation of landscaping no more than 2,500 square feet in an area where no other construction activity is planned.
 - Construction of fences and walls that are consistent with Section C.2.040 (Fences, Walls, and Hedges) and this Title.
 - Alterations and improvements required in whole or part to meet federal or state requirements to accommodate persons with disabilities.
 - New accessory structures that are exempt from obtaining a Building Permit.
 - Accessory dwelling units that comply with the standards in Section C.10.030 (Accessory Dwelling Units and Junior Accessory Dwelling Units).
 - Electric vehicle charging stations within existing parking lots provided they comply with all applicable Building Code standards and Section C.6.090 (Electric Vehicle Charging Spaces). This exemption includes the removal of landscaping to

accommodate new electric vehicle charging station ground equipment and new lighting for the safety and security of the charging station.

- C. **Application Requirements.** A Site Development Permit application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
- D. **Authority.** The Review Authorities for Site Development Permits and Minor Site Development Permits are identified in Table D.2.030-A (Review Authorities) and Section D.4.020.B (Applicability), subject to Subsection D.2.040.B.3 (Multiple Applications) and Subsection D.2.040.N (Appeals).
- E. **Approval Procedures.**
 - 1. *Director evaluation.* After a proposed Site Development Permit application has been deemed complete, the Director shall review the Site Development Permit application to determine whether it conforms with the provisions of this Title in accordance with Chapter D.2 (Procedures).
 - 2. *Site Development Permits hearing(s).* The Review Authority shall conduct a public hearing on a Site Development Permit consistent with Section D.2.040.G (Public Hearings).
 - 3. *Minor Site Development Permits.*
 - a. *Zoning Administrator hearing.* The Zoning Administrator shall conduct a public hearing on a Minor Site Development Permit consistent with Section D.2.040.G (Public Hearings).
 - b. *Director decision.* The Director shall approve or deny a Minor Site Development Permit in compliance with the findings provided in Subsection D.4.020.F (Findings).
- F. **Findings.** The Review Authority may approve a Site Development Permit, with or without conditions of approval, only after making the following findings as applicable:
 - 1. ***Findings for All Site Development Permits:***
 - a. The proposed project is consistent with this Title;
 - b. The proposed use and project are consistent with the goals and policies of the General Plan;
 - c. The project will not be detrimental to public health, safety, and general welfare; and
 - d. The proposed project is in compliance with the provisions of California Environmental Quality Act.
 - 2. ***Findings for Specific Projects:***
 - a. The proposed use and project are consistent with the goals and policies of any Specific Plan, if applicable.
 - b. The proposed siting, form, architectural style, materials, and other elements of multi-family residential and mixed-use developments are consistent with City Objective Design Standards.
 - c. The proposed siting, form, and architectural style of single-family residential, commercial, and industrial developments are appropriate for the project site and

surroundings and create a visually cohesive design, and are consistent with all applicable design standards in this Title.

G. Decision; Appeals; Expiration, Extensions, and Revisions.

1. **Decision.** The Review Authority's decision shall be in compliance with Subsection D.2.040.H (Findings and Decision).
2. **Appeals.** The Review Authority's decision may be appealed as provided in Section D.2.040.N (Appeals).
3. **Expiration, Extensions, and Revisions.** Site Development Permits are subject to expiration as provided in Subsection D.2.040.K (Expiration of Permits) and may only be extended or revised as provided in Subsection D.2.040.L (Extension of Time) and Subsection D.2.040.M (Revisions to an Approved Project).

D.4.030 Use Permits

- A. **Purpose.** The purpose of a Use Permit (i.e., Conditional Use Permit (CUP) and a Minor Conditional Use Permit (MC)) is to allow the proper integration into the city of essential or desirable uses which nevertheless may have an impact on the surrounding environment while ensuring that the uses are, and will continue to be, appropriate for their proposed location and compatible with surrounding existing and planned uses. Use Permits are intended to facilitate uses and projects that are sensitive to the community and neighborhoods and minimize impacts on adjacent uses.
- B. **Applicability.** The use tables in Part B (Zone Regulations) identify the land uses and activities that require a Use Permit.
- C. **Application Requirements.** A Use Permit application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
- D. **Authority.** As identified in Table D.2.030-A (Review Authorities), the following are the Review Authorities for Use Permits subject to Subsection D.2.040.B.3 (Multiple Applications) and Subsection D.2.040.N (Appeals).
1. **Conditional Use Permits.** The Planning Commission is the Review Authority for Conditional Use Permits.
 2. **Minor Conditional Use Permits.** The Director is the Review Authority for Minor Conditional Use Permits, except that the Zoning Administrator is the Review Authority for the following uses when allowed with a Minor Conditional Use Permit:
 - a. Massage establishment (not an accessory massage establishment);
 - b. Microbreweries;
 - c. Restaurants (either full service or limited service) with alcohol service unless identified as permitted ("P") in a Metro Specific Plan zone in Table B.12.020-A (Metro Specific Plan Zones Use Regulations);
 - d. Child care centers;
 - e. Commercial uses subject to a Minor Conditional Use Permit in the R4 (Multi-Family Very High Density Residential) Zone, including full service and limited

service restaurants; banks/credit unions; small grocery stores; retail, limited; retail store, general merchandise; and personal services;

- f. General Industry uses subject to a Minor Conditional Use Permit in the MP (Industrial Park) and BPRD (Business Park Research and Development) Zones; and
- g. Any other use listed as “MC” in Division B (Zone Regulations).

E. **Approval Procedures.**

- 1. **Director Evaluation.** After a proposed Use Permit application has been deemed complete, the Director shall review the Conditional Use Permit application to determine whether it conforms with the provisions of this Title in accordance with Chapter D.2 (Procedures).
- 2. **Conditional Use Permits Hearing.** The Planning Commission shall conduct a public hearing on a Conditional Use Permit consistent with Section D.2.040.G (Public Hearings).
- 3. **Minor Conditional Use Permits.**
 - a. **Zoning Administrator hearing.** The Zoning Administrator shall conduct a public hearing on a Minor Conditional Use Permit consistent with Section D.2.040.G (Public Hearings).
 - b. **Director decision.** The Director shall approve or deny a Minor Conditional Use Permit in compliance with the findings provided in Subsection D.4.030.F (Findings).

F. **Findings.** The Review Authority may approve the Use Permit, with or without conditions of approval, only after making the following findings:

- 1. The proposed use is consistent with the goals and policies of the General Plan;
- 2. The proposed use is consistent with the goals and policies of any Specific Plan if applicable;
- 3. The proposed use is appropriate for the zone in which it is located, is compatible with uses allowed in the zone, and complies with all other applicable provisions of this Title;
- 4. The proposed use will not be materially detrimental to the health, safety, and welfare of the public or the property and residents in the vicinity;
- 5. The subject site is physically suitable for the use being proposed, including access and utilities;
- 6. The design, location, size, and operating characteristics of the proposed use are compatible with existing and reasonably foreseeable future land use and circulation in the vicinity; and
- 7. The proposed project is in compliance with the provisions of California Environmental Quality Act.

G. **Decision; Appeals; Expiration, Extensions, and Revisions.**

- 1. **Decision.** The Review Authority’s decision shall be in compliance with Subsection D.2.040.H (Findings and Decision).
- 2. **Appeals.** The Review Authority’s decision may be appealed as provided in Section D.2.040.N (Appeals).

3. **Expiration, Extensions, and Revisions.** Use Permits are subject to expiration as provided in Subsection D.2.040.K (Expiration of Permits) and may only be extended or revised as provided in Subsection D.2.040.L (Extension of Time) and Subsection D.2.040.M (Revisions to an Approved Project).

D.4.040 Temporary Use Permits

- A. **Purpose.** This Subsection establishes the procedures for the granting of Temporary Use Permits for short-term activities and uses on privately or publicly owned property with appropriate regulations to ensure that the temporary activities will be compatible with surrounding areas.
- B. **Applicability.** A Temporary Use Permit allows for the short-term activities described in Section C.10.230 (Temporary Uses and Structures), that may not comply with the normal development or use standards of the applicable zone but would otherwise be acceptable because of their temporary nature.
- C. **Application Requirements.** A Temporary Use Permit application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
- D. **Authority.** As identified in Table D.2.030-A (Review Authorities), the Director is the Review Authority for Temporary Use Permits subject to Subsection D.2.040.B.3 (Multiple Applications) and Subsection D.2.040.N (Appeals).
- E. **Approval Procedure.**
 1. **Director Review.** After a proposed Temporary Use Permit application has been deemed complete, the Director shall review the Temporary Use Permit application to determine whether it conforms with the provisions of this Title in accordance with Chapter D.2 (Procedures).
 2. **Director Decision.** The Director shall approve or deny the application in compliance with the findings provided in Subsection D.4.040.G (Findings).
- F. **Considerations.** In the review of a Temporary Use Permit application, the Director shall consider:
 1. The type and duration of the proposed temporary activity;
 2. Input from other City departments, such as Police, Fire, Public Works, etc.;
 3. The requirements and development standards of the applicable zone in which the temporary use is proposed;
 4. Any applicable standards for the proposed temporary use established in Section C.10.230 (Temporary Uses and Structures) including the length of time the temporary use will be authorized.
- G. **Findings.** The Director may approve the Temporary Use Permit, with or without conditions of approval, only after finding that:
 1. The temporary activity complies with applicable standards identified in Section C.10.230 (Temporary Uses and Structures); and
 2. Maintenance or operation of the temporary activity would not be detrimental to the public health, safety, or welfare of persons residing or working in the vicinity of the proposed temporary activity.

H. **Decision and Appeals.**

1. **Decision.** The Review Authority's decision shall be in compliance with Subsection D.2.040.H (Findings and Decision).
2. **Appeals.** The Review Authority's decision may be appealed as provided in Section D.2.040.N (Appeals).
3. **Expiration and Revisions.** Temporary Use Permits are subject to expiration as provided in Subsection D.2.040.K (Expiration of Permits) and may only be revised as provided in Subsection D.2.040.M (Revisions to an Approved Project).

I. **Post Approval Procedures.** Procedures specific to Temporary Use Permits include the following:

1. **Extensions of Temporary Use Permits Prohibited.** The term of a Temporary Use Permit may not be extended. Applicants for activities that would exceed the allowed terms identified in Section C.10.230 (Temporary Uses and Structures), shall file for a Conditional Use Permit, rather than a Temporary Use Permit, in compliance with Section D.4.030 (Use Permits), and all other applicable zoning standards.
2. **Required Lapse of Time for Temporary Use Permits.** Except for seasonal sales lots, a minimum of 30 days shall pass between the expiration of a Temporary Use Permit and the issuance of a new and similar Temporary Use Permit for the same property, or the actual removal of the materials and structures associated with the former activity, whichever last occurs.

D.4.050 Minor Deviations

- A. **Purpose.** The purpose of this Subsection is to enable Minor Deviations from the standards in this Title when these requests constitute a reasonable use of property but are not otherwise permissible under the strict application of this Title. An authorization to approve a Minor Deviation does not extend to making any changes in the uses permitted in any zone.
- B. **Applicability.** The Zoning Administrator may grant a Minor Deviation from the requirements of this Zoning Ordinance for the following types of modifications:

Table D.4.050-A: Types of Minor Deviations	
Types of Minor Deviations	Maximum Deviation
Reduction of a front setback	20%; except a min. of 18 ft is required for front-entry garages
Reduction of a side or rear setback	20% or 1 foot, whichever is greater
An increase in allowable building height	5% or 2 ft, whichever is greater
Maximum Front Yard Paved Area in the R1 Zone	10%

- C. **Application Requirements.** A Minor Deviation application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
- D. **Authority.** As identified in Table D.2.030-A (Review Authorities), the Zoning Administrator is the Review Authority for Minor Deviations subject to Subsection D.2.040.B.3 (Multiple Applications) and Subsection D.2.040.N (Appeals).

E. **Approval Procedures.**

1. **Director Evaluation.** After a proposed Minor Deviation application has been deemed complete, the Director shall review the Minor Deviation application to determine whether it conforms with the provisions of this Title in accordance with Chapter D.2 (Procedures).
2. **Precedents.** A previous Minor Deviation shall not be considered to have set a precedent for the granting of any further Minor Deviations; each case must be considered on its individual merits.
3. **Zoning Administrator Hearing.** The Zoning Administrator shall conduct a public hearing on the Minor Deviation consistent with Section D.2.040.G (Public Hearings).

F. **Findings.** The Zoning Administrator may approve, with or without conditions, a Minor Deviation application, only after all the following findings are made:

1. There are special circumstances applicable to the property (e.g., size, shape, topography, location, surroundings, etc.) such that the strict application of this Title could deprive the property of privileges enjoyed by other property in the vicinity and within the same zone;
2. The Minor Deviation is the minimum departure from the requirements of this Title necessary to grant relief to the applicant;
3. The Minor Deviation will not be detrimental to the public welfare or injurious to the property or improvements in the vicinity or the zone in which the subject property is located;
4. Granting the requested Minor Deviation will not detract from the overall appearance of the neighborhood or immediate vicinity and will not impair the provision of adequate light, air, or circulation;
5. The Minor Deviation, as proposed and conditioned, will achieve the general purposes of this Title or the specific purposes of the zone in which the project is located; and
6. The Minor Deviation, as proposed and conditioned, is consistent with the General Plan and any Specific Plan, if applicable.

G. **Decision; Appeals; Expiration, Extensions, and Revisions.**

1. **Decision.** The Review Authority's decision shall be in compliance with Subsection D.2.040.H (Findings and Decision).
2. **Appeals.** The Review Authority's decision may be appealed as provided in Section D.2.040.N (Appeals).
3. **Expiration, Extensions, and Revisions.** Minor Deviations are subject to expiration as provided in Subsection D.2.040.K (Expiration of Permits) and may only be extended or revised as provided in Subsection D.2.040.L (Extension of Time) and Subsection D.2.040.M (Revisions to an Approved Project).

D.4.060 Variances

- A. **Purpose.** In compliance with California Government Code section 65900 et seq., this Subsection allows for Variances from the development standards of this Title, other than those that may be

allowed through the Minor Deviations process, see Section D.4.050 (Minor Deviations), only when, because of special circumstances applicable to the property, the strict application of this Title deprives such property of privileges enjoyed by other property in the vicinity and located in the same zone.

- B. **Application Requirements.** A Variance application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
- C. **Authority.** As identified in Table D.2.030-A (Review Authorities), the Planning Commission is the Review Authority for Variances subject to Subsection D.2.040.B.3 (Multiple Applications) and Subsection D.2.040.N (Appeals), except the Council is the Review Authority within the “H” Hillside Combining District in compliance with Chapter B.22 (“H” Hillside Combining District).
- D. **Approval Procedures.**
 - 1. **Director Evaluation.** After a proposed Variance application has been deemed complete, the Director shall review the Variance application to determine whether it conforms with the provisions of this Title in accordance with Chapter D.2 (Procedures).
 - 2. **Precedents.** A previous Variance shall not be considered to have set a precedent for the granting of any further Variances; each case must be considered on its individual merits. Nonconforming uses or developments on adjacent properties shall not be considered as grounds for the granting of a Variance.
 - 3. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing on the Variance consistent with Section D.2.040.G (Public Hearings).
- E. **Findings.** The Planning Commission may approve a Variance, with or without conditions of approval, only after making the following findings:
 - 1. There are special circumstances applicable to the property, including but not limited to size, shape, topography, location, or surroundings, such that the strict application of this Title deprives the property of privileges enjoyed by other property in the vicinity and under the identical zone;
 - 2. The Variance does not constitute a grant of special privilege inconsistent with limitations upon other properties in the vicinity and the zone in which the property is located;
 - 3. The special circumstances applicable to the property were not created by an act of the property owner (e.g., a Variance shall not be granted for a self-imposed hardship);
 - 4. Granting the Variance would not authorize a use or activity that is not otherwise expressly authorized by the zone governing the property;
 - 5. Granting the Variance will not be materially detrimental to the public health, safety, or welfare and will not impair an adequate supply of light and air to adjacent properties;
 - 6. Granting the Variance is consistent with the General Plan and the intent of this Title; and
 - 7. Granting the Variance is consistent with any Specific Plan, if applicable.
- F. **Decision; Appeals; Expiration, Extensions, and Revisions.**
 - 1. **Decision.** The Review Authority’s decision shall be in compliance with Subsection D.2.040.H (Findings and Decision).

2. **Appeals.** The Review Authority's decision may be appealed as provided in Section D.2.040.N (Appeals).
3. **Expiration, Extensions, and Revisions.** Variances are subject to expiration as provided in Subsection D.2.040.K (Expiration of Permits) and may only be extended or revised as provided in Subsection D.2.040.L (Extension of Time) and Subsection D.2.040.M (Revisions to an Approved Project).

D.4.070 Sign Permits

- A. **Purpose.** This Subsection establishes the permitting process for permanent signs (Major Sign Permit and Minor Sign Permits).
- B. **Applicability.**
 1. A Major Sign Permit is required for the following permanent signs:
 - a. Freestanding signs exceeding 10 feet in height;
 - b. Signs within the "H" Hillside Combining District; and
 - c. Signs located on a building or site that has been designated as a historical or cultural resource consistent with Milpitas Municipal Code Chapter XI-4 (Cultural Resources Preservation Program).
 2. A Minor Sign Permit is required for any other permanent sign that is not subject to a Major Sign Permit and is not exempt by Subsection C.8.020.G (Exempt Signs).
- C. **Application Requirements.** A Sign Permit application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
- D. **Authority.** As identified in Table D.2.030-A (Review Authorities), the following are the Review Authorities for Sign Permits subject to Subsection D.2.040.B.3 (Multiple Applications) and Subsection D.2.040.N (Appeals).
 1. The Planning Commission is the Review Authority for Major Sign Permits, except the Council is the Review Authority for the following:
 - a. Signs within the "H" Hillside Combining District in compliance with Chapter B.22 ("H" Hillside Combining District); and
 - b. Billboard signs in compliance with Subsection C.8.050.D.2 (Billboard Signs).
 2. The Director is the Review Authority for Minor Sign Permits, except that the Zoning Administrator is the Review Authority for freestanding signs that are greater than six feet in height but do not exceed 10 feet in height.
- E. **Approval Procedures.**
 1. **Director Evaluation.** After a proposed Sign Permit application has been deemed complete, the Director shall review the Sign Permit application to determine whether it conforms with the provisions of this Title in accordance with Chapter D.2 (Procedures).
 2. **Major Sign Permit Hearing(s).** The Review Authority shall conduct a public hearing on the Major Sign Permit application consistent with Section D.2.040.G (Public Hearings).

3. **Minor Sign Permits Decision.** The Review Authority shall approve or deny a Minor Sign Permit in compliance with the findings provided in Subsection D.4.070.F (Findings).
- F. **Findings.** The Review Authority may approve a Sign Permit, with or without conditions of approval, only after making the following findings, based on evidence in the public record:
1. **Findings for all Sign Permits.**
 - a. All elements of the sign, including design, lighting, scale, width, and materials, are consistent with the intent of the General Plan and any Specific Plan, if applicable;
 - b. The sign is consistent with Chapter C.6 (Signs) and this Title;
 - c. The sign is consistent with any applicable Master Sign Program;
 - d. The design, scale, and materials of the sign harmonize with the architectural design and details of the building or site it serves;
 - e. The design and scale of the sign is appropriate to the distance from which the sign is normally viewed;
 - f. The design and materials of the sign provide a contrast between the background and letters, logos, and/or graphics; and
 - g. If a freestanding sign is included in the application, the site and building design, scale, or location is appropriate for the use of a freestanding sign, rather than a building-mounted sign.
 2. **Additional Findings For Billboards.**
 - a. The billboard will not create a hazard to vehicular or pedestrian traffic;
 - b. All advertising on the billboard will conform to the Outdoor Advertising Act in the California Business and Professions Code section 5200-5486, as applicable, and other applicable state and federal rules and regulations;
 - c. The billboard will result in a net positive public benefit to the City; and
 - d. The billboard will promote economic development in the City.
- G. **Decision; Appeals; Expiration, Extensions, and Revisions.**
1. **Decision.** The Review Authority's decision shall be in compliance with Subsection D.2.040.H (Findings and Decision).
 2. **Appeals.** The Review Authority's decision may be appealed as provided in Section D.2.040.N (Appeals).
 3. **Expiration, Extensions, and Revisions.** Sign Permits are subject to expiration as provided in Subsection D.2.040.K (Expiration of Permits) and may only be extended or revised as provided in Subsection D.2.040.L (Extension of Time) and Subsection D.2.040.M (Revisions to an Approved Project).

D.4.080 Sign Programs

- A. **Purpose.** The purpose of a Sign Program is to establish a method for an applicant to integrate the design and placement of signs within the overall design of a new development project or an

existing multi-tenant or mixed-use project. The intent is to ensure design consistency and/or compatibility among individual signs within a multi-tenant property and ensure signs are compatible with the architecture and overall aesthetics of the site and surrounding area. A Sign Program provides a clear prescription of the standards for new and existing signs on the project site and enables consistent and streamlined review, approval, and administration of existing and new signs. Approval of a Sign Program may result in the application of alternative sign standards that supersede the requirements of Chapter C.6 (Signs), except for matters of public safety.

B. Applicability. A Sign Program is required for the following:

1. Any new retail, mixed-use, office, or industrial complex that:
 - a. Is located on four or more acres;
 - b. Has a gross floor area of 40,000 square feet or larger;
 - c. Includes a multi-tenant building; or
 - d. Has a building more than two stories high.
2. A new automobile dealership.
3. At the owner's request, a Sign Program may be requested for the following:
 - a. Any existing retail, mixed-use, office, or industrial complex;
 - b. An existing multi-tenant building;
 - c. An existing automobile dealership; or
 - d. An existing building more than two stories high.

C. Application Requirements. A Sign Program application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.

D. Authority. As identified in Table D.2.030-A (Review Authorities), the Planning Commission is the Review Authority for Sign Programs subject to Subsection D.2.040.B.3 (Multiple Applications) and Subsection D.2.040.N (Appeals), except the Council is the Review Authority within the "H" Hillside Combining District in compliance with Chapter B.22 ("H" Hillside Combining District).

E. Approval Procedures.

1. **Discretionary Review.** While the application for a Sign Program may be reviewed concurrently with another application that is subject to discretionary review, discretionary review must be limited to the review of non-communicative aspects (i.e., time, place, manner, location, size, height, illumination, spacing, and orientation) of the signs proposed in the Sign Program.
2. **Director Evaluation.** After a proposed Sign Program application has been deemed complete, the Director shall review the Sign Program application to determine whether it conforms with the provisions of this Title in accordance with Chapter D.2 (Procedures).
3. **Public Hearing(s).** The Review Authority shall conduct a public hearing on the Sign Program consistent with Section D.2.040.G (Public Hearings).

- F. **Findings.** The Review Authority may approve a Sign Program, with or without conditions of approval, only after making the following findings, based on evidence in the public record:
1. The provisions of the Sign Program are consistent with the intent of the General Plan, Chapter C.8 (Signs) of this Title, and any Specific Plan, if applicable;
 2. The provisions of the Sign Program ensure consistency in design and style of all new signs;
 3. The provisions of the Sign Program address compatibility of the design and style of any existing signs on the building or site; and
 4. The provisions of the Sign Program address compatibility of the design and style of new signs with the site layout, building configuration, and design and architectural style of building(s).
- G. **Decision; Appeals; Expiration, Extensions, and Revisions.**
1. **Decision.** The Review Authority's decision shall be in compliance with Subsection D.2.040.H (Findings and Decision).
 2. **Appeals.** The Review Authority's decision may be appealed as provided in Subsection D.2.040.N (Appeals).
 3. **Expiration and Extensions.** Approved Sign Programs shall not expire.
 4. **Revisions or Amendments.** Sign Programs may only be revised or amended as provided in Subsection D.2.040.M (Revisions to an Approved Project); however, major revisions or amendments to a Sign Program may be approved by the Zoning Administrator unless the Sign Program is within the "H" Hillside Combining District.

D.4.090 Temporary Sign Permits

- A. **Purpose.** This Subsection establishes the permitting process for Temporary Sign Permits consistent with Chapter C.8 (Signs).
- B. **Applicability.** A Temporary Sign Permit is required for temporary signs allowed consistent with Section C.8.070 (Standards for Portable Signs and Temporary Signs).
- C. **Application Requirements.** A Temporary Sign Permit application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
- D. **Authority.** As identified in Table D.2.030-A (Review Authorities), the Director is the Review Authority for Temporary Sign Permits subject to Subsection D.2.040.B.3 (Multiple Applications) and Subsection D.2.040.N (Appeals).
- E. **Approval Procedures.**
1. **Director Review.** After a proposed Temporary Sign Permit application has been deemed complete, the Director shall review the Temporary Sign Permit application to determine whether it conforms with the provisions of this Title in accordance with Chapter D.2 (Procedures).
 2. **Director Decision.** The Director shall approve or deny the application in compliance with the findings provided in Subsection D.2.050.I.6 (Findings).

- F. **Findings.** The Director may approve a Temporary Sign Permit, with or without conditions of approval, only after finding the Temporary Sign Permit to be consistent with Chapter C.8 (Signs), this Title, and any Specific Plan, if applicable.
- G. **Decision; Appeals; Expiration, Extensions, and Revisions.**
 - 1. **Decision.** The Review Authority's decision shall be in compliance with Subsection D.2.040.H (Findings and Decision).
 - 2. **Appeals.** The Review Authority's decision may be appealed as provided in Section D.2.040.N (Appeals).
 - 3. **Duration and Revisions.** Temporary Sign Permits may be displayed for the length of time provided in Section C.8.070 (Standards for Portable Signs and Temporary Signs). and may only be revised as provided in Subsection D.2.040.M (Revisions to an Approved Project).

D.4.100 Home Occupation Permits

- A. **Purpose.** The purpose of the Home Occupation Permit is to allow for the conduct of businesses within places of residence and to prescribe the conditions under which limited nonresidential activities may be conducted when incidental to residential activities.
- B. **Applicability.** Section C.10.120 (Home Occupations) identifies requirements for uses and activities that are allowed and require a Home Occupation Permit.
- C. **Application Requirements.** A Home Occupation Permit application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
- D. **Authority.** As identified in Table D.2.030-A (Review Authorities), the Director is the Review Authority for Home Occupation Permits subject to Subsection D.2.040.B.3 (Multiple Applications) and Subsection D.2.040.N (Appeals).
- E. **Approval Procedures.**
 - 1. **Director Review.** After a proposed Home Occupation Permit application has been deemed complete, the Director shall review the Home Occupation Permit application to determine whether it conforms with the provisions of this Title in accordance with Chapter D.2 (Procedures).
 - 2. **Director Decision.** The Director shall approve or deny the application in compliance with the findings provided in Subsection D.4.100.F (Findings).
- F. **Findings.** The Director shall approve a Home Occupation Permit, with or without conditions of approval, if it is determined that the proposed home occupation would:
 - 1. Be consistent with the General Plan and any Specific Plan, if applicable;
 - 2. Be consistent with the standards of this Title for the subject zone;
 - 3. Be consistent with the home occupation criteria and standards of Section C.10.120 (Home Occupations); and
 - 4. Be consistent with all other applicable provisions of the Milpitas Municipal Code and applicable laws.

G. **Decision; Appeals; Expiration, Extensions, and Revisions.**

1. **Decision.** The Review Authority's decision shall be in compliance with Subsection D.2.040.H (Findings and Decision).
2. **Appeals.** The Review Authority's decision may be appealed as provided in Section D.2.040.N (Appeals).
3. **Expiration, Extensions, and Revisions.** Home Occupation Permits are subject to expiration as provided in Subsection D.2.040.K (Expiration of Permits) and may only be extended or revised as provided in Subsection D.2.040.L (Extension of Time) and Subsection D.2.040.M (Revisions to an Approved Project).

D.4.110 Reasonable Accommodation

- A. **Purpose.** This Subsection establishes the procedures to request Reasonable Accommodation for persons with disabilities seeking equal access to housing under the California Fair Employment and Housing Act, the Federal Fair Housing Act, and the Americans with Disabilities Act ("the Acts") in the application of zoning law and other land use regulations, policies, procedures, and conditions of approval. A Reasonable Accommodation is typically an adjustment to physical design standards to accommodate the placement of wheelchair ramps or other exterior modifications to a dwelling in response to the needs of a disabled resident.
- B. **Applicability.**
1. **Eligible Applicants.** A request for Reasonable Accommodation may be made by any person with a disability, their representative, or any other entity, when the application of this Title or other land use regulations, policy, or procedure acts as a barrier to fair housing opportunities.
 2. **Definitions.** A person with a disability is a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment as further defined under 42 U.S.C. section 12102, commonly known as the Americans with Disabilities Act, and under applicable state law.
 3. **Eligible Request.** A request for Reasonable Accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.
- C. **Application Requirements.** A Reasonable Accommodation application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
- D. **Authority.** As identified in Table D.2.030-A (Review Authorities), the Director is the Review Authority for Reasonable Accommodation applications subject to Subsection D.2.040.B.3 (Multiple Applications) and Subsection D.2.040.N (Appeals).
- E. **Approval Procedures.**
1. **Director Review.** After a proposed Reasonable Accommodation application has been deemed complete, the Director shall review the Reasonable Accommodation application

to determine whether it conforms with the provisions of this Title in accordance with Chapter D.2 (Procedures).

2. **Director Decision.** The Director shall make a written determination within 45 days of the application being deemed complete and either approve, modify, or deny a request for Reasonable Accommodation in compliance with Subsection D.2.040.K.6 (Findings).
- F. **Findings.** The Review Authority may approve, approve with conditions, or deny the request for Reasonable Accommodation based on the following findings:
1. The housing, which is the subject of the request, will be used by an individual defined as disabled under the Acts;
 2. The Reasonable Accommodation is necessary to make specific housing available to an individual with a disability;
 3. The Reasonable Accommodation would not impose an undue financial or administrative burden on the City;
 4. The Reasonable Accommodation would not require a fundamental alteration in the nature of a City program or law; and
 5. There are no alternatives to the requested waiver or exception that could provide an equivalent level of benefits to the applicant without the requested accommodation or with a lesser deviation from standards.
- G. **Decision; Appeals; Expiration, Extensions, and Revisions.**
1. **Decision.** The Review Authority's decision shall be in compliance with Subsection D.2.040.H (Findings and Decision).
 2. **Appeals.** The Review Authority's decision may be appealed as provided in Section D.2.040.N (Appeals).
 3. **Expiration, Extensions, and Revisions.**
 - a. Reasonable Accommodations are subject to expiration as provided in Subsection D.2.040.K (Expiration of Permits); however, a Reasonable Accommodation granted shall terminate if the recipient of the accommodation requested no longer resides on the property.
 - b. Reasonable Accommodations may only be extended or revised as provided in Subsection D.2.040.L (Extension of Time) and Subsection D.2.040.M (Revisions to an Approved Project).

D.4.120 Special Event Permit

- A. **Purpose.** This Subsection establishes the procedures for the granting of Special Event Permits for special events with appropriate regulations to ensure that special events will not cause any detrimental effects to surrounding properties and the community.
- B. **Definitions.** Terms used in this Section are defined Chapter E.2 (Definitions of Terms).

C. **Applicability.**

1. **General.** A Special Event Permit is required for special events on private property and public streets, sidewalks, alleys, and ways; City parks; public places; and public rights-of-way consistent with this Subsection. No special event may be conducted without a Special Event Permit or other authorization from the City (e.g., lease or contract terms) unless otherwise allowed by this Title or exempt from a Special Event Permit. Certain recurring events require a Conditional Use Permit consistent with Subsection D.4.120.F.1.a (Recurring special events).
2. **Special Event Permit Thresholds.** Special events shall be identified in accordance with the following thresholds:
 - a. *Minor events.*
 - (i) Fewer than 250 participants or attendees;
 - (ii) Takes place on a single day; and
 - (iii) No street closures or amplified sound.
 - b. *Regular events.*
 - (i) Between 250 and 1,000 participants or attendees;
 - (ii) Between one and four consecutive days (including set up and tear down);
 - (iii) With or without amplified sound; and
 - (iv) Block parties on a residential street (see Milpitas Municipal Code V-100-13.05).
 - c. *Major events.*
 - (i) More than 1,000 participants or attendees anticipated;
 - (ii) Between four and seven consecutive days, including set up and tear down (permits for events exceeding seven days may be granted at the Director's discretion);
 - (iii) With or without amplified sound; and
 - (iv) Requires street closures (other than block parties on a residential street).
 - d. *Recurring events.*
 - (i) *Recurring special events (up to four events per calendar year).* Applicant may request a one-time review and issuance of a Special Event Permit for events which occur up to four times per calendar year for a permissible duration of four consecutive days for each recurring event; and
 - (ii) *Annual events.* Applicant may request a Special Event Permit good for up to three years for special events that will be held annually, for up to three consecutive years in the same location. The applicant must

demonstrate that the same event location, layout, date and times are adhered to for each event.

3. **Exemptions from Special Event Permit.** The following activities are exempt from obtaining a Special Event Permit:
 - a. Activities on a street conducted by a governmental agency acting within the scope of its authorized functions.
 - b. A simple assembly gathering of people at a park, plaza, or paseo that is open to the public, provided that it meets the following requirements:
 - (i) The gathering does not meet the definition of a Minor, Regular, or Major special event as described in Subsection D.4.120.C.2 (Special Event Permit Thresholds);
 - (ii) It involves fewer than 150 participants;
 - (iii) It does not involve the placement or use of equipment or temporary structures;
 - (iv) No Fire, Engineering, or Building permits are required;
 - (v) It does not include amplified sound; and
 - (vi) It remains in compliance with all applicable regulations, including but not limited to the capacity limits of the applicable area of the park, plaza, or paseo.
 - (vii) Park rental for the purpose of a private party that is not open to the general public.
 - (viii) Private gatherings and parties typically held at a private residence or Community Assembly facility that do not involve amplified sound, are not incompatible with the generally intended use of the property, and have little to no impact on the neighborhood or community.
 - (ix) First Amendment events located in public spaces, including public parks, plazas, and sidewalks.
 - (x) The annual National Night Out event sponsored by the Milpitas Police Department.

D. **Application Requirements.**

1. **General.** A Special Event Permit application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Section.
2. **Filing Times.**
 - a. A complete application shall be filed not less than 70 business days before the proposed date of the special event except as provided below:
 - (i) For an event that requires a street closure on more than one public street, requires significant detouring which affects significant number or businesses or residences, or requires an encroachment permit from Caltrans, a Special Event Permit shall be filed not less than 180 business days before the proposed date of the special event.

- (ii) For non-exempt First Amendment events, processions, or parades (i.e., that are not exempt under Subsection D.4.120.C.3 (Exemptions from Special Event Permit)) that do not involve street closures, vehicles, floats, or use of equipment other than hand-held equipment, an application for a Special Event Permit shall be filed not less than 14 business days before the proposed date of the special event.
 - b. Permit applications that do not comply with the filing times in this Subsection may be subject to additional fees arising as a direct result of the late submission. The Director shall have the authority to consider, approve, or deny any application for a Special Event Permit which is not filed according to the filing times in this Subsection.
- 3. **Fees.** The City may, at the City Manager's discretion, waive the Special Event Permit fee when a non-exempt First Amendment event is proposed, and the applicant cannot afford to pay the Special Event Permit fee as documented by the applicant at the time of the Special Event Permit application.
- 4. **Other Required Permits.** An applicant for a Special Event Permit is responsible for obtaining all other City and County permits required for the proposed event.
- E. **Authority.** As identified in Table D.2.030-A (Review Authorities), the Director is the Review Authority for Special Events Permits subject to Subsection D.2.040.B.3 (Multiple Applications) and Subsection D.2.040.N (Appeals).
- F. **Approval Procedure.**
 - 1. **Director Review.** After a proposed Special Event Permit application has been deemed complete, the Director shall review the Special Event Permit application to determine whether it conforms with the provisions of this Title in accordance with Chapter D.2 (Procedures).
 - a. *Recurring special events.* A one-time review Special Event Permit may be issued for recurring special events provided there would be no more than four events per calendar year and each event is no more than four consecutive days. Events occurring more than four times in the same location may be allowed subject to a Conditional Use Permit.
 - b. *Annual events.* A Special Event Permit may be issued for up to three years for special events that will be held annually for up to three consecutive years in the same location.
 - 2. **Review and Decision.** Special Event Permits that are deemed complete shall be issued on a first-come, first-served basis. The Director shall approve, conditionally approve, or deny a Special Event Permit.
 - 3. **Director Decision.**
 - a. The Director shall approve or deny the application in compliance with the findings provided in Subsection D.4.120.J (Findings) and this Subsection.
 - b. In determining whether to approve a Special Event Permit application, no consideration may be given to the message of the event, the content of the speech, the identity or associational relationships of the applicant or its members

or affiliates, or to any assumptions or predictions as to the amount of support or hostility which may be aroused in the public by the content of the speech or the message conveyed during the event.

G. **Standards and Requirements for Special Events.**

1. **Duration.** The maximum duration of a single special event is seven consecutive calendar days (including set up and tear down), with a minimum of 14 calendar days between different events held at the same site).
2. **Noise and Amplified Sound.** Special events shall be conducted in compliance with the City's Noise Ordinance (Milpitas Municipal Code Chapter V-213 (Noise Abatement)) and the terms of an Amplified Sound Permit issued by the Police Department, if applicable.

H. **Conditions.**

1. Any conditions of approval must be reasonable requirements concerning the time, place, or manner of holding the special event as is necessary to coordinate multiple uses of public property; assure preservation of public property and public spaces; prevent dangerous, unlawful, or prohibited uses; prevent excessive noise or other nuisances, especially in residential areas; ensure the availability of sufficient City personnel as needed; protect the safety of persons and property; and to control vehicular and pedestrian traffic in and around the venue; provided that such requirements shall not be imposed in a manner that will unreasonably restrict expressive or other activity protected by the California or United States Constitutions.
2. As a condition of the Special Event Permit, the permittee shall provide the Director with proof of insurance no later than 15 days prior to the special event, and the insurance shall remain in full force and effect throughout the term of the special event; however, this is not required for the following:
 - a. Any special event where the requirement for insurance is prohibited by law; or
 - b. Non-exempt First Amendment events that do not present any objective, substantial risk, hazard, or danger to the public health and safety, as identified by the City Manager, who shall consider the reasonably foreseeable consequences of the event. Applicants seeking approval of non-exempt First Amendment events which, due to their design or schedule, do present an objective, substantial risk, hazard, or danger to the public health or safety, must comply with the insurance requirements and enter into a hold harmless agreement consistent with Subsection D.2.050.L.8 (Indemnification and Hold Harmless).

I. **Indemnification and Hold Harmless.** The Special Event Permit permittee must agree in writing to indemnify and hold the City, its officers, agents and employees, harmless from and against any and all liability and losses incurred from the conduct of permittee or its officers, employees, and agents, except this shall not apply to First Amendment events unless the non-exempt First Amendment event permittee has elected to provide the indemnification in lieu of providing the insurance required by Subsection D.4.120.H (Conditions).

J. **Findings.** The Director may approve the Special Event Permit, with or without conditions of approval consistent with Subsection D.4.120.H (Conditions), only after finding that:

1. The proposed use of the property is not governed by or subject to any other permit procedures provided elsewhere in this Title or other applicable laws, rules, or regulations

which have not been completed at the time the Special Event Permit application is submitted;

2. With sufficient traffic controls and conditions, the special event will not create a threat to public safety;
3. In order to protect the health and safety of the public, the special event will not conflict with construction in the public right-of-way or at a public facility;
4. The special event will not require the diversion of public safety or other City employees from their normal duties so as to unreasonably reduce adequate levels of service to any other portion of the City;
5. The concentration of persons, animals or vehicles will not unreasonably interfere with the movement of police, fire, ambulance, and other public safety or emergency vehicles on the streets;
6. The special event will not unreasonably interfere with any other special event for which a permit has already been granted or with the provision of City services in support of other scheduled events or scheduled government functions;
7. The proposed use, event or activity will not have a significant adverse environmental impact;
8. The proposed use, event or activity does not present a substantial or unwarranted safety, noise, or traffic hazard;
9. The proposed special event will be consistent with the regulations established for each potential venue with regard to size, type of activity, available time period, and frequency of events; and
10. For parades, the parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute in order to limit the impacts on the flow of traffic through the City.

K. **Decision and Appeals.**

1. **Decision.** The Director's decision shall be in compliance with this Subsection and Subsection D.2.040.H (Findings and Decision).
2. **Appeals.** The Director's decision may be appealed as provided in Section D.2.040.N (Appeals), with the following exceptions:
 - a. A written request for a hearing to appeal the Director's decision on a Special Event Permit must be received no later than 10 calendar days after the date of the decision.
 - b. If the decision to deny, revoke, or impose conditions on a Special Event Permit is issued five or fewer business days prior to the proposed event, notice of the decision provided to the applicant or permittee must include the time, date, and location of the appeal hearing.
 - c. Notwithstanding the above provisions, if a decision to deny or revoke a Special Event Permit issued for a non-exempt First Amendment event is less than 30 calendar days from the date of the proposed event, any appeal shall proceed immediately to a court of competent jurisdiction. The decision shall become final

unless a written request for hearing is received within the time limits set forth in this Subsection.

L. **Denial and Revocation.**

1. ***Denial and General Revocation.*** The Director shall deny or revoke a Special Event Permit if the Director finds any of the following:
 - a. Fraud, misrepresentation or any false statement contained in the application for a Special Event Permit, including without limitation, in carrying out the special event in a way not consistent with the application;
 - b. Failure to comply with the provisions of this Subsection D.4.120 (Special Event Permits), including applicable permit filing time;
 - c. Failure to comply with the conditions of the Special Event Permit, including without limitation, failure to timely pay applicable fees and City charges, provide indemnification or insurance certificate or security deposit within the times required, or failure to comply with all other permit requirements, licensing requirements, or regulations required to conduct the activities described as part of the special event in the permit application or any amendment to the application;
 - d. The special event venue or any substantial portion of the venue is not available due to fire, casualty, act of God, emergency maintenance activity or public emergency;
 - e. The proposed event will conflict with a previously scheduled event organized by the City for use of the special event venue, or with a special event or other permitted use previously approved to be held at the special event venue;
 - f. The proposed event, as designed, will unreasonably impede, obstruct, impair, or interfere with reasonable access to adjacent properties and the applicant will not agree to redesign the proposed event so as to allow reasonable access to the adjacent properties;
 - g. The special event venue, including but not limited to the proposed areas for assembly or disbanding of parades, cannot physically accommodate the number of participants expected to participate and/or the items necessary or proposed to support the event;
 - h. The proposed activity or event will violate a federal, state, or local law or regulation; or
 - i. One or more of the findings specified in Subsection D.4.120.J (Findings) is not met.
2. ***Immediate Revocation.***
 - a. Any Special Event Permit may be revoked on the day of the special event without prior written notice and without a hearing, if the Council, the City Manager, the Director, the Fire Marshal, or the Chief of Police determines that:
 - (i) Revocation is in the interest of the immediate public health or safety because of fire, casualty, act of God, or a public emergency; or

(ii) The permittee is in violation of the provisions of this Subsection or the terms of the Special Event Permit.

- b. The grounds for revocation shall be communicated at the time notice is provided. The permittee, immediately upon receipt of the notification that the Special Event Permit has been revoked, shall cease the activity and shall commence restoring the special event venue to its condition prior to the activity.

M. Other Post Approval Procedures.

1. *Final Special Event Permit Approval.*

- a. If the Director has issued a Conditional Special Event Permit, the permittee shall submit the final event plans and demonstrate all permit conditions have been satisfied at least 10 business days prior to the event. If the permittee does not submit verification that the permit conditions have been met within the applicable deadline specified in this Subsection, the Special Event Permit will be deemed revoked.
- b. At the discretion of the Director an extension of the deadline for submission of final event plans or verification of permit conditions may be granted.

2. *Amendment of an Approved Special Event Permit.*

- a. If a permittee desires to change the location, time, or duration or other significant aspect of the description of an event subject to a Special Event Permit, the permittee shall apply for an amendment to the Special Event Permit.
- b. A Special Event Permit amendment application must be filed with the Director no later than 15 business days in advance of the special event.
- c. The Director shall grant, deny, or approve with conditions, the Special Event Permit amendment no later than seven business days of receipt of the amendment application.
- d. The provisions in Subsection D.4.150.K (Decision and Appeals) apply to all applications for Special Event Permit amendments.
3. A copy of the Special Event Permit shall be presented to any City official upon request.
4. It shall be unlawful for a person to place any booth, table, chair, stool, structure, vehicle, or piece of equipment in any area for which a Special Event Permit has been issued, without the consent of the permittee, unless the person is acting under the direction and control of the City.
5. Upon conclusion of a special event, the City shall send an invoice to the permittee for all fees and charges still due to the City, for the cost of services provided by City departments and for the cost to the City of any cleaning and/or repairs to the special event venue made necessary by the permittee's use. The permittee shall be responsible for the actual costs of cleaning and repairs made necessary by the permittee's use of the special event venue.

D.4.130 Short-Term Rental Permit

The procedures for Short-Term Rental Permits are described in Section C.10.200 (Short-Term Rentals).

Chapter D.6 Zoning Ordinance and Zoning Map Amendments

Sections:

- D.6.010 Purpose
- D.6.020 Applicability
- D.6.030 Application Requirements
- D.6.040 Procedures
- D.6.050 Findings
- D.6.060 Expiration of Application and Time Extension
- D.6.070 Effective Date

D.6.010 Purpose

This Chapter establishes procedures to amend the Zoning Map, commonly referred to as a “rezone” or “rezoning”, and to amend the text of this Title in accordance with California Government Code section 65853 et seq.

D.6.020 Applicability

- A. **Initiation.** A Zoning Map amendment or Zoning Ordinance text amendment (Zoning Amendment) may be initiated by at least one of the following:
 - 1. **Council.** A majority vote of the Council;
 - 2. **Planning Commission.** A majority vote of the Planning Commission;
 - 3. **Property Owner.** An application from the property owner or authorized agent of the property who seeks to have their parcel rezoned. If the property is under more than one ownership, all owners or the authorized agents shall join in filing the application; or
 - 4. **Majority of Owners of Area.** The owners of 50 percent or more of the area of all the property sought to be rezoned.
- B. **General Plan Amendment Required.** Amendments to zone boundaries or the text of this Title that are not consistent with the General Plan must be accompanied by a General Plan Amendment application in accordance with Chapter D.8 (General Plan Amendments).
- C. **Urgency Measure.** Without following the procedures otherwise required prior to the adoption of new zoning regulations, the Council may adopt an Interim Zoning Ordinance as an urgency measure in compliance with California Government Code section 65858, in which case the standards of this Chapter shall not apply. The Interim Zoning Ordinance shall require a four-fifths vote of the Council for adoption.

D.6.030 Application Requirements

- A. **Filing.** A Zoning Amendment application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures), and this Chapter.

- B. **Responsibility.** It is the responsibility of the applicant to provide the necessary information in support of the findings required by Section D.6.050 (Findings).

D.6.040 Procedures

- A. **Director Evaluation.** After a proposed Zoning Amendment has been filed with the Department, the Director shall review the Zoning Amendment to determine whether it conforms with the provisions of this Chapter in accordance with Subsection D.02.040.D (Review of Planning Applications).
- B. **Public Hearings.**
1. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing on the Zoning Amendment consistent with Subsection D.02.040.G (Public Hearings) and shall forward a recommendation to the Council.
 2. **Council Hearing.**
 - a. Council shall conduct a public hearing on the Zoning Amendment consistent with Subsection D.02.040.G (Public Hearings).
 - b. The Council's action to approve the Zoning Amendment shall be by ordinance.

D.6.050 Findings

A Zoning Amendment may be approved only after all of the following findings are made, as applicable to the type of Zoning Amendment:

- A. **Findings for All Zoning Amendments.**
1. The proposed Zoning Amendment is consistent with and conforms to the goals and policies of the General Plan;
 2. The proposed Zoning Amendment is consistent with and conforms to the goals and policies of any Specific Plan, if applicable;
 3. The proposed Zoning Amendment will not be detrimental to the public interest, health, safety, convenience, and general welfare;
 4. The proposed Zoning Amendment is in compliance with the provisions of California Environmental Quality Act;
 5. When considering a reduction of residential density, ensure compliance with California Government Code section 65863 by either finding that the remaining sites identified in the Housing Element are adequate to accommodate the City's share of the regional housing need or by identifying sufficient additional, adequate, and available sites with an equal or greater density so that there is no net loss in residential density; and
 6. The proposed Zoning Amendment would not result in a net loss of potential housing units.
- B. **Additional Findings.**
1. **Zoning Ordinance Text Amendments.** The proposed Zoning Amendment is internally consistent with other applicable provisions of this Title.

2. ***Zoning Map Amendments.***

- a. The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire, medical, etc.) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, etc.), to accommodate the uses and development densities or intensities allowed in the proposed new zone; and
- b. If located within or adjacent to residential areas, the requested zone change is compatible with the character of the residential neighborhood.

D.6.060 Expiration of Application and Time Extension

If an ordinance intended to change the zoning designation of land through a Zoning Amendment as provided in this Chapter is not adopted by a second reading within one year of the date of its introduction by a first reading, then the Zoning Amendment application shall be deemed to have expired (without notice to the applicant). The unadopted ordinance shall not then be capable of adoption by a second reading except as follows:

- A. Upon recommendation of the Planning Commission, the Council may grant an extension of time for the second reading and adoption not to exceed one year subject to all of the following:
 1. No more than one extension for the Zoning Amendment may be granted;
 2. The extension must be granted by the Council within one year of the date of introduction of the original ordinance; and
 3. The Council may impose new conditions of approval upon the Zoning Amendment.
- B. The provisions of this Section shall not be construed to prevent a subsequent application for a Zoning Amendment on the same land or the subsequent introduction of a new ordinance for a Zoning Amendment to change the zone designation of the land.

D.6.070 Effective Date

A Zoning Amendment shall become effective 30 days following the date the Council adopts the ordinance.

Chapter D.8 General Plan Amendments

Sections:

- D.8.010 Purpose
- D.8.020 Applicability
- D.8.030 Application Requirements
- D.8.040 Procedures
- D.8.050 Findings
- D.8.060 Adoption of General Plan Amendment

D.8.010 Purpose

The purpose of this Chapter is to establish the procedures required for the adoption or amendment of the General Plan, including the General Plan land use map.

D.8.020 Applicability

A General Plan Amendment may be initiated in the same manner as a Zoning Amendment, see Section D.6.020 (Applicability).

D.8.030 Application Requirements

A General Plan Amendment application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures), and the requirements of this Chapter.

D.8.040 Procedures

- A. **Director Evaluation.** After a proposed General Plan Amendment has been filed with the Department, the Director shall review the General Plan Amendment to determine whether it conforms with the provisions of this Chapter in accordance with Section D.2.040.D (Review of Planning Applications).
- B. **Public Hearings.**
 - 1. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing on the General Plan Amendment consistent with Section D.2.040.G (Public Hearings) and shall forward a recommendation to the Council.
 - 2. **Council Hearing.**
 - a. Council shall conduct a public hearing on the General Plan Amendment consistent with Section D.2.040.G (Public Hearings).
 - b. *Modifications by Council.*
 - (i) The Council may modify any General Plan Amendment recommended by the Planning Commission by making non-substantive changes

without first referring the matter to the Planning Commission for a report and recommendation. However, any substantive change proposed by the Council that was not discussed by the Planning Commission shall be referred back to the Commission recommendation consistent with California Government Code section 65356 for a report and recommendation.

- (ii) When the Council has referred a matter back to the Planning Commission, it shall report back to the Council within 45 days after the date of the Council referral unless the Council specifically allows for a longer period of time for the Planning Commission report and recommendation. Where action cannot be taken within 45 days by the Planning Commission, a longer period of time may be requested and the Council may at its discretion grant the request. Although no additional public hearing shall be required, the Planning Commission may at its discretion hold a public hearing prior to a report and recommendation on any matter referred to it by the Council.

- c. The Council's action to approve the General Plan Amendment shall be by resolution.

D.8.050 Findings

A General Plan Amendment may be approved only after all of the following findings are made:

- A. The proposed General Plan Amendment is internally consistent with all other provisions of the General Plan;
- B. Approval of the proposed General Plan Amendment would not result in the General Plan being amended more frequently than four times per calendar year consistent with California Government Code section 65358.
- C. The proposed General Plan Amendment serves the public necessity, convenience, and general welfare;
- D. The proposed General Plan Amendment is in compliance with California Environmental Quality Act requirements;
- E. When considering a reduction of residential density, the proposed General Plan Amendment is in compliance with California Government Code section 65863 either based on a finding that the remaining sites identified in the Housing Element are adequate to accommodate the City's share of the regional housing need or based on identifying sufficient additional, adequate, and available sites with an equal or greater density so that there is no net loss in residential density; and
- F. The proposed General Plan Amendment would not result in a net loss of potential housing units.

D.8.060 Adoption of General Plan Amendment

- A. A General Plan Amendment shall be adopted by resolution of the Council, in compliance with California Government Code section 65453, only after all of the findings contained in Section

D.8.050 (Findings) are made. A General Plan Amendment shall be adopted by an affirmative vote of a majority of the total membership of the Council.

- B. The Council's action to amend the General Plan shall become effective on the actual date the Council renders the decision.

Chapter D.10 Specific Plans

Sections:

- D.10.010 Purpose
- D.10.020 Applicability
- D.10.030 Application Requirements
- D.10.040 Procedures
- D.10.050 Findings
- D.10.060 Adoption of Specific Plan
- D.10.070 Implementation and Amendments

D.10.010 Purpose

This Chapter establishes the procedures for the preparation, processing, and adoption of Specific Plans in accordance with California Government Code section 65450 et seq.

D.10.020 Applicability

- A. **When Required.** When required by the Council, the General Plan, or this Title to systematically implement the General Plan for any part of the city, a Specific Plan shall be prepared, processed, approved, and implemented in compliance with this Chapter.
- B. **Initiation.** An application for a Specific Plan may be initiated in the same manner as a Zoning Amendment, see Section D.6.020 (Applicability).
- C. **Effect of Specific Plan.** The regulations provided by an adopted Specific Plan shall replace those of the current or underlying zone or zones, and the development standards and/or design standards or guidelines identified in the Specific Plan shall take precedence over the general standards included in this Title and any adopted design standards or guidelines.

D.10.030 Application Requirements

- A. **Filing.** A Specific Plan application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Chapter.
- B. **Required Information.** An application for a Specific Plan shall be accompanied by the information and materials required in the City's application form. At a minimum, a Specific Plan application shall include:
 - 1. **Proposed Land Uses.** The distribution, location, and extent of land uses proposed within the area covered by the Specific Plan, including open space areas;
 - 2. **Infrastructure.** The proposed distribution, location, extent, and intensity of major components of public and private circulation/transportation, sewage, water, drainage, solid waste disposal, energy, utilities, and other essential facilities to be located within the Specific Plan area and needed to support the proposed land uses;

3. **Land Use and Development Standards.** Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable;
4. **Implementation Measures.** A program of implementation measures, including regulations, programs, public works projects, and financing measures necessary to carry out the proposed land uses, infrastructure, and development and conservation standards and criteria; and
5. **Relationship to General Plan.** A statement of the relationship of the Specific Plan to the General Plan.

D.10.040 Procedures

- A. **General.** A Specific Plan application shall be processed in the same manner as required for General Plans by Government Code section 65350 et seq., and consistent with this Chapter.
- B. **Director Evaluation.** After a proposed Specific Plan application has been filed with the Department, the Director shall review the Specific Plan to determine whether it conforms with the provisions of this Chapter in accordance with Subsection D.2.040.D (Review of Planning Applications).
- C. **Public Hearings.**
 1. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing on the Specific Plan consistent with Section D.2.040.G (Public Hearings) and shall forward a recommendation to the Council.
 2. **Council Hearing.** Council shall conduct a public hearing on the Specific Plan consistent with Section D.2.040.G (Public Hearings).

D.10.050 Findings

The Council may adopt a Specific Plan, with or without conditions, only after all of the following findings are made:

- A. That the Specific Plan is consistent with the General Plan and other adopted goals and policies of the City;
- B. The proposed Specific Plan is in compliance with California Environmental Quality Act requirements;
- C. When considering a reduction of residential density, ensure compliance with California Government Code section 65863 by either finding that the remaining sites identified in the Housing Element are adequate to accommodate the City's share of the regional housing need or by identifying sufficient additional, adequate, and available sites with an equal or greater density so that there is no net loss in residential density; and
- D. The proposed Specific Plan would not result in a net loss of potential housing units.

D.10.060 Adoption of Specific Plan

A Specific Plan shall be adopted by resolution of the Council, in compliance with California Government Code section 65453, only after all of the findings contained in Section D.10.050 (Findings) are made. A Specific Plan shall be adopted by an affirmative vote of a majority of the total membership of the Council.

D.10.070 Implementation and Amendments

- A. **Development within a Specific Plan Area.** After the adoption of a Specific Plan, subsequent projects to implement the Specific Plan may be approved or adopted within an area covered by the Specific Plan only if first found to be consistent with the Specific Plan, including public works projects or development approvals (e.g., Tentative Map, Conditional Use Permit, Site Development Permit, etc.).
- B. **Specific Plan Fee.** The Council may impose a Specific Plan fee surcharge on development permits within the Specific Plan area, in compliance with California Government Code section 65456.
- C. **Amendments.**
 - 1. An adopted Specific Plan may be amended through the same procedure specified by this Chapter for the adoption of a Specific Plan.
 - 2. An adopted Specific Plan may be amended as often as deemed necessary by the Council, in compliance with California Government Code section 65453.

Chapter D.12 Planned Unit Development

Sections:

- D.12.010 Purpose
- D.12.020 Applicability
- D.12.030 Application Requirements
- D.12.040 Procedures
- D.12.050 Findings
- D.12.060 Planned Unit Development Implementation

D.12.010 Purpose

The purpose of Planned Unit Developments is to provide for one or more properties to be developed under a plan that provides for better coordinated development and incorporates development standards crafted to respond to site conditions to:

- A. Provide flexibility by allowing diversification in regulations such as building relationships, setbacks, height limitations, lot sizes, parking, and the amount and location of open space;
- B. Ensure substantial compliance with and implement the land use and density policies of the General Plan and any applicable Specific Plan; and
- C. Allow for creative development projects that incorporate design features that are more sensitive to site conditions and provide greater amenities than would likely result from conventionally-planned development.

This Chapter establishes the procedures for the review and processing of an application for a Planned Unit Development.

D.12.020 Applicability

- A. A minimum area of a Planned Unit Development shall be one acre; however, a Planned Unit Development may be adopted for an area of less than one contiguous acre upon a finding that the property is suitable as a Planned Unit Development by virtue of its relationship to adjacent parcels and their development plans (existing or proposed) or unique characteristics of the site.
- B. Planned Unit Developments shall not be allowed within the Milpitas Metro Specific Plan or Midtown Specific Plan areas.
- C. Development standards that are proposed to deviate from the conventional zone regulations shall be prescribed in the Planned Unit Development. Where a Planned Unit Development is silent regarding particular development standards, the development standards of the applicable base zone shall apply.

D.12.030 Application Requirements

- A. **Filing.** A Planned Unit Development application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures), and this Chapter.
- B. **Required Information.** An application for a Planned Unit Development shall be accompanied by the information and materials required in the City's application form. At a minimum, a Planned Unit Development application shall include:
1. Proposed land uses, building locations and square footage, density, and floor area ratios;
 2. Proposed parks, open spaces, landscape areas, and public art;
 3. Proposed pedestrian, bicycle, and vehicular circulation;
 4. General Plan and zoning consistency analysis;
 5. An identification of deviations requested from applicable base zone development standards and requirements;
 6. An explanation or demonstration of why the requested deviation(s) would result in a more desirable development than would otherwise be permitted under the applicable base zone standards; and
 7. Any significant public benefit(s) the project would provide to the community.

D.12.040 Procedures

- A. **Director Evaluation.** After a proposed Planned Unit Development has been filed with the Department, the Director shall review the Planned Unit Development to determine whether it conforms with the provisions of this Chapter in accordance with Section D.2.040.D (Review of Planning Applications).
- B. **Public Hearings.**
1. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing on the Planned Unit Development consistent with Section D.2.040.G (Public Hearings) and shall forward a recommendation to the Council.
 2. **Council Hearing.** Council shall conduct a public hearing on the Planned Unit Development consistent with Section D.2.040.G (Public Hearings).

D.12.050 Findings

An application for a Planned Unit Development may be approved, with or without conditions, only after all the following findings are made:

- A. The proposed Planned Unit Development is consistent with and conforms to the goals and policies of the General Plan;
- B. The proposed Planned Unit Development will not be detrimental to the public interest, health, safety, convenience, and general welfare;
- C. The proposed Planned Unit Development is in compliance with the provisions of California Environmental Quality Act;

- D. When considering a reduction of residential density, ensure compliance with California Government Code section 65863 by either finding that the remaining sites identified in the Housing Element are adequate to accommodate the City's share of the regional housing need or by identifying sufficient additional, adequate, and available sites with an equal or greater density so that there is no net loss in residential density;
- E. The proposed Planned Unit Development would not result in a net loss of potential housing units;
- F. The affected site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire, medical, etc.) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, etc.) to accommodate the type, scale, and intensity of proposed development;
- G. If located within or adjacent to residential areas, the requested changes to base zone regulations are compatible with the character of the residential neighborhood;
- H. All new development standards for the proposed project that deviate from the base zoning standards are warranted by the design and amenities incorporated into the project; and
- I. The proposed project is demonstratively superior to the development that could occur under the standards applicable to the underlying base zone(s) and will provide superior community design, environmental preservation, and/or substantial public benefit to the community.

D.12.060 Planned Unit Development Implementation

- A. After a Planned Unit Development has been adopted by the Council, the Planned Unit Development shall be noted on the Zoning Map.
- B. Plans for a project in a Planned Unit Development must be consistent with the approved Planned Unit Development plan and any conditions of approval.

Chapter D.14 Development Agreements

Sections:

- D.14.010 Purpose
- D.14.020 Applicability
- D.14.030 Application Requirements
- D.14.040 Procedures
- D.14.050 Findings
- D.14.060 Execution and Recordation
- D.14.070 Annual Review
- D.14.080 Amendment, Modification, or Termination of an Approved Development Agreement
- D.14.090 Effect of Development Agreement

D.14.010 Purpose

This Chapter establishes procedures for the review of Development Agreements, in compliance with California Government Code section 65864 et seq. A Development Agreement is a mutually agreed upon contract between an applicant and the City that provides benefit to both parties. Through a Development Agreement, the City can receive greater community benefits that it could otherwise achieve under this Title, the Milpitas Municipal Code, and state law.

D.14.020 Applicability

Only an applicant who has a legal or equitable interest in the real property which is the subject of the Development Agreement, as determined in the sole discretion of the Director, may file an application to enter into a Development Agreement with the City.

D.14.030 Application Requirements

- A. **Filing.** A Development Agreement application shall be prepared, filed, and processed in compliance with Chapter D.2 (Procedures) and this Chapter.
- B. **Required Information.**
 - 1. All lawfully required documents, information, and materials shall accompany the application. The Director may require an applicant to submit additional information and supporting data as is necessary to evaluate and process the application.
 - 2. An application for a Development Agreement shall be accompanied by maps, plans, reports, development and performance standards, schematic drawings, or other documents deemed necessary by the Director to sufficiently detail or illustrate intended or permitted uses and their location on the property, the density or intensity of use, and the maximum size and height of structures as appropriate to evaluate the application request. This information may be included in a Specific Plan or other type of application.

- C. **Form of Agreement.** Each application shall be accompanied by the form of Development Agreement acceptable to the City Attorney. All documents required, including the agreement and any attachments and exhibits, shall be suitable for recordation as determined by the City.

D.14.040 Procedures

- A. **Director Evaluation.** After a proposed Development Agreement has been filed with the Department, the Director shall review the Development Agreement to determine whether it conforms with the provisions of this Chapter.
- B. **Public Hearings.**
1. **Planning Commission Hearing.** The Planning Commission shall conduct a public hearing on the Development Agreement consistent with Section D.2.040.G (Public Hearings) and shall make a recommendation to the Council.
 2. **Council Hearing.**
 - a. Council shall conduct a public hearing on the Development Agreement consistent with Section D.2.040.G (Public Hearings).
 - b. If the Council approves a Development Agreement, the approval shall be implemented through the adoption of an ordinance containing the findings required by Section D.14.050 (Findings).

D.14.050 Findings

The Council may approve a Development Agreement, with or without conditions, only after the following findings are made:

- A. The Development Agreement is consistent with the goals, policies, general land uses, and programs specified in the General Plan;
- B. The Development Agreement is consistent with any Specific Plan, if applicable;
- C. The Development Agreement and accompanying development maps, plans, and other supporting information are compatible with the uses authorized in, and the performance and development standards prescribed for, the zone in which the subject parcel or site is located;
- D. The Development Agreement is in conformity with and will promote public convenience, general welfare, and good land use and development practices;
- E. The Development Agreement shall be shown to be of greater benefit to the community than development absent the Development Agreement;
- F. The term or duration of the Development Agreement has a commensurate relationship to the benefit(s) provided;
- G. The Development Agreement contains the mandatory provisions specified in California Government Code section 65865.2 and any other terms required by Council; and
- H. The Development Agreement complies with all other applicable requirements of California Government Code section 65864 et seq.

D.14.060 Execution and Recordation

No later than 10 days after the ordinance approving a Development Agreement takes effect, the City Manager shall execute the Development Agreement, and the City Clerk shall record the Development Agreement with the County Recorder in compliance with California Government Code section 65868.5.

D.14.070 Annual Review

- A. **Requirement for Annual Review.** Every Development Agreement approved and executed in compliance with this Chapter shall be subject to periodic review every 12 months or less by the City during the full term of the agreement. The burden of proof shall be on the applicant, contracting party, or successor in interest to demonstrate compliance in good faith to the terms and conditions of the agreement to the full satisfaction of, and in a manner prescribed by, the City.
- B. **Initiation of Review.** The applicant, contracting party, or successor in interest shall initiate annual review by submitting a written statement to the Director describing their good faith substantial compliance with the terms and conditions of the agreement for the prior year.
- C. **Fees.** Appropriate fees to cover the City's cost to conduct the annual reviews shall be collected from the applicant, contracting party, or successor in interest prior to completion of each annual review. These fees may be established in the Development Agreement or by the City consistent with Milpitas Municipal Code Chapter IV-3 (Fee and Service Charge Revenue/Cost Comparison System).
- D. **Determination upon Review.** The Director shall review the materials furnished by the applicant, contracting party, or successor in interest to determine upon the basis of substantial evidence whether or not the applicant has, for the period under review, complied in good faith with the terms and conditions of the Development Agreement.
 1. **Finding of Compliance.** If the Director, based on substantial evidence, determines that the applicant is in compliance with the provisions of the Development Agreement, the Director shall deliver a report of the determination to the Council and then no further action is required.
 2. **Finding of Noncompliance.** If the Director finds the applicant has not complied with the provisions of the Development Agreement, the Director shall issue a finding of noncompliance. The Director shall specify in writing to the applicant the respects in which the applicant has failed to comply with the Development Agreement and shall set forth terms of compliance and specify a reasonable time for the applicant to meet the terms of compliance. If the applicant does not comply with any terms of compliance within the prescribed time limits, the Development Agreement shall be subject to termination or modification in accordance with this Chapter.
 3. **Appeal of Determination.** Within 10 days after issuance of a finding of noncompliance, any interested person may file a written appeal of the finding with the Council as described in Section D.2.040.N (Appeals). The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance by the Director and the expiration of the appeal period without appeal, or the confirmation by the Council of the issuance of the finding on the appeal, shall conclude the review for the applicable period. The determination shall be final.

D.14.080 Amendment, Modification, or Termination of an Approved Development Agreement

- A. A Development Agreement may be amended or canceled, in whole or in part, by mutual consent of the parties to the agreement or their successors in interest in compliance with California Government Code section 65868. The City shall have notice of the amendment, modification or termination recorded with the County Recorder's office.
- B. If, upon a finding under Subsection D.14.070.D.2 (Finding of Noncompliance), the City determines to proceed with modification or termination of a Development Agreement, the City shall give notice to the applicant of its intention to do so. The procedure for modifying or terminating a Development Agreement is the same as the procedure for entering into a Development Agreement as specified in this Chapter. If the City modifies or terminates a Development Agreement in compliance with this Chapter, the City shall have notice of the noncompliance recorded with the County Recorder's office.

D.14.090 Effect of Development Agreement

- A. Unless otherwise provided by the Development Agreement, the rules, regulations, and official policies governing permitted uses of the land, density, design, improvement, and construction standards and specifications, applicable to development of the property subject to a Development Agreement, are the rules, regulations, and official policies in force at the time of execution of the Development Agreement.
- B. Unless specifically provided in the Development Agreement, the Development Agreement does not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property under the Development Agreement, nor does a Development Agreement prevent the City from conditionally approving or denying any subsequent development project application on the basis of existing or new rules, regulations, and policies.

Chapter D.16 Reserved

Chapter D.18 Enforcement and Penalty

Sections:

- D.18.010 Purpose
- D.18.020 Enforcement
- D.18.030 Determination of Violation
- D.18.040 Penalty
- D.18.050 Declaration of Public Nuisance
- D.18.060 Order to Stop Work
- D.18.070 Modification, Revocation, and Suspension
- D.18.080 Abatement Procedure
- D.18.090 Cost Recovery
- D.18.100 Lien Procedure
- D.18.110 Interest on Liens
- D.18.120 Miscellaneous
- D.18.130 Remedies Cumulative

D.18.010 Purpose

This Chapter establishes provisions for enforcement of this Title and any conditions of a permit or approval, to promote the City's planning efforts, and for the protection of the public health, safety, and welfare. This Chapter puts all persons on notice of the proceedings and penalties involved if any provision of this Title is violated.

D.18.020 Enforcement

All departments, officials and public employees of the City are vested with the duty or authority to issue permits shall conform to the provisions of this Chapter and shall not issue a permit or license for uses, buildings, or purposes in conflict with the provisions of this Title. Any permit or license issued in conflict with the provisions of this Title shall be null and void.

D.18.030 Determination of Violation

- A. It shall be the duty of the Director to enforce the provisions of this Title on any use of land or structures, and the addition, alteration, moving, construction, erection, or reconstruction of or to any structure.
- B. The Director, in consultation as needed with the Fire Chief, Building Official, Police Department, or other Code Enforcement Officials may conduct any investigation necessary to determine whether persons are complying with this Title, including the terms, conditions, mitigation

measures, or project descriptions incorporated into any permit, approval, or clearance issued in accordance with this Title.

D.18.040 Penalty

- A. It shall be unlawful for any person to violate any of the provisions of this Title. Any person convicted of violating any of the provisions of this Title shall, upon conviction, be punished by a fine not-to-exceed the sum of \$1,000 or by imprisonment in the County Jail not to exceed six months or by both a fine and imprisonment.
- B. Each day that a violation of this Title continues shall be considered a separate offense.
- C. Any use of a premises or a building which deviates from or violates any of the provisions of this Title shall be termed an illegal occupancy and the person or persons responsible shall be subject to the penalties as provided in this Section.

D.18.050 Declaration of Public Nuisance

The following is unlawful and shall be declared a public nuisance:

- A. Violation of, or noncompliance with, any term, condition, mitigation measure, or project description incorporated into any permit, approval, or clearance granted in accordance with this Title.
- B. Any building or structure, set up, erected, altered, built, converted, moved, reconstructed, or demolished, and any use of property contrary to the provisions of this Title.
- C. Any sign or sign structure erected, constructed, maintained, marked, posted, pasted, painted, printed, altered, or repaired in violation of the provisions of this Title.
- D. Any sign or sign structure after a permit or Variance has been revoked or expired and which is determined to be unsafe and so as to constitute an immediate peril to persons or property, or has been placed upon public property without written permission of the Director.

D.18.060 Order to Stop Work

- A. **Issuance of Stop Work Order.** The Building Official may issue an order to stop work to prohibit further construction activity on any development, excavation, building, or structure on any land on which there is an uncorrected violation of a provision of this Title or of a permit or other form of authorization issued in accordance with this Title. The Building Official may also order work to be stopped in the event the activity is being conducted without having obtained a required permit or approval.
- B. **Serving of Stop Work Order.** The Stop Work Order shall be served by posting a copy on the premises where the violation is located, or which is the subject of the permit or approval issued by the City. In addition, a copy of the Stop Work Order shall be personally served on the owner or responsible person or mailed to the owner or responsible person at the address shown on the current Department records or records pertaining to the permit or other approval issued by the City. The Stop Work Order shall become effective immediately upon posting.

- C. **Correction of Violation.** After posting of a Stop Work Order, no person shall perform any act in violation of the terms of the Stop Work Order, except the actions as are determined by the Director, Fire Chief, Building Official, or other Code Enforcement Official to be necessary to correct the violation or to render the premises safe and secure, until the violation has been corrected to the satisfaction of the person serving the Stop Work Order.

D.18.070 Modification, Revocation, and Suspension

- A. **Modifications, Revocation, and Suspension.** The Council, Planning Commission, or Director may initiate the review of a permit or approval (including, but not limited to, a Conditional Use Permit, Variance, or Site Development Permit) for the purpose of deciding whether modification, revocation, or suspension of the permit or approval is needed, only after written notice of a violation or public nuisance is mailed to the holder of the permit or approval.
1. **Planning Commission Action.**
 - a. After initiation, a public hearing before the Planning Commission shall be noticed and held in compliance with Section D.2.040.F (Public Hearing Notice) and Section D.2.040.G (Public Hearings).
 - b. After the public hearing has been closed, the Planning Commission may modify, revoke, or suspend the permit or approval unless City Council action is required by law. See Subsection D.18.070.A.2 (Council Action) below.
 2. **Council Action.**
 - a. If Council action is required by law, after the Planning Commission public hearing has been closed, the Planning Commission shall recommend to the Council, by resolution, whether the permit or approval shall be modified, revoked, or suspended.
 - b. Following receipt of a recommendation on the permit or approval from the Planning Commission, a public hearing before the Council shall be noticed and held in compliance with Section D.2.040.F (Public Hearing Notice) and Section D.2.040.G (Public Hearings).
 - c. After the public hearing has been closed, the Council may modify, revoke, or suspend the permit or approval.
- B. **General Findings for Modifications/Revocation/Suspension.** A permit or approval may be modified, revoked, or suspended if any of the following conditions exist:
1. Conditions of approval of the permit or approval are being violated or are not being satisfied;
 2. The application contained incorrect, false, or misleading information;
 3. The permit or approval is being exercised in a manner that constitutes a public nuisance; or
 4. The permit or approval is being exercised in a manner which is contrary to the public health, safety, and welfare.

D.18.080 Abatement Procedure

- A. **Notification of Nuisance.** Whenever the Director determines that any property within the city is being maintained contrary to one or more of the provisions of this Chapter, written notice ("Notice to Abate") shall be given to the owner/occupant(s) of the property stating the section(s) being violated. The notice shall set forth a reasonable time limit, in no event less than or equal to 30 days, for correcting the violation(s) of this Title. The Director may also set forth suggested methods of correcting the violation(s) unless he or she determines that the condition constitutes a threat to the health and safety of any person, in which event, the Director may designate a shorter time limit for correcting the violation(s). The notice shall be served upon the owner/occupant in accordance with provisions of Section D.18.080.D (Notice of Hearing), covering service in person or by mail.
- B. **Exception for Undue Hardship.** The notice shall also inform the owner/occupant (excluding an owner acting in a capacity of landlord of rental property) that, upon written request of the owner/occupant submitted within seven days of the "Notice to Abate," the City Manager, in their sole discretion, may allow for a time limit in excess of 30 days for correcting the violation in cases where strict enforcement of the time limit would result in an undue hardship on the owner/occupant. In the written request, the owner/occupant shall state the reasons why strict enforcement of the time limit would result in an undue hardship.
- C. **Administrative Hearing to Abate Nuisance.** In the event the owner/occupant fails, neglects, or refuses to comply with the "Notice to Abate," the City Manager shall conduct an administrative hearing to ascertain whether the violation constitutes a public nuisance.
- D. **Notice of Hearing.** Notice of the administrative hearing shall be served upon the owner/occupant not less than seven days before the time fixed for the hearing. Notice of the hearing shall be served in person or by certified mail to the owner/occupant's last known address. Service shall be deemed complete at the time notice is personally served or deposited in the mail. Failure of any person to receive notice shall not affect the validity of any proceedings hereunder. The notice shall identify the date of the hearing, the conditions in violation, and the proposed method of abatement. Notice that substantially complies with the format provided below shall be deemed sufficient:

**FIGURE D.18.080-1: NOTICE OF ADMINISTRATIVE HEARING ON ABATEMENT OF NUISANCE
FORMAT**

NOTICE OF ADMINISTRATIVE HEARING ON ABATEMENT OF NUISANCE

This is a notice of hearing before the City Manager to ascertain whether certain property situated in the City of Milpitas, State of California, known and designated as (PUBLIC RIGHT-OF-WAY ADDRESS HERE), in the City of Milpitas, and more particularly described as (ASSESSOR'S PARCEL NUMBER HERE) constitutes a violation or public nuisance subject to abatement in accordance with Section D.18.080 (Abatement Procedure) of the Milpitas Municipal Code. If the property, in whole or part, is found to constitute a public nuisance as defined in the Milpitas Municipal Code and if the same is not properly abated by the owner/occupant, the nuisance may be abated by municipal authorities, in which case the cost of the rehabilitation, repair, or abatement will be assessed upon the

property and the costs, together with any accrued interest, may constitute a special assessment or lien upon the property until paid. In addition, you may be cited for violation of the provisions of the Milpitas Municipal Code and subject to an administrative fine.

Said alleged conditions consist of the following: (DESCRIPTION HERE)

The method(s) of abatement are: (DESCRIPTION HERE)

All persons having an interest in these matters may attend the hearing and their testimony and evidence will be heard to determine whether certain conditions constitute a public nuisance and whether the conditions shall be abated as a public nuisance.

Dated this _____ day of _____, 20____.

Signature of City Manager

Time and Date of Hearing: ###/###/####

Location of Hearing: (LOCATION HERE)

E. Administrative Hearing by City Manager.

1. At the time stated in the notice, the City Manager shall hear and consider all relevant evidence, objections, or protests, and shall receive testimony relative to the alleged public nuisance and to proposed rehabilitation, repair, removal, or abatement of the property. The hearing may be continued from time to time.
2. If the City Manager finds that a public nuisance exists and that there is sufficient cause to rehabilitate, abate, remove, or repair the public nuisance, the City Manager shall prepare findings and an order, which shall specify the nature of the nuisance, the method(s) of abatement, and the time within which the work shall be commenced and completed. A copy of the findings and order shall be served on all owner/occupants of the subject property in accordance with the provisions of Section D.18.080.D (Notice of Hearing). In addition, a copy of the findings and order shall be conspicuously posted on the property. The order shall include the time within which the owner/occupant shall complete the work, in no event less than 15 days.
3. In the event the owner/occupant fails to abate the nuisance as ordered, the City Manager shall cause the nuisance to be abated by City employees or private contract. The costs shall be billed to the owner/occupant, as specified in Section D.18.090 (Cost Recovery). In appropriate circumstances, the City Manager shall request the City Attorney to obtain all necessary judicial approval for entry onto the subject premises for abatement purposes.

F. Hearing Procedure Before City Manager. All hearings shall be recorded.

1. Hearings need not be conducted according to the technical rules of evidence.
2. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in California.

Any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions in courts of competent jurisdiction in this state.

3. Irrelevant and unduly repetitious evidence shall be excluded.
- G. **Appeal of Decision by City Manager.** The decision of the City Manager may be appealed to the Council in conformance with the provisions of Milpitas Municipal Code Section I-20-5 (Appeals to Council).
- H. **Limitation on Filing Judicial Action.** Any judicial action appealing the Council's decision and order shall be commenced within 30 days of the date of service of the decision.
- I. **Summary Abatement of Immediate Hazard or Obstruction.** The City Manager may, without notice, abate the nuisance and recover the cost of abatement as provided in Section D.18.090 (Cost Recovery) in the event of:
1. A nuisance defined by statute, ordinance, or resolution as a public nuisance which constitutes an immediate danger to persons or property;
 2. A nuisance defined by statute, ordinance, or resolution as a public nuisance which is located or maintained on public property including, but not limited to, any public right-of-way, highway, sidewalk, easement, park, or building; or
 3. Any obstruction or encroachment to free passage upon any public property (which is declared to be a public nuisance) including, but not limited to, any public right-of-way, highway, easement, sidewalk, park or building.

Summary abatement may include the temporary removal to a safe location of persons placed in immediate danger from a public nuisance. In this event, the City shall be entitled to recover all costs related to the removal, including, but not limited to, storage of possessions and rental of living accommodations, as well as any other recoverable cost provided in Section D.18.090 (Cost Recovery).

D.18.090 Cost Recovery

- A. **Recovery of Costs.** This Section establishes procedures for the recovery of administrative costs, as well as attorneys' fees and costs, incurred by the City in the enforcement process, for the abatement of conditions defined as a nuisance or violation by Milpitas Municipal Code Chapter XI-21 (Administrative Citations).
- B. **Definition of Costs.** For the purposes of this Chapter, "costs" shall mean administrative costs, including City staff time expended and reasonably related to nuisance abatement cases, for items including, but not limited to, investigation, site inspection and monitoring, testing, reports, telephone contacts, correspondence and meetings with affected parties, as well as all attorneys' fees incurred in accordance with any action, administrative proceeding, or special proceeding to abate the nuisance including, but not limited to, filing fees and fees for witnesses. In accordance with California Government Code section 38773.5(a), where the City seeks to recover attorneys' fees at the initiation of any action or proceeding, a prevailing opposing party may recover its

reasonable attorneys' fees to the extent that the amount of the fees does not exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

- C. **Cost Accounting and Recovery Required.** The City shall maintain records of all costs incurred by responsible City departments associated with the enforcement process in accordance with this Chapter and shall recover the costs from the property owner/occupant as provided by this Section.
- D. **Notice of Cost Recovery Requirements.** The City Manager shall include in the "Notice to Abate" a statement of the intent of the City to charge the property owner/occupant for all costs incurred by the City if the violation is not corrected as required. The notice shall state that the property owner/occupant will receive at the conclusion of the enforcement case a summary of enforcement costs associated with the processing of the case.
- E. **Collection of Charges.** Costs of recovery shall be recoverable as provided in this Chapter.

D.18.100 Lien Procedure

- A. **Record of Cost of Abatement.** The City Manager shall keep an account of the costs, as defined in Subsection D.18.090.B (Definition of Costs), for abating the nuisance on each separate lot or parcel of land where the work is done by the City and shall render an itemized report in writing showing the cost of abatement, including the rehabilitation or repair of the property, including any related salvage value. A copy of the report shall be posted for at least five days upon the property, together with a notice of the right to appeal to the City Manager. A copy of the report and notice shall be served upon the owner/occupants of the property, based on the last equalized assessment roll or the supplemental roll, whichever is more current. If the owner/occupant of record, after diligent search, cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of 10 days and publication published in a newspaper of general circulation in the county in which the property is located. Proof of the posting and service shall be made by affidavit filed with the City Clerk. The owner/occupant shall have 30 days from the date upon which the notice is served to reimburse the City for its costs or to otherwise make arrangements for repayment, to which the City, in its sole discretion, may agree.
- B. **Assessment and Lien.**
 - 1. The total cost for abating the nuisance, as so confirmed by the City Manager, shall, upon failure to pay the costs as specified in Subsection D.18.100.A (Record of Cost Abatement) constitute a lien or special assessment in accordance with California Government Code section 38773.1, 38773.2, 38773.5, or 38773.6 against the respective lot or parcel of land to which it relates. After confirmation and recordation of a Notice of Special Assessment, a certified copy of the City Manager's decision shall be filed with the Santa Clara County Assessor's Office on or before August 1 of each year, whereupon it shall be the duty of the County Assessor to add the amounts of the respective assessments to the next regular tax bills levied against the respective lots and parcels of land for municipal purposes and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided of ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to the special assessments. Upon recordation in the Office of the County

Recorder, a Notice of Lien, as so made and confirmed, shall constitute a lien on the property and from the date of recording shall have the force, effect, and priority of a judgment lien.

2. In the alternative, after recordation, the lien may be foreclosed by an action brought by the City for a money judgment or by any other means provided by law. A Notice of Lien for recordation shall be in form substantially as follows:

FIGURE D.18.100-1: NOTICE OF LIEN FORMAT

NOTICE OF LIEN (Claim of City of Milpitas) In accordance with the authority vested by the provisions of Section D.18.050 (Declaration of Public Nuisance) of the Milpitas Municipal Code, the City Manager of the City of Milpitas did on or about the _____ day of _____, 20____, cause the property hereinafter described to be rehabilitated or the building or structure on the property hereinafter described, to be repaired or demolished in order to abate a public nuisance on the real property, in accordance with an order to abate issued by on; and the City Manager of the City of Milpitas did on the _____ day of _____, 20____, assess the cost of the rehabilitation, repair, demolition, or abatement upon the real property hereinafter described; and the same has not been paid nor any part thereof; and that the City of Milpitas does hereby claim a lien on the rehabilitation, repair, or abatement in the amount of the assessment, to wit; the sum of \$_____ and the same, shall be a lien upon the real property until the same has been paid in full and discharged of record. The real property hereinabove mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of Milpitas, County of Santa Clara, State of California, owned by and more particularly described as follows: (LEGAL DESCRIPTION HERE): Dated this _____ day of _____, 20____. _____ Signature of City Manager
--

In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the amount of the lien, the name of the agency on whose behalf the lien was imposed, the date of the abatement order, the public right-of-way address, legal description, and the name and address of the recorded owner/occupant of the property shall be recorded by the governmental agency. A nuisance abatement and the release of the lien shall be indexed in the grantor-grantee index.

D.18.110 Interest on Liens

- A. **Amount of Interest on City Liens and Assessments–Findings.** The Council finds and declares that the establishment of an interest accrual requirement as to unpaid City liens and assessments upon real property which are of record with the Santa Clara County Recorder is a necessary and appropriate exercise of the Council's police power.
- B. **Accrual of Interest on Liens and Assessments.** Unless otherwise prohibited by law or regulation, all liens and assessments which are imposed by the City against any real property located in the City that are recorded on and after the effective date of this regulation shall accrue interest at the rate of eight percent annually until the lien or assessment, including any accrued interest, is paid in full.

D.18.120 Miscellaneous

- A. **Alternative Actions Available; Violation and Infraction.** Nothing in this Chapter shall be deemed to prevent the Council from ordering the commencement of a civil proceeding to abate a public nuisance in accordance with applicable law or from pursuing any other remedy available under applicable law. Violation of the provisions of this Chapter constitutes an infraction, as set forth in Milpitas Municipal Code Subsection I-1-4.09 (Penalty Provisions). The City Manager is designated as the enforcement authority.
- B. **Additional Costs of Abatement.** The Council provides that a court may order the owner/occupant of property responsible for a condition that may be abated in accordance with this Chapter to pay three times the costs of abatement in accordance with California Government Code section 38773.7 upon the entry of a second civil court judgment for violation of this Chapter within a two-year period.
- C. **Residential Rental Housing.** The notice sent to the owner/occupant of residential rental housing in accordance with Subsection D.18.080.A (Notification of Nuisance) shall contain the statement required by California Health and Safety Code section 17980 regarding the application of California Revenue and Taxation Code section 17274 and section 24436.5, which allow the Franchise Tax Board to deny state income tax deductions to taxpayers who fail to bring substandard residential rental property into compliance with this Chapter.

D.18.130 Remedies Cumulative

The remedies provided in this Chapter shall be cumulative and not exclusive and are in addition to any other remedies as provided by law. The City's use or exercise of one remedy shall not preclude the City from using or exercising any other remedy as may be allowed by law.

City of Milpitas

PART E: Definitions

Public Review Draft

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Chapter E.2 Definitions of Terms

This Chapter provides definitions for terms that are commonly used throughout this Title.

Abandoned, Abandonment. When, for the period of time established in Chapter C.18 (Nonconforming Buildings, Structures, Uses, and Parcels) a nonconforming use is either vacated, the business license lapses, the lease is terminated, and/ or utilities are terminated.

Abate. To repair, replace, remove, destroy or otherwise remedy the condition in violation of this Title.

Abutting or Adjoining. Having a common property or zone boundary line.

Access. The place or way through which pedestrians and/or vehicles shall have safe, adequate, and usable ingress and egress to a property or use as required by this Title and the Milpitas Municipal Code.

Accessory Building. A subordinate building, whose purpose is clearly incidental to that of the main building or the use of the land, and which shall not contain living or sleeping quarters or storage for commercial vehicles in excess of three-quarter ton size. Accessory dwelling units, as defined in Chapter E.4 (Definition of Uses), are exempted from the prohibition against living and sleeping quarters. An accessory building shall be considered attached to the main building if:

1. It shares a common wall with the main building; or
2. It shares an integral roof structure having the same framing system and roof covering as the main building and has an exterior wall that is separated from the main structure by no more than 10 feet at any given point.

Accessory Structure. A structure subordinate to the primary use or principal building on the same lot and serving a purpose customarily incidental to the primary use or use of the principal building. An accessory structure does not meet the definition of an accessory building. Examples include, but are not limited to gazebos, covered patios, carports, and porte-cochères.

Accessory Use. See “accessory use” in Chapter E.4 (Definitions of Uses).

Active Use. A use that attracts walk-in visitors and has a high degree of transparency from the street. Active uses include but are not limited to retail, restaurants, bars, markets, theaters, salons, yoga studios, art studios/galleries, banks, offices, and clinics. Active uses also include ground floor residential shared amenities, such as a lobby, gym, or conference room.

Adjacent. Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement. Properties separated by a street, alley, intersection, or other public right-of-way (other than an elevated interstate freeway), shall be considered adjacent when their property lines would touch in any way if drawn to the center line of such street, alleyway, intersection, or other public right-of-way.

Adult-Oriented Business Terms.

Distinguished or Characterized by an Emphasis Upon. The dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas.

Escort. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Establishment of an Adult Business. Any of the following:

1. The opening or commencement of any adult-oriented business as a new business;
2. The conversion of an existing business, whether or not an adult-oriented business, to any adult-oriented business as defined in this Title;
3. The addition of any of the adult-oriented businesses defined in this Title to any other existing adult-oriented business; or
4. The relocation of any adult-oriented business.

Nudity or a State of Nudity. The of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the areola or nipple, or the showing of the covered male genitals in a discernible turgid state.

Regularly Features. With respect to an adult motion picture theater, theater, or adult cabaret, a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two or more occasions within a 30-day period, three or more occasions within a 60-day period, or four or more occasions within a 180-day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

Seminude. A state of dress in which clothing covers no more than the genitals, pubic region, and areolas of the female breast, as well as portions of the body covered by supporting straps or devices.

Specified Anatomical Areas. Any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast below a point immediately above the top of the areola; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
3. Any device, costume or covering that simulates any of the body parts included in (1) or (2) above.

Specified Sexual Activities. Any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated;
4. Human genitals in a state of sexual stimulation, arousal or tumescence; or
5. Excretory functions as part of or in connection with any of the activities set forth in (1) through (4) above.

Alley. Any public thoroughfare which affords only a secondary means of access to adjacent property.

Allowed Use. Any use allowed in a zone and subject to the standards, restrictions, and approvals applicable to that zone and the use. Maybe a permitted use or a conditionally permitted use.

Amplified Sound. The use of any loudspeaker, public address system, amplifier, or any other device which electronically or mechanically increases the volume of the human voice, music, or any other sound.

Any Interested Party. Any person whom a Review Authority of the City finds and acknowledges as having a real and direct interest in any proceeding or action carried on, under, or as a result of the operation of, this Title.

Applicant. A person who requests in writing the approval of a permit, license, certificate, or other entitlement for use from the City. An applicant includes the owner of property for which the application is submitted or the owner's authorized agent.

Auto. Any motor vehicle requiring a license in compliance with the California Vehicle Code.

Basement. A story of a building that is partly or wholly located underground.

Bay Window. A window or set of windows jutting out from the wall of a building, rising from the ground and forming an alcove which may or may not add additional floor area or a sitting area within.

Bedroom. Any room which meets the minimum requirements of both the Zoning Ordinance and the Building Code for a habitable room, which is constructed in such a manner that less than 50 percent of one wall is open to an adjacent room or hallway and which can be readily used for private sleeping purposes.

Bicycle Parking Space. See "parking space, bicycle".

Block. A property so designated on an official map of the City, or the area of land bounded by streets, or by a street or streets, and railroad right-of-way, canal right-of-way, or unsubdivided acreage.

Building. A structure having a roof supported by columns or walls for the housing of, or for occupancy by, persons, animals, or chattels. Where a dwelling is separated by a division wall without openings, each portion of such dwelling shall be deemed a separate building.

Building Face or Building Façade. The outer surface of the main exterior wall of a building. For example, a building with a rectangular plan has four exterior walls and four building faces or facades.

Building Frontage. See “frontage, building”.

Building Height. The vertical distance from finished grade. See also Subsection A.6.090.A (Measuring Building Height).

Building Official. The Director of the Office of Building Safety of the City of Milpitas or designee.

Building, Principal. A building in which the primary use of the lot on which it is situated is conducted.

Cannabis Terms.

Cannabis. All parts of the plants *Cannabis sativa*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. Cannabis also means the separated resin, whether crude or purified, obtained from marijuana. Cannabis includes "cannabis" as defined in the California Business and Professions Code section 26001 and in California Health and Safety Code section 11018.

Cannabis Product. Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. Cannabis products include cannabis products as defined in Business and Professions Code section 26001.

Enforcement Authority. The Chief of Police, the City Attorney, or any other person or persons designated by the Milpitas Municipal Code or the City Manager to enforce the City's cannabis regulations in this Title.

Indoor. Any location that is totally contained within a fully enclosed and secure private residence or accessory building located on the grounds of the private residence.

Medicinal Cannabis / Medicinal Cannabis Products. These terms shall have the same meaning as the definition set forth in Business and Professions Code section 26001.

Medicinal Cannabis Patient. Any one of the following:

Person with an Identification Card. As defined in Health and Safety Code section 11362.7. A person who possesses a currently valid identification card issued in compliance with Health and Safety Code Article 2.5 (commencing with section 11362.7) of Chapter 6 of Division 10.

Qualified Patient. As defined in Health and Safety Code section 11362.7. A person who possesses a currently valid physician's recommendation that complies with both Business and Professions Code Article 25 (commencing with section 2525) of Chapter 5 of Division 2 as all rules, regulations, and guidelines adopted by the Medical Board of California.

Non-Medicinal Cannabis / Non-Medicinal Cannabis Products. Cannabis or cannabis products, respectively, that does not qualify as medicinal cannabis, including commercial cannabis intended to be sold for non-medicinal use by an adult 21 years of age or older pursuant to state law.

Outdoor. Any location that is not totally contained within a fully enclosed and secure accessory building or primary residence.

Primary Caregiver. The primary caregiver for a medicinal cannabis patient and shall have the same meaning as the definition set forth in Health and Safety Code section 11362.7.

Car Share. A service that allows people to rent vehicles for short periods, typically through a web-based application, without needing to own a car.

Chief of Police. The Chief of Police of the City of Milpitas Police Department or designee.

City Attorney. The City Attorney of the City of Milpitas or designee.

City Clerk. The City Clerk of the City of Milpitas or designee.

City Engineer. The Director of the Engineering Department of the City of Milpitas or designee.

City Manager. The chief executive officer or manager of the City of Milpitas or designee.

City Official. An authorized officer of the City of Milpitas as appointed by the City Manager or City Council.

Civil Engineer. A person who holds a valid license in the branch of civil engineering, as defined in California Business and Professions Code section 6702.

Community Emergency Cache. A collection of disaster response supplies approved by the City's Office of Emergency Services that would benefit the surrounding community.

Compost. Safe and stable decayed organic material deriving from household or commercial waste that is beneficial to plant growth and may be used as a source of fertilizer or nutrient for plant.

Condominium. An estate in real property consisting of an undivided interest in common in a portion of a parcel of real property, together with a separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store.

Condominium Conversion. A change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined for a condominium project or a community apartment project 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 structures.

Continuing Violation. A violation, infringement or breach of a provision of this Title that is uninterrupted and lasts for a continuous period in excess of 24 hours.

Curb Grade. The elevation of the established curb in front of the building measured at the center of such front. Where no curb grade has been established, the City Engineer shall establish such curb grade or its equivalent for the purpose of this Title.

Curb Level. See "curb grade".

Department. The Planning Department of the City of Milpitas.

Diameter at Breast Height (DBH). The diameter of a tree's trunk, measured 4.5 feet up the trunk from the ground.

Director. The Planning Director of the City of Milpitas or designee.

Dwelling. A building or portion of a building designed exclusively for residential occupancy, including single-family, two-family, multi-family, and accessory dwellings, but not including hotels or motels.

Dwelling Unit. A habitable room or group of habitable rooms (e.g., living room, bedroom, den, library, recreation, studio, etc.) designed for occupancy by one or more persons living as a family or single household unit with common interior access to all living, kitchen, and bathroom areas. No dwelling unit may have more than one kitchen.

Ecological Restoration Project. A project to establish or reestablish a defined, indigenous, historic ecosystem on a site where the natural, original ecosystem of has been disturbed or degraded.

Efficiency Kitchen. An efficiency kitchen includes a cooking facility with appliances, and food-preparation counter space with a total area of at least 15 square feet and food-storage cabinets with a total of at least 30 square feet of shelf space.

Effective Date. The date upon which this Zoning Ordinance, or any subsequent amendment, is in full force and effect from and after its adoption by the Council.

Electronic Smoking Device. An electronic and/or battery-operated device, the use of which may resemble smoking that can be used to deliver an inhaled dose of nicotine or other substances. Includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vaporizer or any other product name or descriptor.

Elevation. A scaled drawing of the front, rear, or side of a building or structure. Also, a vertical distance above or below a fixed reference level, typically above sea level.

Erosion. The wear and removal of the material in the earth's crust from one site and the deposition at another.

Family. One or more persons living together as a single household unit.

Federal Communications Commission (FCC). An independent government agency responsible for regulating the radio, TV, and phone industries. The FCC regulates all interstate communications, such as wire, satellite and cable, and international communications originating or terminating in the United States.

Finished Grade. The final elevation of the ground surface after development.

First Amendment Event. Conduct, the sole or principal objective of which is the expression, dissemination or communication by verbal, visual, literary, or auditory means of opinion, views, or ideas. Expressive activity includes, but is not limited to, public oratory and distribution of literature.

Floor Area Ratio (FAR). The ratio of the total floor area of all buildings on a lot to the lot area. See Section A.6.080 (Determining Floor Area Ratio).

Foot-Candle. A quantitative unit of measure for luminance. One foot-candle is equal to the amount of light generated by one candle shining on one square foot surface located one foot away. It is equal to one lumen uniformly distributed over an area of one square foot.

Frontage. All the property fronting on one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or city boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

Frontage, Building. The length of a building wall as measured continuously in one plane for the entire length of the subject building, excluding eaves or roof overhangs. Where a building is visible from more than one street or parking area, the building frontage with the main public entry shall be designated as the primary building frontage with all other such frontages designated as secondary.

Fully-Shielded Light Fixture. See "light fixture, fully-shielded".

Garage. Any building with a permanent roof, enclosed on three sides with a garage door on the fourth side that is built and used for the purpose of storage/parking of automobiles, recreational vehicles (RVs), or offroad vehicles.

Good Neighbor Manual. A manual prepared by the City regarding the general rules of conduct to be followed when operating a short-term rental unit.

Gross Acre. The total area within the boundaries of a legal lot or parcel, including any area proposed to be dedicated or reserved for public right-of-way. Adjacent lands already dedicated for public right-of-way, including public roadways, easements or other areas, shall not be included as part of the gross acreage.

Gross Floor Area. The total area of all floors measured from the interior faces of the building, but not including areas for parking, basements, shaft enclosures, or unroofed inner courts unless any outdoor areas are used for commercial purposes.

Habitable Space. A room designed for living, sleeping, eating or food preparation, including but not limited to a living room, bedroom, bathroom, kitchen, den, study, library, home office, craft room, or recreational room and excluding areas such as garages.

Hazardous Material. A material identified as hazardous by California Health and Safety Code section 25502(n).

Hardscape. Any durable ground cover material (pervious and impervious) used in landscape design, including but not limited to concrete, asphalt, stone, brick, and gravel.

Hosting Platform. A business or person that provides a means through which an operator may offer a dwelling unit, or portion thereof, for short-term rentals. A hosting platform is usually, though not necessarily, provided through an internet-based platform. It generally allows a property owner or tenant to advertise the dwelling unit through a website provided by the hosting platform and provides a means for potential short-term rental transients to arrange short-term rentals, whether the short-term rental transient pays rent directly to the operator or to the hosting platform.

Impervious. Any surface or material that does not allow the passage of water through the material and into the underlying soil.

Individual Property Owner. A natural person holding fee title individually or jointly in the person's own name or a beneficiary of a trust that holds fee title. Does not include any corporation or corporate person of any kind (partnership, LP, LLC, C corp., S corp., etc.) except for a community land trust, as defined by California Revenue and Taxation Code section 402.1(a)(11)(C)(ii) or a qualified nonprofit corporation as defined by California Revenue and Taxation Code section 214.15.

Intensity. The degree to which land is used, measured by a combination of the type of land used and the amount of land or floor area devoted to that use.

Invasive Plant Species. Species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. Invasive species may be regulated by county agricultural agencies as noxious species. Lists of invasive plants are maintained at the California Invasive Plant Inventory and United States Department of Agriculture (USDA) invasive and noxious weeds database.

Kitchen. Any room, all or any part of which is designed and/or used for cooking and the preparation of food.

Landscape Architect. A person who holds a license to practice landscape architecture in the State of California, per Business and Professions Code section 5615.

Landscape Contractor. A person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

Light Fixture, Fully-Shielded. Light fixture or luminous tube constructed and mounted such that all light emitted by the fixture or tube, either directly from the lamp, tube, or a diffusing element, or indirectly by reflection or refraction from any part of the light fixture, is projected below the horizontal plane. If the lamp or tube, any reflective surface, or lens cover (clear or prismatic) is visible when viewed from above or directly from the side, from any angle around the fixture or tube, the fixture or tube is not fully shielded.

Light Fixture, Partially-Shielded. A light fixture constructed and mounted such that most light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane. Light emitted at or above the horizontal direction (sideways or upwards) arises only from incidental decorative elements or strongly colored or diffusing materials such as colored glass or plastic. Fixtures using spot or flood lamps are considered partially shielded.

Loading Area. An open area, other than a street or alley, used for the loading or unloading of vehicles.

Loading Space. An off-street space or berth on the same lot as a building, or contiguous to a group of buildings, designated for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials, and which abuts upon a street or other appropriate means of access.

Lot. A parcel, tract, or area of land established by plat, subdivision, or as otherwise allowed by law, to be used, developed or built upon.

Corner Lot. A lot situated at the intersection of two or more streets having an angle of intersection of not more than 135 degrees.

Flag Lot. A lot having frontage upon, or access via an easement to, a public or private street by a narrow, private right-of-way.

Interior Lot. A lot other than a corner lot, flag lot, or through lot.

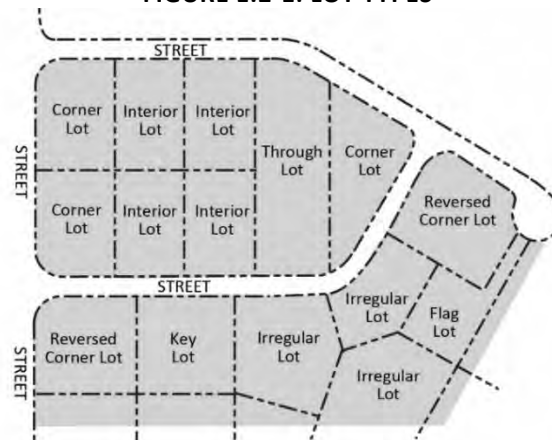
Irregular Lot. A lot which is shaped in a way that does not match the regular pattern of the lots on a block.

Key Lot. A lot with a side lot line that abuts the rear lot line of any one or more adjoining lots.

Reversed Corner Lot. A corner lot where the street side lot line of the lot is substantially a continuation of the front lot line of the lot to its rear.

Through Lot. A lot having frontage on two parallel or approximately parallel streets.

FIGURE E.2-1: LOT TYPES



Lot Dimensions. The linear measurements of a parcel of land.

Lot Area. The total horizontal area within the lot lines of a lot.

Lot Depth. The horizontal distance between the front and rear lot lines, see Section A.6.030 (Measuring Lot Width and Depth).

Lot Width. The horizontal distance between the side lot lines, see Section A.6.030 (Measuring Lot Width and Depth).

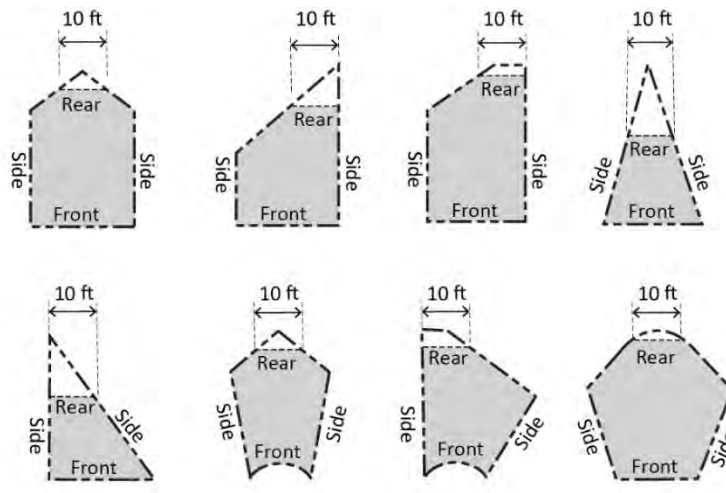
Lot Lines. The boundary between a lot and other property or the public right-of-way.

Front Lot Line. On an interior lot, the line separating the lot from the street. On a corner lot, the shorter lot line abutting a street. On a through lot, the lot line abutting the street providing the primary access to the lot. On a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

Interior Lot Line. Any lot line that is not adjacent to a street.

Rear Lot Line. The lot line that is opposite and most distant from the front lot line. Where no lot line is within 45 degrees of being parallel to the front lot line, a line 10 feet in length within the lot, parallel to and at the maximum possible distance from the front lot line, will be deemed the rear lot line for establishing the minimum rear setback.

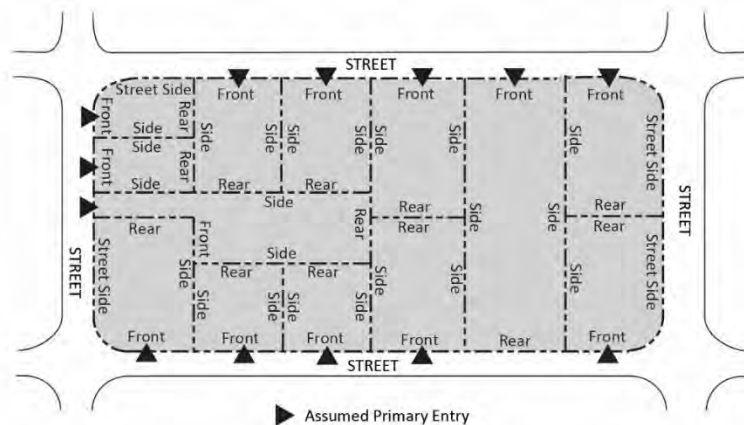
FIGURE E.2-2: REAR LOT LINES, IRREGULAR LOTS



Side Lot Line. Any lot line that is not a front or rear lot line.

Street Side Lot Line. A side lot line of a corner lot that is adjacent to a street.

FIGURE E.2-3: LOT LINE TYPES



Lumen. The unit used to measure the actual amount of light which is produced by a light source.

Main Building. See “building, principal”.

Major Street. A street having four or more vehicle travel lanes.

Manufacturing. The preparation, making, treatment, or processing of articles as merchandise.

Massage Establishment Terms.

Act. The Massage Therapy Act (Business and Professions Code section 4600, et seq.), as amended.

California Massage Therapy Council (CAMTC). California Massage Therapy Council established under California Business and Professions Code section 4602.

Certified Massage Practitioner or Massage Practitioner. A person who is currently certified as a massage practitioner by the CAMTC in accordance with California Business and Professions Code section 4604.1 and/or 4604.2.

Certified Massage Therapist or Massage Therapist. A person who is currently certified as a massage therapist by the CAMTC in compliance with California Business and Professions Code section 4604.

Compensation. The payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value. In addition to accepting other forms of compensation, a person may be deemed to have received compensation for performing a massage when the massage is offered as part of a membership, as part of a package of services or as incidental to the purchase of a product.

Employee. Any person hired by a massage establishment who renders any service for the business/owner in exchange for any form of compensation from the business, including independent contractors.

Managing Officer/Employee. A person that can or does have or share ultimate control over the day-to-day operations of a business.

Massage. Any method of treating the external parts of the body, usually with the hands, so as to stimulate circulation and make muscles or joints supple, or relieve tension, for remedial, or health purposes offered in return for any form of compensation. Methods of massage include, but are not limited to, stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the body with or without the aid of any mechanical or electrical apparatus or appliances. Massage may occur with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or with or without other similar preparations commonly used in this practice or by baths, including but not limited to: Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other type of bath. Massage includes the application of various manipulation or touch techniques to the muscular structure and soft tissues of the human body as defined in the Act, California Business and Professions Code section 4601(e), and recognized as legitimate by CAMTC.

Massage Technician. Includes both a massage practitioner and a massage therapist.

Off-Premises Massage Service. Any business where a function of such business is to engage in or carry on massage, not at a fixed location but at a location designated by the customer, massage technician, or other person, and sometimes known as an out-call massage service.

Owner. Any individual who has any direct or indirect ownership interest in a massage establishment.

Sole Provider. A massage business where the owner owns 100 percent of the business, is the only person who provides massage for compensation at or for that business, and has no other employees, independent contractors or rent-space massage therapists.

Micromobility Device. A small, lightweight vehicle operating at a speed typically below 15 miles per hour and driven by the individual user, such as bicycles, e-bikes, and electric scooters.

Mixed Use Development. A development that consists of vertical or horizontal combination of residential and nonresidential uses within a single building or site.

Mobile Home. A transportable structure designed to be used as a dwelling unit when connected to required utilities, as defined by California Health and Safety Code section 18008.

Mulch. Any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, or decomposed granite, left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

Natural Land Slope. The average slope of a lot in the “H” Hillside Combining District in percent, see Section B.22.030 (Maximum Allowable Densities and Minimum Lot Sizes).

Natural Person. An individual and living human being, as opposed to a legal person which may be a private (e.g., business entity or non-governmental organization) or public (i.e., government) entity.

Nonconforming Building. A building or structure, or portion of a building or structure, lawfully existing and built in compliance with all City land use and zoning laws in effect at the time, and which does not comply with current standards in this Title, including but not limited to height, setbacks, floor area ratio, or maximum lot coverage.

Nonconforming Use. Any use of land or property that was lawfully established pursuant to all applicable ordinances and laws at the time the use commenced, but which, due to the application of this Title or any amendment thereto, no longer complies with all of the applicable regulations and standards of the zone in which the use is located.

Occupation. A principal business, profession, or vocation in which one is regularly and habitually engaged for the purpose of compensation for a livelihood.

Openwork Design. Comprised of materials which results in a certain percentage of visual transparency within every square foot area, posts excluded.

Operator. A natural person who is the owner, lessee, or owner's agent to act on the owner's behalf to ensure compliance with this Title.

Outdoor Dining Area. Any outdoor area serving as an extension of the indoor customer seating area for a café or restaurant, which occupies space adjacent to the business that was formerly used for vehicle parking, pedestrian circulation, or similar use unrelated to the seating or customers.

Outdoor Music. Live music, both acoustic and amplified, including live individual musicians, bands, and disc jockeys (DJs), but not including karaoke, that takes place on a patio or other outdoor space. Outdoor music as defined and regulated in this Title shall also include recorded background music played outdoors at a public establishment such as a restaurant, bar, retail store, or other business.

Owner/Occupant. Any person owning property, as shown on the last equalized assessment roll for City taxes, or the lessee tenant, or other person having control or possession of the property.

Parade. An organized group marching in procession on a street. Parades do not include races, runs or other athletic events (i.e., a physical or endurance activity such as races, runs, walkathons, bicycle tours, or similar events).

Parcel. A legal lot of record.

Parking Space, Bicycle. A space dedicated to the parking of bicycles that typically includes supports to which the bicycle may be attached.

Parking Space, Vehicle. A space within a building or a private or public parking area for the parking of one vehicle.

Parkway. The area between a sidewalk and the curb or traffic lane. It may be planted or unplanted, and with or without pedestrian egress.

Partially-Shielded Light Fixture. See “light fixture, partially-shielded”.

Paseo. A mall designed and used for pedestrian passage, including adjacent sidewalks, between two or more parallel streets and which is owned or controlled by the City.

Patio. A surfaced area (concrete, brick, stone, asphalt, pavers, or similar materials) for recreational outdoor living use, not for vehicular parking purposes.

Patio Cover. A one-story roofed structure open on one or more sides (provided, however, that the open sides may be closed with insect or plastic screening that is permeable material and not in any manner that would obstruct the free passage of light or air) used for recreational, outdoor living purposes only and not as carports, storage rooms, or habitable rooms.

Permittee. A person, company, corporation, or entity that has been issued a permit including owner(s) or lessee(s) of property or their agent(s), or person(s) who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Title, or the agent(s) of such persons, and all successors in interest.

Person. Any individual, partnership, joint venture, association, social club, fraternal organization, company, joint stock association, corporation, estate, trust, organization, business, business trust, public agency, school district, the State of California and its political subdivisions or instrumentalities, receiver, syndicate or any group or combination thereof, acting as a unit, including any trustee, receiver, or assignee.

Pervious. Any surface or material that allows the passage of water through the material and into the underlying soil.

Plaza. A public square or similar open area, including adjacent sidewalks, which is owned or controlled by the City.

Primary Use. The primary purpose for which a building, structure, or lot is designed, arranged, or intended, or for which they may be used, occupied, or maintained under this Title.

Principal Building. See “building, principal”.

Private Residence. See “residence, private”.

Property. All real property and fixtures, including, but not limited to, parking lots, sidewalks, gutters, driveways, walkways, and any building and structure located on such property.

Public Right-of-Way. As defined in Milpitas Municipal Code Section V-500-1.13 (Public Right-of-Way) of the Milpitas Municipal Code, the full width of the right-of-way of any street, as defined in the California Vehicle Code used by the general public, whether or not such street has been accepted as and declared to be part of the City system of streets, including streets forming a part of the State Highway System. Public right-of-way also includes easements where the City is the grantee of the easement and property owned by the City of Milpitas or the Milpitas Redevelopment Agency and any public park, trail, or right-of-way within the City of Milpitas.

Public Transit. As defined in California Government Code section 66313(l), a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public. Examples include, but are not limited to, Altamont Commuter Express (ACE), Bay Area Rapid

Transit (BART), Alameda-Contra Costa (AC) Transit, Valley Transportation Authority (VTA) bus service and light rail, and paratransit.

Public Works Director. The Director of the Public Works Department of the City of Milpitas or designee.

Recreational Area. Areas, excluding private single-family residential areas, designated for active play, recreation or public assembly in parks, sports fields, picnic grounds, amphitheaters, or golf courses . Also, “recreation area”.

Recyclable Material. Reusable material including but not limited to metals, glass, plastic and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material does not include refuse or hazardous materials. Recyclable material may include used motor oil collected and transported in accordance with the California Health and Safety Code.

Recycled Water. Treated or recycled wastewater of a quality suitable for non-potable uses such as landscape irrigation and water features, but not intended for human consumption.

Residence, Private. A house, an apartment unit, accessory dwelling unit, a mobile home, or other similar dwelling occupied for residential purposes.

Review Authority. The body or City staff person responsible for making decisions on zoning and related applications.

Setback. The distance between a property line and a building or structure that must be kept clear or open, except for the encroachments specifically permitted by this Title. See also Section A.6.060 (Measuring Setbacks).

Front Setback. The area extending the full width of the lot as measured from, and perpendicular to, a front lot line.

Interior Side Setback. The area extending from a front setback line to a rear setback line as measured from, and perpendicular to, an interior lot line.

Street Side Setback. The area extending from a front setback line to a rear setback line as measured from, and perpendicular to, a street side lot line.

Rear Setback. The area extending the full width of the lot as measured from, and perpendicular to, a rear lot line. Also see “lot lines” (rear lot line).

Slope. See “natural land slope”.

Special Event. Any indoor or outdoor event that consists of any combination of the following:

1. A parade or assembly consisting of persons, animals, and/or vehicles, which is intended to assemble or travel in unison on any street, and which does not comply with applicable traffic regulations, laws, or controls.
2. An organized assemblage of persons at a plaza, park, or paseo, gathered for a common purpose under the direction or control of a person or organization.
3. An activity which involves blocking off a street or other use of a street which obstructs the normal street traffic.
4. An activity or event on a public right-of-way, plaza, paseo, park, or private property which involves:

- The placement or erection of equipment or temporary structures, including but not limited to a booth, tent, canopy, stage, barricade, fencing, generator, heating equipment, sound amplifier, vehicle, or float;
 - The use of live animals, fireworks, pyrotechnics, electrical power and/or cabling, or equipment or materials that can create a risk of damage to public or private property or injury to persons;
 - Cooking or the sale, preparation for sale or commercial distribution of food or beverages; or
 - The sale of commercial merchandise, excluding commercial special events and sales consistent with C.10.230.D.4 (Commercial Special Events and Sales).
5. Examples of Special Events include, but are not limited to, concerts, parades, carnivals, fairs, festivals, block parties, public dances, street fairs, community events, sporting or athletic events, parties, meals, mobile food vending events, celebrations, and receptions.

Special Event Venue. The outdoor area for which a Special Event Permit has been issued.

Specific Plan. A detailed plan for the development of a specific area as described in California Government Code section 65450. Specific plans are a tool to implement the General Plan. A specific plan documents the proposed distribution, location, extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, parks, and other essential facilities proposed to be located within or needed to support the land uses described in the plan, as well as implementation and financing methods and added benefits to the City and the community.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and ceiling next above it.

Street. A permanently reserved thoroughfare which affords principal means of access to abutting property.

Structural Alteration. Any change which would tend to prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

Structure. Anything constructed or erected, which requires location on the ground or is attached to something having a location on the ground.

Turf. A groundcover surface of mowed grass. Turf may be natural (e.g., annual bluegrass, Kentucky bluegrass, perennial ryegrass, Bermudagrass, Kikuyu grass, seashore Paspalum) or synthetic.

Two-unit Project. The development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on a legally subdivided lot. Also known as an “SB 9 unit” (see California Government Code section 65852.21).

Universal Design. An environment, or dwelling unit, designed and built to be accessed and used by all persons, regardless of ability or mobility.

Usable Open Space. Any outdoor open space, consistent with Section C.2.090 (Open Space), and which is not used as storage or for movement of motor vehicles.

Urban Lot Split. The subdivision of an existing, legally subdivided lot into two lots as allowed by Milpitas Municipal Code Section XI-1-31 (Urban Lot Splits).

Use. The purpose for which land or a building is arranged, designed or intended, or for which either land or building is or may be occupied or maintained.

Use, Allowed. See “allowed use”.

Use, Primary. See “primary use”.

Valley Transportation Authority (VTA). The Santa Clara Valley Transportation Authority.

Vehicle Parking Space. See “parking space, vehicle”.

Walkway. A created surface, such as brick, stone, concrete, asphalt, pavers or similar material, intended to facilitate pedestrian or bicycle passage, and not used for vehicular parking purposes.

Wireless Telecommunications Terms.

Antenna. Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is operated or operating from a fixed location.

Base Station. A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this subpart or any equipment associated with a tower.

- The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).
- The term includes any structure other than a tower that, at the time the relevant application is filed with the state or local government, supports or houses equipment described above that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing the support.
- The term does not include any structure that, at the time the relevant application is filed with the state or local government, does not support or house equipment described in above.

Colocation. Mounting or installing a wireless telecommunication facility on a pre-existing structure; and/or modifying a structure for the purpose of mounting or installing a wireless telecommunications facility on that structure. For the purposes of eligible facilities requests, colocation means the mounting or installation of transmission equipment on an existing tower or base station.

Commercial Wireless Communication Facility. A wireless communication facility operated by a for-profit business or for-profit purposes.

Eligible Facilities Request. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

- Colocation of new transmission equipment;

- Removal of transmission equipment; or
- Replacement of transmission equipment.

Fixed Wireless Signal. Any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location. Fixed wireless signals do not include, among other things, AM radio, FM radio, amateur (“HAM”) radio, CB radio, and Digital Audio Radio Service (DARS) signals.

Hub or Relay Antenna. Any antenna that is used to receive or transmit fixed wireless signals for the distribution of fixed wireless services to multiple customer locations as long as the antenna serves a customer on whose premises it is located but excludes any hub or relay antenna that is used to provide any telecommunications services or services that are provided on a commingled basis with telecommunications services.

Lattice Tower. A type of tower; a three- or more-legged structure designed and erected on the ground to support wireless telecommunication antennas and connecting appurtenances.

Monopole. A type of tower; a structure of single pole (non-lattice) design and erected on the ground to support wireless telecommunications antennas and connecting appurtenances.

Noncommercial Wireless Communication Facility. A wireless communication facility operated by a government agency, a nonprofit organization, a for-profit business for nonprofit purposes or a private citizen for personal use. This use includes all amateur radio facilities.

Satellite Dish or Non-Satellite Dish. A sub-type of antenna incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia shaped, and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, Television Receive Only (TVROs), and satellite microwave antennas.

Small Wireless Facilities. Facilities that meet each of the following conditions:

- The facilities:
 - Are mounted on structures 50 feet or less in height including their antennas as defined in this Section;
 - Are mounted on structures no more than 10 percent taller than other adjacent structures; or
 - Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna), is no more than three cubic feet in volume;
- All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- The facilities do not require antenna structure registration under 47 C.F.R. section 17.4;
- The facilities are not located on Tribal lands, as defined under 36 C.F.R. section 800.16(x); and
- The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. section 1.1307(b).

Stealth Design. Improvements or treatments added to a wireless telecommunication facility which are intended to make the facility look like something other than a wireless tower or base station or to mask or blend the proposed facility into the existing structure or visual backdrop, in such a manner as to render it minimally visible to the casual observer.

Stealth Wireless Communications Facility. Any antenna that is designed to be architecturally integrated into a building and is architecturally consistent with the building design. Examples include a steeple, cupola or tower element on a building and do not include flag poles, monopoles or other structures designed to house antenna and resemble natural features.

Telecommunication Facility, Major. A communication facility that, due to size, scale, location, or other characteristics, is likely to have some detectable impact on adjacent uses or on the environment, including aesthetic or visual impacts, or that may have a cumulative impact citywide or on the regional environment due to the number of sites included or in combination with other projects. This definition includes freestanding antenna structures, including monopoles and towers, or the placement of a network of wireless communication facilities throughout an area onto existing structures, or other facilities which, as determined by the Director, warrant this classification.

Telecommunication Facility, Minor. A communication facility which by its size, scale, location, design, or combination of such measures, allows the facility to be aesthetically integrated into the surrounding environment so as not to be readily seen or recognized as a communication facility and is not likely to have some detectable impact on adjacent uses or on the environment.

Tower. Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

Yard. See “setback”.

Zone. A specifically delineated area in the city within which regulations and requirements in this Title uniformly govern the use, placement, spacing, and size of land and buildings.

Zoning Administrator. The person designated to perform the duties and exercise the powers of the Zoning Administrator as set forth in this Title, or designee.

Chapter E.4 Definitions of Uses

This Chapter provides definitions for all uses established in the use tables in Part XIII-B (Zone Regulations).

Accessory Dwelling Unit (ADU). As defined by California Government Code section 66313, an ADU is an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. An ADU also includes an efficiency unit as defined in California Health and Safety Code section 17958.1 and a manufactured home as defined by California Health and Safety Code section 18007.

Junior Accessory Dwelling Unit (JADU). As defined by California Government Code section 66313, a JADU is a residential unit that is consistent with the following:

- Is no more than 500 square feet in size;
- Is contained entirely within an existing or proposed single-family structure;
- Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed primary dwelling; and
- Includes an efficiency kitchen.

Accessory Use. A use that is customarily associated with, and is incidental and subordinate to, the primary use and located on the same lot as the primary use.

Adult-Oriented Businesses. An adult-oriented business use includes any of the following:

Adult Arcade. Any place to which the public is permitted or invited, wherein coin-operated, currency-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, television sets, monitors, receivers, transmitters, video cassette players or other images producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult Bookstore. An establishment that has 30 percent or more of its stock in books, visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.

Adult Cabaret. A nightclub, restaurant, or similar business establishment which:

- Regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or
- Which regularly features persons who appear seminude; and/or
- Shows films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions 30 percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Hotel/Motel. A hotel or motel or similar commercial establishment which:

- Offers public accommodations, for any form of consideration, which provide patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of any off-premises advertising including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television; and
- Offers a sleeping room for rent for a period of time that is less than 10 hours or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours, or rents any single room more than twice in a 24-hour period.

Adult Motion Picture Theater. A business establishment in which for any form of consideration, films, motion pictures, video cassettes, video tapes, laser discs, slides or similar photographic or electronic reproductions are regularly shown and 30 percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Theater. A theater, concert hall, auditorium, or similar establishment which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

Escort Agency. A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Advanced Manufacturing. The use of innovative technologies to create existing and new products or to improve products and processes. Advanced manufacturing focuses on the rapid transfer of science and technology into production activities and may incorporate high technology elements such as information, automation, computation, software, sensing, artificial intelligence, machine learning, and networking. Advanced manufacturing may include storage space for raw materials and/or finished goods that actively supports the primary use.

Agriculture. See “cultivated agriculture.”

Agricultural Processing Plant, Commercial. Facility that transforms, processes, and packages livestock or livestock products, or agricultural commodities, into goods that are used for intermediate or final consumption including goods for nonfood use. Includes animal slaughter.

Agricultural Supply Sales. An establishment or place of business primarily engaged in the retail or wholesale sale from the premises of farm supply, feed, grain, fertilizers, pesticides, and similar goods as well as the provision of agriculturally related services with incidental storage on a lot other than where the service is rendered.

Animal Care and Services. Retail sales and/or services related to the boarding, grooming, and care of household pets.

Kennel. Facilities for keeping, boarding, training, breeding, or maintaining for commercial purposes, four or more dogs, cats, or other household pets more than four months of age and not owned by the kennel owner or operator for 24 hours or more.

Pet Day Care and Sales. Facilities for providing non-medical care for four or more dogs, cats, or other household pets not owned by the pet day care owner or operator, included but not limited

to grooming services, on a less than 24-hour basis. This use includes retail sales of household pets and pet supplies, but excludes pet supply stores that do not sell animals or provide on-site animal services. Also excludes home-based pet day care services for a fee, such as dog walking services.

Veterinary Clinic. Medical care for household pets on a commercial basis with no overnight (24-hour) accommodation of animals.

Veterinary Hospital or Services. Medical care for household pets on a commercial basis with 24-hour accommodation of animals, but does not include kennels. Also includes overnight (24-hour) accommodation of small animals for grooming services.

Animal Husbandry. The care and raising of large livestock, including horses, cattle, swine, goats, sheep, alpacas, and similar animals. This includes any animal-related production uses incidental to the foregoing, such as grazing, grooming, shearing, and milking, but excludes animal slaughter, meat cutting and packing, stockyards or the commercial feeding of garbage or offal to swine or other animals.

Assembly. See “community assembly”.

Auto Broker. An auto dealer or auto buying service as defined in California Vehicle Code section 166, who engages in the business of arranging, negotiating, assisting, or effectuating the purchase of a new or used motor vehicle, not owned by the dealer, on behalf of another. This use is limited to office work and does not include storage or parking of vehicles onsite.

Boarding House. An establishment where housing is provided for compensation, generally for stays of more than 30 days, for up to eight persons. Boarding houses typically have individual rooms for guests, shared bathroom facilities, and a single common kitchen. Meals may be served for guests and included as part of the cost of lodging.

Breweries, Distilleries, and Wineries. An establishment engaged in the brewing, distilling, and production of beer, wine, or other spirits. Tasting rooms that are accessory and subordinate to a brewery, winery, or distillery may be included in this use. This use does not include microbreweries.

Cannabis Uses. A cannabis use includes any of the following:

Cannabis Cultivation. Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

Cannabis Delivery. The commercial transfer of cannabis or cannabis products to a customer. Cannabis delivery also includes the use by a cannabis retailer of any technology platform that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products. Whether made directly by the individual or entity or indirectly through a third-party service or other intermediary, an offer to deliver includes any communication, action, or conduct that could be reasonably understood to convey a willingness to engage in cannabis delivery irrespective of the person or entity's actual or specific intent and includes advertisements, websites, or other media making the same suggestion.

Cannabis Delivery Service / Delivery Service. Any person or entity engaged in cannabis delivery or attempting or offering to engage in cannabis delivery.

Cannabis Distribution. The procurement, sale, and transport of cannabis and cannabis products and any other activity allowed under the State distributor license(s), including, but not limited to, cannabis storage, quality control and collection of State cannabis taxes.

Cannabis Manufacture. To compound, blend, extract, infuse, or otherwise make or prepare a cannabis product. Cannabis manufacture includes the production, preparation, propagation, or compounding of manufactured cannabis, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or cannabis products or labels or relabels its container.

Cannabis Microbusiness. Commercial cannabis business that must engage in at least three of the following commercial cannabis activities: cultivation, manufacturing using nonvolatile solvents, distribution, and/or retail.

Cannabis Retailer. Facility where cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale or conducts sales exclusively by delivery. The term cannabis retailer includes any nonprofits that may be licensed under Business and Professions Code section 26070.5. For purposes of this Title, cannabis retailer also includes medical cannabis dispensaries, patient collectives and cooperatives operating, or proposing to operate, in accordance with the California Health and Safety Code section 11362.5 and/or the California Health and Safety Code section 11362.7 et seq., as may be amended.

Cannabis Testing Laboratory. A facility, entity, or site that offers or performs tests of cannabis or cannabis products.

Commercial Cannabis Use. Includes all cannabis cultivation, cannabis manufacture, cannabis distribution, cannabis testing laboratories, cannabis microbusinesses, cannabis retailers, cannabis delivery, and sale of cannabis and/or cannabis products, whether intended for medical or adult use, and whether or not such activities are carried out for profit. Commercial cannabis uses includes commercial cannabis activity as defined in California Business and Professions Code section 26001, and includes any activity that requires, or may require in the future, a license from a State licensing authority in accordance with California Business and Professions Code section 26000-26325, as may be amended. Commercial cannabis use does not include those activities allowed for personal use by persons 21 years of age or older, without any compensation whatsoever, in strict accordance with California Health and Safety Code section 11362.1 and does not include the activities of a qualified patient or a primary caregiver that are exempt from State licensure in accordance with California Business and Professions Code section 26033.

Personal Cultivation. Cannabis cultivation for a natural person's own personal use and possession in accordance with the Milpitas Municipal Code and state law, including but not limited to California Health and Safety Code section 11362.1 and 11362.2, as may be amended, and such person does not sell or distribute cannabis to any other person. Personal use also means and includes cultivation of medical cannabis conducted by a qualified patient exclusively for personal medical use, and cultivation conducted by a primary caregiver for the personal medical purposes of no more than five specified qualified patients for whom they are the primary caregiver, in accordance with state law, including California Health and Safety Code section 11362.7 and 11362.765, as may be amended. Except as defined in this Title, personal cultivation does not include, and shall not authorize, any cultivation conducted as part of a business or commercial activity, including cultivation for compensation or retail or wholesale sales of cannabis.

Caretaker's Residence. A dwelling unit occupied by employees or caretakers of the primary use on the site.

Cemetery. Land used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries only when operated in conjunction with and within the boundary of such cemetery.

Child Care. A child care use includes any of the following:

Child Care Center. Establishments providing non-medical care for children on a less than 24-hour basis other than large/small family child care homes. This classification includes licensed nursery schools, preschools, and day care facilities for children, and any other day care facility licensed by the State of California. This use does not include after school program, summer camp, and tutoring facilities.

Large Family Child Care Home. As defined by Health and Safety Code section 1596.78, a home in which the provider regularly provides care, protection, and supervision for up to 14 children for less than 24 hours per day.

Small Family Child Care Home. As defined by Health and Safety Code section 1596.78, a home in which the provider regularly provides care, protection, and supervision for eight or fewer children for less than 24 hours per day.

Civic/Government. Governmental facilities not otherwise included in other land use types, such as court facilities and post offices, together with storage and maintenance of City and public agency vehicles.

Commercial Fueling Facility. See “fueling facility, commercial”.

Commissary or Catering. A fixed-location kitchen where food is stored and prepared for off-site vending or delivery. Commissaries may include shared-use commercial kitchens, private commercial kitchens, restaurant kitchens, and kitchens associated with civic and community organizations such as churches or social clubs. Also, includes catering service establishments.

Community Assembly. A facility for public or private meetings including clubs and lodges, community centers, senior centers, religious assembly facilities, convention centers, civic and private auditoriums, union halls, meeting halls for clubs and other membership organizations. This includes functionally related facilities for the use of members and attendees such as kitchens, multi-purpose rooms, and storage. It does not include gymnasiums or other sports facilities (see indoor sports and recreation) or facilities such as day care centers and schools, which are separately defined.

Major. Community assembly use that is over 2,000 gross square feet and has capacity for more than 200 seats.

Minor. Community assembly use that is 2,000 gross square feet or less and has capacity for no more than 200 seats.

Community Garden. Use of land for the cultivation, growing and harvesting of vegetables, herbs, flowers, and fruits, including the cultivation and tillage of soil and the production, cultivation, growing, and harvesting of any agricultural, floricultural, or horticultural commodity. Community gardens are typically owned and operated by public or non-profit agencies, and each garden plot is used and kept by an individual or a household. Excludes animal keeping or animal husbandry.

Construction Yard and Equipment Rental. Storage of construction materials or equipment on a site other than a construction site. Includes rental of large construction equipment and machinery. This classification may include parking/storage of contractor vehicles.

Correctional Facility. A facility where people are held, generally as punishment for various crimes. This includes the detention/incarceration of people awaiting trial and/or who have been convicted of civil or criminal offenses; inmates and detainees under 24-hour supervision by the California Department of Corrections and Rehabilitation; and juvenile detention facilities. This use also includes parole offices.

Court Dwelling. See “dwelling, court”.

Cultivated Agriculture. The planting, growing, and harvesting of crops or plants, or the preparation of land for this purpose, of more than one-half acre of land for viticulture, horticulture, pasturage, floriculture, or similar farming where a crop or final product is produced (but not necessarily offered for sale) for consumption. This use excludes community gardens.

Custom and Artisan Manufacturing. An establishment primarily engaged in on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools or small mechanical equipment and the incidental direct sale to consumers of only those goods produced on site. Includes, but is not limited to metalworking, pottery and ceramic studios, film processing, photo finishing, printmaking, lithography, glass furnace, or woodworking.

Data Center. A facility dedicated to the storage of computer and information technology systems and associated components for the storage, retrieval, and transmittal of electronic information.

Drive-Through Facility. A motor vehicle drive-through facility which is a commercial building or structure or portion thereof which is designed and/or used to provide goods and services to drivers while they remain seated in their vehicles. It includes, but is not limited to, banks and other financial institutions, fast food establishments, and pharmacies, but shall not include drive-in movies, service stations, or car wash operations.

Dwelling, Court. A residential development in which there are several freestanding single-family or two-family dwellings with separate walls clustered on a single lot. Units are typically arranged to face around a common open space or drive aisle. If subdivided, a maintenance agreement or homeowners association may govern common areas like driveways or open space.

Dwelling, Multi-Family. A building containing three or more dwelling units.

Dwelling, Single-Family. A dwelling unit designed for occupancy by one household, where all rooms are internally connected and internally accessible via habitable space, located on a separate lot from any other unit (except accessory dwelling units, where permitted), and have only one kitchen. This includes individual manufactured housing units installed on a foundation system pursuant to California Health and Safety Code section 18551, and the use of a single-family residential structure as employee housing for six or fewer employees consistent with California Health and Safety Code section 17021.5.

Dwelling, Two-Family. A residential building containing two dwelling units, both of which are located on a single parcel. The dwelling units are attached and may be located on separate floors or side-by-side. Excludes accessory dwelling units (see “accessory dwelling unit”).

Eating and Drinking Establishment. Businesses primarily engaged in serving food and/or beverages for consumption on or off the premises.

Bar or Nightclub. Businesses serving beverages for consumption on the premises as a primary use, including serving alcohol such as beer, wine, and spirits. Dancing and live entertainment may also be conducted within the establishment. This use does not include microbreweries. See “food

preparation” for tasting rooms that are accessory and subordinate to a brewery, winery, or distillery.

Microbreweries. A limited production brewery where beer is brewed, sold, and consumed on site and meets all applicable California Department of Alcoholic Beverage Control regulations. This use includes tasting rooms where alcoholic beverages are sold and consumed on site. Food service is subordinate to the sale of alcoholic beverages.

Mobile Food Park. See “mobile food vending”.

Mobile Food Vending (Individual Vehicle). See “mobile food vending”.

Restaurant. See “restaurant”.

Educational Institution. An educational institution use includes any of the following:

College/University, Private. A private college or university, excluding trade or vocational schools.

School, Private. A private institution of learning for students offering instruction in those courses of study required by the California Education Code and maintained in compliance with the standards set by the State Board of Education. This use includes kindergarten, elementary school, middle or junior high school, or high school.

School, Public. A public institution of learning for students offering instruction in those courses of study required by the California Education Code and maintained in compliance with the standards set by the State Board of Education. This use includes kindergarten, elementary school, middle or junior high school, and high school.

Trade and Vocational School. An establishment where postsecondary education or training is received in a trade or craft, business, commerce, language, or other similar activity or occupational pursuit that is not otherwise described as a college/university, school, or instruction services. This use includes culinary schools.

Elderly and Long-term Care. Establishment that provides 24-hour medical, convalescent, or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves, and is licensed by the California Department of Public Health. Includes, but is not limited to skilled nursing facilities, rest homes, and convalescent hospitals. Does not include a residential care facility or hospital.

Emergency Shelter. Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay as set forth in the California Health and Safety Code section 50801(e), as may be amended.

Employee/Farmworker Housing. As described in California Health and Safety Code section 17021.6 and 17008, any employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household.

Entertainment and Recreation, Commercial. This use type refers to establishments or places of business primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators.

Commercial Athletic Facility. A facility for physical fitness training or athletic type games and sports, such as but not limited to, health clubs, tennis, gymnasiums, handball courts, racquetball courts; also including ancillary uses when incidental to the primary use, such as but not limited

to, steam baths, weight training, aerobic classes, massage, saunas, and the retailing of athletic supplies to be used in the facility.

Indoor Entertainment. Predominantly spectator uses conducted within an enclosed building. Typical uses include movie theaters, enclosed sports arenas, live performing arts venues, escape rooms, and video game activities and competitions such as e-sports.

Indoor Sports and Recreation. Predominantly participant sports conducted within an enclosed building. Typical uses include indoor bowling alleys, billiard parlors, ice and roller skating rinks, go-kart tracks, indoor shooting ranges, and trampoline parks. Excludes operations where activities are primarily class- or appointment-based such as yoga studios and personal trainers.

Outdoor Entertainment. Predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include outdoor theaters, partially enclosed sports arenas, racing facilities, outdoor concert facilities, amphitheaters, drive-in movie theaters, aquatic parks, and amusement parks.

Outdoor Sports and Recreation. Predominantly participant sports conducted in open or partially enclosed or screened facilities. Typical uses include commercial driving ranges, outdoor shooting and/or archery ranges, miniature golf courses, golf courses, outdoor go-karts, swimming pools, and tennis courts. This use excludes public golf courses, public swimming pools, and public tennis court or other public sport court facilities (e.g., basketball, pickleball, etc.) (see “park/playground”); and excludes common recreational facilities as accessory to a multi-family residential project or use.

Farmers’ Market. An establishment offering for sale produce, prepared food items, and other artisan/craft goods and merchandise by certified growers and producers authorized to sell, directly to consumers, products that are produced on land the producer controls or taken in consignment from other producers. Excludes flea markets.

Financial Institution. A financial institution use includes any of the following:

Bank and Credit Union. Financial institutions, including federally-chartered banks, savings associations, industrial loan companies, and credit unions that provide retail banking services to individuals and businesses. Includes only those institutions engaged in the on-site circulation of money, and whose deposits are insured by the state or federal government and/or a state or federal sponsored entity, including credit unions.

Check Cashing Business. Establishments that, for compensation, engage in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification also includes the business of deferred deposits, whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code section 1789.33. Check cashing businesses do not include state or federally chartered banks, savings associations, credit unions, or industrial loan companies. They also do not include retail sellers engaged primarily in the business of selling consumer goods, such as consumables to retail buyers, that cash checks or issue money order incidental to their main purpose or business.

Pawnbroker. A place of business where personal property is received and for which money is advanced, with the right of privilege granted to the person to whom said money is advanced to reclaim such property upon repayment of said money.

Fleet-Based Service. Passenger transportation services, local delivery services, medical transport, and other businesses that rely on fleets of three or more vehicles. This includes parking, dispatching, and offices for taxicab and limousine operations, ambulance services, non-emergency medical transport, home cleaning services, pedicab services, and similar businesses. This does not include towing operations (see “vehicle storage”), taxi or delivery services with two or fewer fleet vehicles on-site (see “business support services”), facilities that handle third party goods for local or worldwide delivery (see “freight and trucking yard”) or last mile parcel processing/redistribution facilities (see “parcel hub”).

Food and Beverage Processing and Preparation. Cooking, processing, packaging, bottling, and shipping of food products and/or non-alcoholic beverages for off-site sales. This does not include breweries, wineries, and distilleries; the slaughtering of live animals; or large-scale operations (see “commercial agricultural processing plant”).

Food and Beverage Retail Sales. Retail sales of food and beverages for off-site preparation and consumption.

Alcoholic Beverage Sales. Any beverage sales use that includes the sale of alcoholic beverages for off-premise consumption. This includes retail sales of liquor, beer, wine, and spirits and can be combined with a retail sales establishment such as a grocery store or convenience store, or it can be a stand-alone liquor store or wine shop.

Convenience Store. A retail establishment selling food, beverages, and small convenience items such as personal hygiene products, cigarettes, magazines, and other everyday consumer items. Food and beverage products sold primarily consist of packaged and canned goods, prepared foods and hot drinks for immediate consumption, fountain beverages, etc., with less than 10 percent of net retail floor area allocated for the sale of fresh fruits, fresh vegetables, fresh meat and dairy products, and other similar perishable items. Convenience stores are smaller in floor area than supermarkets/grocery stores (typically 4,000 square feet or less) and have long or late hours of operation (open before 7:00 a.m. or after 10:00 p.m.).

Grocery Store, Large. Retail establishments that primarily sell food, but also may sell other convenience and household goods, and may include a delicatessen or specialty food shop, baked goods, frozen foods, fruits, vegetables, meats, cheeses, dairy, and prepared food, and which occupy more than 25,000 square feet of gross floor area, but not more than 80,000 square feet of gross floor area.

Grocery Store, Small. Retail establishments with gross floor area less than 25,000 square feet that primarily sell food products, such as fresh fruits and vegetables, meats and seafood, dairy products, baked goods, packaged and prepared foods, and frozen foods, but that may also sell other convenience and household goods. May also include a delicatessen or other specialty food shop.

Freight and Trucking Yard. Facilities that handle third party goods for local or worldwide freight, courier, local messenger, and postal services by truck or rail. This includes fulfillment centers and parcel sorting centers, which provide storage and distribution of e-commerce products to consumers or end-users, either directly or through a parcel hub.

Fueling Facility, Commercial. A fueling facility designed for commercial customers which dispenses gasoline, diesel, or similar vehicle fuels, and which is not open to the general public, has no cash sales and provides no personal services on-site. This excludes mobile fueling.

Funeral Parlor and Mortuary. An establishment primarily engaged in the provision of services involving the care, preparation, or disposition of human remains and conducting memorial services. Typical uses include a crematory or mortuary. This use does not include cemeteries.

Group Living Accommodation. A building or portion of a building designed for or accommodating a residential use by persons not living together as a household. This use includes dormitories, convents and monasteries, and other types of organizational housing. This use does not include residential care facilities, nursing homes, hotels, single-room occupancy residences, or boarding houses, which are defined separately. Group living accommodations typically provide shared living quarters without separate kitchen or bathroom facilities for each room or unit.

Guest Ranch. Short-term lodging provided to visitors on property where agricultural activities take place (e.g., animal husbandry, cultivated agriculture) and that is not considered to be another lodging uses.

Home Occupation. A commercial use conducted on residential property by the inhabitants of the subject residence, which is incidental and secondary to the residential use of the dwelling.

Hospital. A state-licensed facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an in-patient basis, and including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.

Industry, General. Manufacturing of products from extracted or raw materials or recycled or secondary materials, or bulk storage and handling of such products and materials, where operations are conducted primarily within an enclosed building. Includes, but is not limited to operations such as biomass energy conversion; textile mills; furniture and related product manufacturing; photographic processing plants; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; plastics and rubber products manufacturing; and nonmetallic mineral product manufacturing.

Industry, Heavy. Manufacturing of products that include petroleum products, metals and/or metal processing, and hazardous chemicals. Includes automobile assembly and manufacturing and tire retreading or recapping.

Industry, Light. Establishments engaged in light industrial activities taking place primarily within enclosed buildings and producing minimal impacts on nearby properties. Includes, but is not limited to, operations such as manufacturing finished parts or products primarily from previously prepared materials; commercial laundries and dry cleaning plants; mobile home manufacturing; monument works; printing, engraving and publishing; electronics manufacturing not included under advanced manufacturing; and production apparel manufacturing.

Instruction Services. An establishment that offers specialized programs in improvement, information, and personal growth and development such as photography, fine arts, crafts, music, yoga, martial arts, dance, driving schools, health and wellness, and academic tutoring. Attendance is typically limited to hourly classes rather than full-day instruction. These establishments do not grant diplomas or degrees, though instruction may provide credits for diplomas or degrees granted by other institutions. Retail sales are permitted as an accessory use.

Group. Group instruction includes 10 or more students or clients at any one time.

Private/Small Group. Private instruction includes fewer than 10 students or clients at any one time.

Library/Museum. Public or quasi-public facilities primarily engaged in the display or preservation of objects of interest in the arts or sciences that are open to the public on a regular basis. Includes, but is not limited to aquariums, arboretums, art galleries and exhibitions, botanical gardens, historic sites and exhibits, libraries, and museums. May also include accessory retail uses such as gift/book shops, and restaurants.

Live-Work Unit. An integrated housing unit and working space that has been constructed for such use or converted from commercial or industrial use and structurally modified to accommodate residential occupancy and work activity in compliance with the California Building Code. Living space includes, but is not limited to, a sleeping area, a food preparation area, and a full bathroom. The working space is reserved for and regularly used by one or more occupants of the unit.

Lodging. An establishment providing overnight accommodations to transient patrons for payment for periods of 30 consecutive calendar days or fewer.

Bed and Breakfast. A residential property with one or more bedrooms dedicated for rental for overnight lodging and where meals may be provided to guests. A bed and breakfast is typically either owner-occupied or has the manager or proprietor of the lodging business living on the premises. This use type excludes short-term rentals.

Hotel. A commercial establishment providing lodging accommodations for a fee for transient guests, generally for stays of 30 days or less, with access to rooms or units primarily from interior lobbies, courts or halls. A hotel may include limited facilities for storage and preparation of food and beverages within individual rooms, such as coffee makers, mini refrigerators and microwave ovens.

Motel. A building or group of attached or detached buildings providing lodging accommodations for a fee for transient guests, generally for stays of 30 days or less, with access to each room or unit through an exterior door. Motels are distinguished from hotels primarily in that the former provide direct independent access to, and adjoining parking for, guest rooms and do not provide 24-hour guest services.

Short-Term Rental (STR). The use of a dwelling unit, including, without limitation, a single-family, two-family, or multi-family dwelling unit, mobile home, or any portion of such dwellings, rented for occupancy for dwelling, lodging, or sleeping purposes for a period of 30 or fewer calendar days, counting portions of days as full calendar days.

Low Barrier Navigation Center. Consistent with California Government Code section 65660, a service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health, shelter, and housing services.

Massage Establishment. Any establishment having a fixed place of business where any person, firm, association, partnership, corporation, or other entity engages in, conducts, or carries on, or permits to be engaged in, conducted or carried on, any massage for compensation. Also includes, but is not limited to, any business providing off-premises massage services.

Massage Establishment, Accessory. An establishment that provides massage which is incidental to the primary business, where the owner of the primary business is responsible for the massage services and conduct of the massage technician(s) employed at the location.

Medical Support Laboratory. A facility for scientific laboratory analysis of medical resources. The analysis is generally performed for medical providers to support the medical provider's work on behalf of patients.

Mini-Storage or Self-Storage. Facilities offering enclosed storage with individual access for personal affects, furniture, and household goods. Typical provided in small individual units (e.g., 400 square feet or less) that are available for rental by the general public.

Mining and Quarrying. An operation that extracts gravel, sand, other construction aggregates, or minerals from the ground. Includes quarries and gravel pits.

Mobile Food Vending. The selling or offering to sell products from a mobile food vehicle, which includes the following uses:

Ice Cream Truck. A motorized vehicle selling ice cream or other frozen dairy or non-dairy dessert products on streets and in other public places.

Mobile Food Park. Site with two or more mobile food vehicles located together on the same parcel and operating at the same time for more than seven consecutive days.

Mobile Food Vending (Individual Vehicle). A motorized, wheeled vehicle or towed vehicle designed and equipped to store, prepare, serve and sell food, but which does not include ice cream trucks or mobile food vending wagons or pushcarts as regulated in Milpitas Municipal Code Subsection V-100-10.11 (Unlawful Parking—Peddlers, Vendors).

Mobile Fueling. A commercial service that offers on-demand fueling of motor vehicles at a specified location instead of at a service station. Mobile fueling may be provided to individual customers via the use of a mobile app, with fuel delivered to a home, office, or other location requested by the customer. Mobile fueling may also be provided for operators of fleet vehicles at a fixed, semi-permanent or permanent location.

Mobile Home Park. A development designed for and occupied by manufactured/mobile housing units consistent with the requirements of California Health and Safety Code section 18200 to 18700. A mobile home park includes facilities and amenities used in common by occupants who rent, lease, or own spaces for mobile home units/spaces through a subdivision, cooperative, condominium, or other form of resident ownership.

Multi-Family Dwelling. See “dwelling, multi-family”.

Offices. Offices mean any of the following:

Business and Professional Office. Offices of firms or organizations providing professional, executive, business, management, or administrative services, including but not limited to accounting, architectural, computer software design, engineering, consulting, graphic design, insurance, interior design, real estate, legal, and tax preparations offices. Also includes co-working spaces designed to accommodate individuals and organizations that provide such services.

Medical Office/Clinic. Office use providing consultation, diagnosis, therapeutic, preventive, or corrective medical treatment services by doctors, dentists, chiropractors, optometrists, psychotherapists, alternative healing practitioners such as acupuncturists, and similar practitioners of medical and healing arts for humans licensed for such practice by the State of California. Incidental medical and/or dental laboratories and research within the office that supports the on-site patient services is considered part of the office use. This use includes urgent

care facilities. Excludes independent research laboratory facilities and hospitals (see medical support laboratory and see hospital).

Parcel Hub. A ‘last mile’ facility warehouse or similar establishment for the processing and/or redistribution of parcels or products to end-user customers. A parcel hub’s primary function is moving a shipment from one mode of transport to vehicles with rated capacities less than 10,000 pounds, for delivery directly to consumers or end-users primarily within a 10-mile radius.

Park/Playground. Parks, playgrounds, trails, wildlife preserves, and related open spaces. This includes public playing fields, sports courts, picnic facilities, and related food concessions or community recreational buildings and structures.

Parking Lot. Open parking area(s) provided on property other than a public street, alley, or right-of-way that is the primary use on the lot (i.e., the parking lot is not providing the required off-street parking for land uses on the lot). May include park and ride lots. Use of the parking lot may be subject to a fee.

Parking Structure. A building or structure containing parking spaces that is the primary use on the lot (i.e., the parking structure is not providing the required off-street parking for land uses on the lot). May be located above or below grade, and use of the parking structure may be subject to a fee. May include park and ride structures.

Public Safety. Facilities providing public safety and emergency response services, including police and fire protection, with incidental storage, training, and maintenance facilities.

Public Utility. Facilities for the production, storage, treatment, transmission and/or distribution of electricity, natural gas, water, wastewater, and telecommunications and other similar essential services. Also includes service facilities, electric transmission and distribution substations, and public utility service centers.

Recycling Facility. A recycling facility means any of the following:

Collection Facility. A center for the acceptance, by donation, redemption, or purchase, of recyclable materials from the public where limited sorting and storing of such items is conducted on-site.

Intermediate Processing Facility. A facility that receives, sorts, compresses or bales, and stores recyclable materials for efficient transfer to other processing facilities or to an end user.

Primary Processing Facility. A facility that processes recyclable materials and acts as a final destination for recyclable materials.

Research and Development (R & D). Industrial or scientific research for the design, development, engineering and testing of high technology, clean technology, industrial, or scientific products. May include limited manufacturing as necessary for the production of prototypes, but excludes the full-scale manufacturing of final products. May also include storage space for raw materials and/or finished goods that actively supports the primary use.

Residential Care Facility. Consistent with Health and Safety Code section 1502, a facility licensed by the State of California to provide living accommodations and 24-hour care for persons requiring personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are group homes or shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions.

Resilience Hub. A community-serving facility designed to support residents and coordinate resource distribution and services before, during, or after a natural hazard event. Resilience hubs provide information as well as services and supplies, including but not limited to community gathering space, emergency supplies, basic medical care, internet access, and electronic device charging. They are typically outfitted with a solar and back-up battery storage system that can operate off the power grid and maintain power to the facility during grid outages.

Restaurant. A restaurant use means any of the following:

Restaurant, Full Service. Restaurants that provide cooked-to-order food and beverage services to patrons who order and are served while seated and pay after eating. Takeout service may also be provided.

Restaurant, Limited Service. Establishments where food and beverages may be consumed on the premises, taken out, or delivered, but where no table service is provided. This includes, but is not limited to cafeterias, fast-food restaurants, carryout sandwich shops, limited-service pizza parlors and delivery shops, self-service restaurants, snack bars, and takeout restaurants. This use includes cafes, coffee shops, and bakeries with a retail storefront component.

Restaurant with Alcohol Service. Either a full service or limited service restaurant that includes alcohol service for on-site consumption.

Retail. A retail use means any of the following:

Firearms Dealer. An establishment engaged in the selling, dealing in, trading, or transferring firearms.

Large Format Retail. Retail establishments over 80,000 square feet in size that sell merchandise and/or bulk goods primarily for individual consumption, including, but not limited to, department stores, home improvement stores, membership warehouses which emphasize bulk sales to the general public as well as to other businesses, and other big box format stores. Large format retail uses may include a grocery store sales component. Excludes home improvement stores with outdoor nursery or garden centers (see nursery and garden center).

Nursery and Garden Center. An establishment primarily engaged in selling nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, and sod that are predominantly grown offsite. This classification includes commercial and wholesale greenhouses and nurseries offering plants for sale.

Retail, Limited. An establishment which offers the sale of a limited line of merchandise that is general necessary or desirable for everyday living or everyday business activities. Examples include small grocery stores offering primarily prepared or pre-packaged food and beverage items, small drugstores and variety stores, small stationery, office supply stores, shops selling other small household goods, and walk-out retail stores. This classification excludes convenience stores.

Retail Stores, General Merchandise. The retail sale or rental of merchandise not specifically listed under another use definition. This includes department stores, clothing stores, furniture stores, pharmacies, pet supply stores, flower shops (florist), art supply stores, music stores, book stores, and other businesses retailing (or renting) toys, hobby materials, handcrafted items, formalwear, music equipment and instruments, jewelry, cameras, candy, gifts and novelties, electronic equipment, sporting goods, hardware, appliances, antiques, art, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, and new automotive parts and accessories, excluding

vehicle service and installation (see vehicle repair and maintenance). Excludes large format retail and other sales-related uses more specifically described in other use definitions.

Smoke/Tobacco Shop. A retail establishment primarily engaged in the selling of smoking and tobacco products and accessories, and other products, devices and components reasonably assumed to be used for smoking and/or the inhalation or ingestion of any substances. Tobacco products may include but are not limited to cigarettes, cigars, loose leaf tobacco, tobacco pipes, electronic smoking devices and accessories, vaporizers and accessories and any other product, device or component used in the inhalation of tobacco, nicotine or other substance. For the purposes of this definition only, "primarily engaged" means when 30 percent or more of products sold at the retail establishment are smoking and tobacco products and accessories, and other products, devices and components reasonably assumed to be used for smoking and/or the inhalation or ingestion of any substance.

Riding Academy and Public Stables. Stables leased for the keeping of horses which may also include areas for horse riding and horse riding lessons.

Salvage and Wrecking. The dismantling of wrecked or decommissioned vehicles, appliances, or other metal products where usable parts are sold for use in operating vehicles and the unusable metal parts are sold to metal-recycling companies.

Services. A service use means any of the following:

Business Support Services. Establishments primarily within structures that provide other businesses with ancillary services that further or facilitate the other businesses' primary activity, including but not limited to commercial art and design (production); copying and quick-printing services; equipment rental businesses within structures; janitorial services; mailbox rentals; mail advertising services (reproduction and shipping); outdoor advertising services; protective services (other than office-related); rental, repairs and distribution of office or business equipment; and window cleaning.

Maintenance and Repair Services. Establishments engaged in the maintenance or repair of office machines, household appliances, furniture, and similar large items. This classification excludes maintenance and repair of vehicles or boats (see vehicle repair and maintenance) and personal items such as apparel, shoes, and jewelry (see repair/cleaning/general services, small).

See "massage establishment."

See "massage establishment, accessory."

Personal Services. A commercial establishment which provides services of a personal or aesthetic nature directly to consumers, including but not limited to barber and beauty shops, nail salons, tanning salons, hair removal salons, tattoo and body piercing studios, spa/wellness center (excluding massage establishments), medical spas, and personal trainers.

Repair/Cleaning/General Services, Small. A commercial establishment that performs cleaning, repair, and alteration of small consumer and household items, including but not limited to dry cleaning pick-up stores without equipment that uses chemical solvents, laundromats (self-service laundries), photocopying and photo finishing services, tailor shops, watch and jewelry repair, shoe repair, home electronics repair, and locksmiths. Does not include repair of vehicles or boats (see vehicle repair and maintenance), personal services (see personal services), or maintenance and repair of large or bulky items (see maintenance and repair services).

Service Station. Any premises used for supplying automotive fuel and oil at retail, direct to the customer, including minor accessories and services for automobiles such as tire air pumps and window washing, but not including automobile repairs.

Single-Family Dwelling. See “dwelling, single-family”.

Single-Room Occupancy (SRO) Residence. A multi-tenant building consisting of single room dwelling units that are the primary residence of its occupants, containing either individual or shared kitchen and bathroom facilities. These units are small, generally less than 350 square feet.

Supportive Housing. Consistent with California Health and Safety Code section 50675.14, housing with no limit on length of stay, that is occupied by the target population as defined in U.S.C. section 11302 of Title 42, and that is linked to on-site or off-site services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

Temporary Use. A use established for a specified period of time, with the intent to discontinue the use at the end of the designated time period.

Transitional Housing. Consistent with California Government Code section 65582, buildings configured as rental housing developments but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.

Transportation Passenger Terminal/Facility. Facilities for passenger transportation operations, including rail stations, bus terminals, and associated service facilities, but does not include terminals serving airports or heliports.

Two-Family Dwelling. See “dwelling, two-family”.

Vehicle Rental. Establishment providing for the rental of automobiles. Includes rental of passenger vehicles and light trucks/vans under 14,000 pounds and incidental repair/servicing and cleaning of rental vehicles. This use does not include car-sharing operations.

Vehicle Repair and Maintenance. A vehicle repair and maintenance use means any of the following:

Major. Repair of automobiles, trucks, motorcycles, motor homes, boats and recreational vehicles, including the sale, installation, and servicing of related equipment and parts. This classification includes the servicing and repair of engines, body and fender, transmission, axels, wheels and brake, tire sales and installation, tire treading and recapping, and vehicle painting. Excludes vehicle dismantling or salvaging (see “salvage and wrecking”) and tire retreading or recapping (see “industry, heavy”). All activities listed under Vehicle Repair and Maintenance, Minor may also be included in major uses.

Minor. The service and repair of automobiles, light-duty trucks, boats, and motorcycles, including the sale, installation, and servicing of related equipment and parts. This classification includes the replacement of small automotive parts and liquids as an accessory use to an automotive accessories and supply store, and quick-service oil, tune-up and brake and muffler shops, auto glass sales and replacement, window tinting, stereo and alarm sales, and tire sales where repairs are made or service provided in enclosed bays and no vehicles are stored overnight. This classification excludes disassembly, removal or replacement of major components such as engines, drive trains, transmissions or axles; automotive body and fender work, vehicle painting or other operations that generate excessive noise, objectionable odors, or hazardous materials,

and repair of heavy trucks, limousines, or construction vehicles (see “vehicle repair and maintenance, major”). It also excludes towing services (see “vehicle storage”) and fueling stations (see “service station”).

Vehicle Sales and Leasing. Sale or lease, retail or wholesale, of automobiles, light trucks, motorcycles, motor homes, and trailers, together with associated incidental repair services and parts sales, but excluding body repair and painting. Includes, but is not limited to, automobile dealers and recreational vehicle sales agencies.

Vehicle Storage. The use of a site for the short-or long-term storage of automobiles, trucks, motorcycles, and/or other vehicles. Includes towing and impound lots.

Vehicle Washing. Washing, waxing, detailing, and/or cleaning of automobiles or similar light vehicles, including self-serve washing facilities.

Warehousing and Distribution. A facility, primarily within an enclosed building, for the storage of commercial or industrial goods, products and materials and the associated on-site sorting, packing, staging, shipping, receiving, and distributing of goods to wholesale and retail outlets, including ancillary truck parking and dispatching. Also includes long-term, passive storage of furniture, household goods, or other commercial goods; and of industrial equipment, products, and materials. Warehousing and distribution facilities may include, but are not limited to, wholesale distribution, distribution centers, moving and transfer storage, cross-dock facilities, package handling centers, order fulfillment centers, and logistics centers. Excludes storage of raw materials and/or finished products as part of an active primary use (e.g., advanced manufacturing uses; general industry uses; light industry uses; research and development uses). Excludes parcel hubs.

Wholesale Sales. The selling and/or distributing of merchandise to retailers; industrial, commercial, or institutional buyers; or other wholesalers; or acting as agents or brokers in the buying and selling of merchandise to or for such entities.

Wireless Telecommunications Facility. A facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with an antenna, telecommunication towers or similar structures supporting the equipment, equipment buildings, parking area and other accessory development. Also see wireless telecommunications terms in Chapter E.2 (Definitions of Terms).

Chapter E.6 Definitions of Sign Terms

This Chapter provides definitions for signs referred to in Chapter C.8 (Signs).

Abandoned Sign. A sign that identifies a business, lessor, owner, product, service, or activity that is no longer on the premises where the sign is displayed.

Changeable Copy. A portion of a permanent sign that is designed so that characters, letters, numbers, or illustrations can be manually or mechanically changed or rearranged without altering the face or surface of the sign.

Flag. A fabric sheet of square, rectangular, or triangular shape that is typically mounted on a pole.

Fluorescent Colors. The range of colors created through a synthetic pigmentation process in which ultraviolet light is absorbed and emitted at a different range within the color spectrum of the individual colors.

Freestanding. A permanent sign that is erected or mounted on its own self-supporting permanent structure or base detached from any supporting elements of a building.

Impact Resistive Plastic. Any plastic material capable of resisting 50 foot pounds of force as tested in accordance with American National Standards Institute (ANSI) and Underwriters Laboratory (UL) 972 Multiple Impact Test or any similar test procedure.

Incidental Sign. A sign which provides incidental information, including security, credit card acceptance, business hours, open/closed, directions to services and facilities, or menus.

Light-Emitting Diode (LED). A semiconductor diode that emits light when a voltage is applied to it.

Logo. A stylized group of letters, words, numbers, or symbols used to represent and distinguish a business or product.

Neon. An illumination source created when a glass tube filled with neon or other similar gas emits light when energized. The tube can be bent to form letters, symbols, or other shapes.

Pan Channel Letters. A specific type of permanent sign letter consisting of a metal pan enclosure fabricated in the shape of a letter. The metal pan enclosure is used to house the lighting and electrical components of the letter and can be mounted directly to wall of a building. The sign face is usually made of colored plastic attached to the metal pan to seal it off from pests and harsh weather.

Pan Channel Letters, Reverse. A specific type of sign letter consisting of a metal pan enclosure fabricated in the shape of a letter, numeral, or other shape in which the metal pan enclosure is used to house the lighting and electrical components of the letter and can be mounted directly to a wall. The sign face is made of the same solid opaque materials as the sides of the letters so that the front and sides of the sign letters do not emit light (e.g., halo-lit or reverse-lit signs).

Raceway. A metal electrical enclosure that forms a physical pathway for electrical wiring and components. An electric-sign raceway may serve as a visible mounting structure for a wall sign attached to the front of a storefront fascia.

Sign. A structure, device, figure, display, message placard, or other contrivance, or any part thereof, situated outdoors or indoors, which is designed, constructed, intended, or used to advertise, provide information in the nature of advertising, provide historical, cultural, archeological, ideological, political, religious, or social information, or direct or attract attention to an object,

person, institution, business, product, service, message, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, or illumination.

Permanent Sign. A sign constructed of durable materials and intended to exist for the duration of time that the use or occupant is located on the premises.

Awning Sign. Any permanent sign that is part of or attached to an awning, or other fabric, plastic or structural protective cover located over a door, entrance, window, storefront, or outdoor service area.

Billboard Sign. A permanent, large format advertising displays or signs intended for viewing from extended distances, generally more than 50 feet.

Blade Sign. A permanent sign mounted to the wall of building by means of a bracket and which is typically hung perpendicular to the wall of the building.

Canopy Sign. A permanent sign that is painted on or mounted to a canopy, typically used to accent building entries.

Directional Sign. A permanent sign erected to inform the viewer of the approximate route, direction, or location of a facility or tenant.

Directory Sign. A permanent sign on a multi-tenant site or building providing information including a list of tenants and occupants, addresses, and suite numbers or a map of the building or complex. These signs are typically internal to a site and oriented to pedestrians or motorists circulating in a parking lot rather than vehicles travelling on a public street.

Electronic Message Sign. A permanent sign or portion of a sign that utilizes computer-generated messages or some other electronic means of changing its characters, letters, numbers, illustrations, display, color, and/or light intensity, including animated graphics and video, by electronic or automatic means. A single- or two-color LED sign is not an electronic message sign.

Monument Sign. A permanent freestanding sign, with a solid base that is at least 60 percent of than the width of the sign face.

Post Sign. A permanent sign mounted on either a single post or two or more posts.

Projecting Sign. A permanent sign that is perpendicular to the face of a building and projects outward from the building face.

Service Station Island Canopy Sign. A permanent sign mounted on or under a service station island canopy, including on a fascia.

Wall Sign. A permanent sign attached directly to an exterior wall or fascia of a building or structure, with the exposed face of the sign parallel to the plane of the wall or the fascia to which it is attached.

Window Sign, Permanent. A permanent sign posted, painted, placed, or affixed in, on, or within a window, or otherwise exposed to public view through a window. Also see window sign, temporary.

Portable Sign. A sign not permanently attached to the ground, a building, structure, or other immovable object.

A-Frame or Upright Sign. A portable pedestrian-oriented sign constructed with two sides that is self-supported.

Feather Banner. A portable sign that is taller than it is wide and made of a flexible material (typically cloth, nylon, or vinyl) and mounted to a pole.

Sign Walker. A person attired or decorated with insignia, images, costumes, masks, or other symbols that display messages with the purpose of drawing attention to or advertising for an on-premise activity. Such person may or may not be holding a sign. Sign walkers may be also referred to as human mascots, sign spinners, or human signs.

Window Sign, Temporary. A temporary sign posted, painted, placed, or affixed in, on, or within a window, or otherwise exposed to public view through a window.

Yard Sign, Type I. A small portable sign typically constructed of corrugated plastic and supported on an H-shaped wire frame.

Temporary Sign. A sign intended for limited period of display which is not permanently affixed to a structure or window.

Balloon Sign. A temporary sign that is an air inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or a structure, and equipped with a portable blower motor that provides a constant flow of air into the device. Balloon signs are restrained, attached or held in place by a cord, rope, cable, or similar method. See also the definition for air-activated graphics.

Banner Sign. A temporary sign constructed of cloth, bunting, plastic, paper, or similar material and securely attached to a wall or support structure. Flags are not considered temporary banners.

Yard Sign, Type II. A temporary sign mounted on a single post installed securely in the ground with a small sign hanging from a cross-bar mounted parallel to the ground.

Yard Sign, Type III. A temporary sign that is large and typically wooden which is mounted on two posts installed securely in the ground.

Sign Program. A specific set of design standards established for the purpose of unifying the design and appearance of a variety of signs associated with a multi-tenant or multi-use project, building, or complex of buildings.

Sign Projection. The distance by which a sign extends over public property or beyond the building line.

Sign Surface. The surface of the sign upon, against or through which the message is displayed or illustrated.

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City of Milpitas Comprehensive Zoning Ordinance: Public Review Draft

Acronyms Sheet

A	Agricultural Zone
AC	Alameda-Contra Costa
ACE	Altamont Commuter Express
ADA	American with Disabilities Act
ADU	Accessory Dwelling Unit
ANSI	American National Standards Institute
ARA	Accidental Release Assessment
AST	Above-ground storage tank
AT&T	American Telephone & Telegraph
BAAQMD	Bay Area Air Quality Management Control District
BART	Bay Area Rapid Transit
BMPs	Best Management Practices
BPRD	Business Park Research & Development Zone
BPRD-Metro	Metro Business Park research and Development Zone
BPRD-R-Metro	Metro Business Park Research and Development, Limited Residential Zone
C1	Neighborhood Commercial Zone
C2	General Commercial Zone
CalARP	California Accidental Release Assessment
Cal-IPC	California Invasive Plan Council
CAMTC	California Massage Therapy Council
CC&Rs	Covenants, Codes, and Restrictions
CEQA	California Environmental Quality Act
CO	Administrative and Professional Office Zone
CPTED	Crime Prevention Through Environmental Design
CPUC	California Public Utilities Commission
CUP	Conditional Use Permit

DARS	Digital Audio Radio Service
DBH	Diameter at breast height
DU	Dwelling unit
EFR	Eligible Facilities Requests
EPA	United States Environmental Protection Agency
EPS	Expanded polystyrene
ESA	Environmental Site Assessment
EV	Electric Vehicle
FAR	Floor Area Ratio
FC	Freeway Corridor Overlay Zone
FCC	Federal Communications Commission
H	Hillside Combining District
HOV	High Occupancy Vehicle
HS	Highway Service Zone
I	Institutional Zone
ISA	International Society for Arboriculture
JADU	Junior Accessory Dwelling Unit
LED	light emitting diode
LEED	Leadership in Energy and Environmental Design
M1	Light Industrial Zone
M2	Heavy Industrial Zone
MC	Minor Conditional Use Permit
MHP	Mobile Home Park Zone
MP	Industrial Park Zone
MSW	Municipal Solid Waste
MXD	Mixed Use Zone
MXD2-Metro	Metro High Density Mixed Use Zone
MXD3	Very High Density Mixed Use Zone
MXD3-Metro	Metro Very High Density Mixed Use Zone
NPDES	National Pollution Discharge Elimination Station

PG&E	Pacific Gas and Electric Company
POS	Park and Open Space Zone
PUD	Planned Unit Development
R1	Single-Family Zone
R2	One and Two-Family Zone
R3	Multi-Family Zone
R3-Metro	Metro Multi-Family High Density Residential Zone
R4	Multi-Family Very High Density Zone
R4-Metro	Metro Multi-Family Very High Density Residential Zone
R5-Metro	Metro Urban Residential Zone
R&D	Research and development
RWQCB	Regional Water Quality Control Board
S	Site and Architectural Overlay Zone
SRO	Single room occupancy
STR	Short-term rental unit
SWPPP	Storm Water Pollution Prevention Plan
TC	Town Center Zone
TDM	Transportation Demand Management
TOT	Transient Occupancy Tax
TVRO	Television Receive Only
UL	Underwriters Laboratory
USGS	United States Geologic Study
UST	Underground storage tank
VTA	Santa Clara Valley Transportation Authority

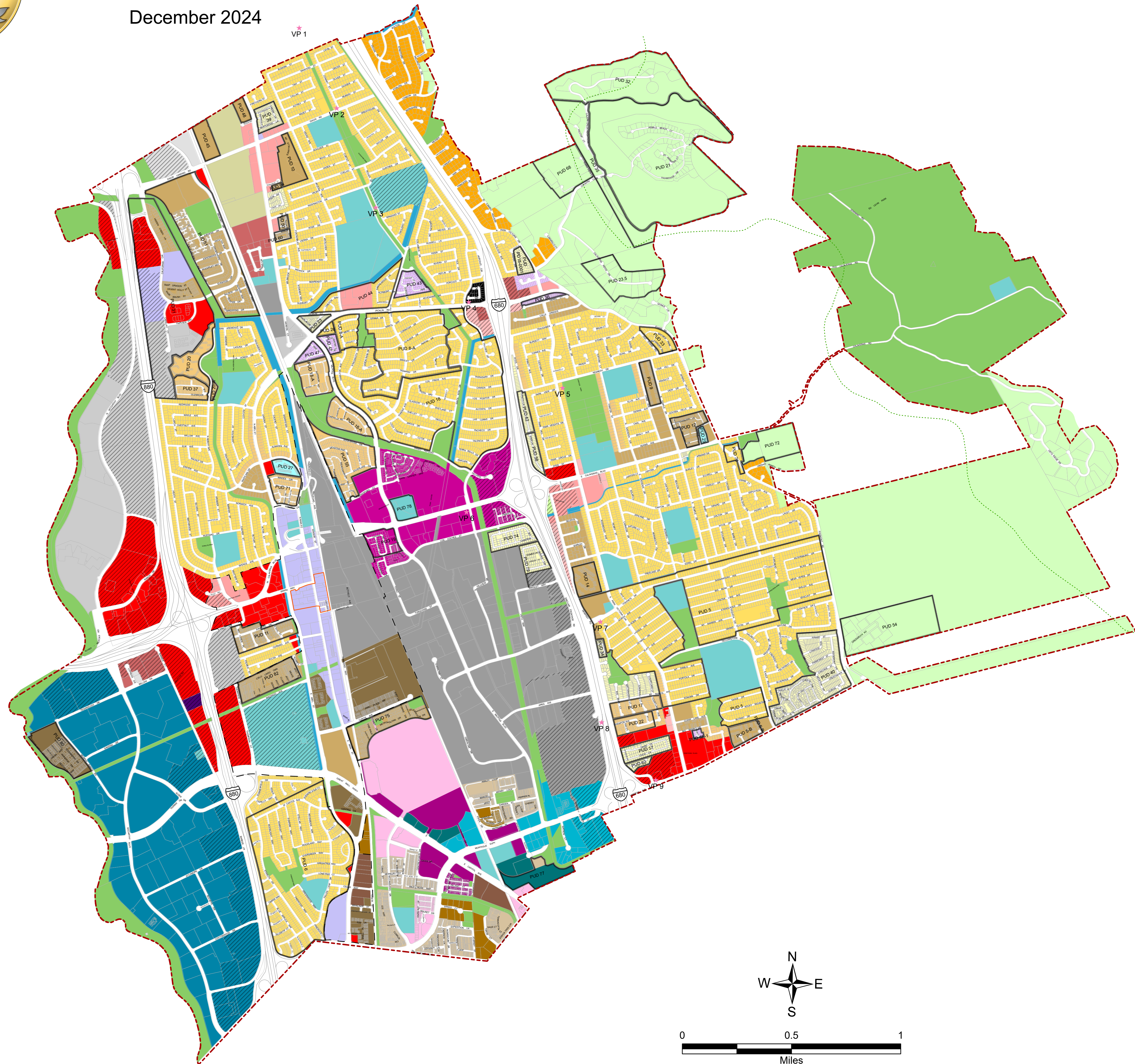


CITY OF MILPITAS

ZONING MAP

December 2024

Public Review Draft



Zones

- Single Family Residential minimum lot size 2,500 s.f. (R1-2.5)
- Single Family Residential minimum lot size 3,000 s.f. (R1-3)
- Single Family Residential minimum lot size 4,000 s.f. (R1-4)
- Single Family Residential minimum lot size 5,000 s.f. (R1-5)
- Single Family Residential minimum lot size 6,000 s.f. (R1-6)
- Single Family Residential minimum lot size 10,000 s.f. (R1-10)
- Single Family Residential with Hillside Combining District (R1-H)*
- One or Two Family (R2)
- Multi-Family Residential, High Density (R3)
- Multi-Family Residential, Very High Density (R4)
- Mobile Home Park (MHP)
- Mixed Use (MXD)
- Mixed Use, Very High Density (MXD3)
- Administrative and Professional Offices (CO)
- Neighborhood Commercial (C1)
- General Commercial (C2)
- Highway Services (HS)
- Town Center (TC)
- Light Industrial (M1)
- Heavy Industrial (M2)
- Industrial Park (MP)
- Business Park Research & Development (BPRD)
- Institutional (I)
- Agricultural (A)
- Parks and Open Space (POS)
- Waterway

Milpitas Metro Specific Plan Zones

- Metro High Density Mixed Use (MXD2-Metro)
- Metro Very High Density Mixed Use (MXD3-Metro)
- Metro Multi-Family High Density Residential (R3-Metro)
- Metro Multi-Family Very High Density Residential (R4-Metro)
- Metro Urban (R5-Metro)
- Business Park Research & Development (BPRD-Metro)
- Business Park Research & Development, Limited Residential (BPRD-R-Metro)

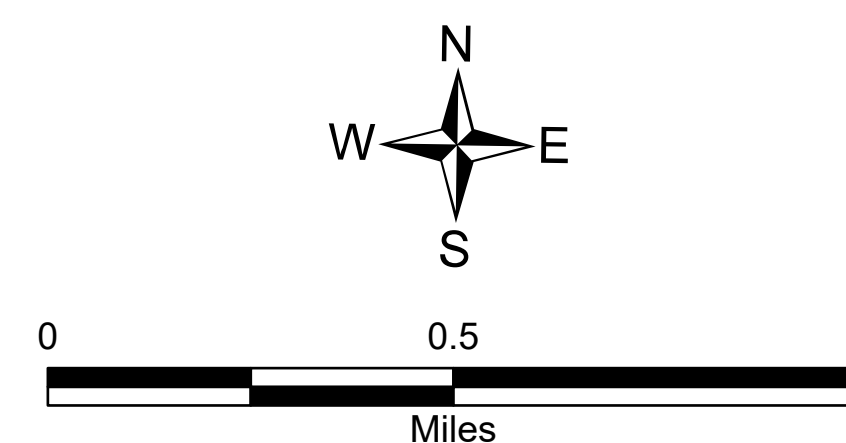
Overlay*

- Freeway Corridor Overlay (FC)

Other Features

- Planned Unit Development (PUD)
- Precise Plan Area
- Midtown Specific Plan Area
- City Boundary
- Parcels
- Crestline
- View Points

*Note: The "H" Hillside Combining District is mapped as R1-H. The Site and Architectural (S) Overlay was adopted through a voter initiative and is not currently mapped on any parcel.





Comprehensive Zoning Ordinance Update

City of Milpitas

Workshop #2 Summary

INTRODUCTION

At approximately 6:05 p.m. on January 9, 2025, the City of Milpitas Zoning Ordinance Update project team hosted the second and final community workshop for the project. The workshop was conducted in-person and virtually via Zoom. Notices about this meeting were distributed by the City through multiple channels (local new media; City social media accounts; monthly City e-newsletter; the Comprehensive Zoning Ordinance Update Project email list; electronic sign board announcements; flyers distributed and posted at the Milpitas Community Center, Milpitas Public Library, and other public locations; etc.). A notice about the meeting was also posted on the project website (www.milpitaszoningupdate.org). Ahead of the meeting, the meeting presentation and question sheet were posted on the project website, along with the physical location and a link to register via Zoom. Five members of the public attended the workshop in-person; no members of the public attended virtually via Zoom.

ATTENDANCE

City Staff

- Holly Pearson – Zoning Update Project Manager
- Kristina Phung – Senior Planner
- Lillian VanHua – Principal Planner
- Michael Thomas – Economic Development Specialist
- Liz Medina – Administrative Assistant (via Zoom)

Lisa Wise Consulting, Inc. (LWC)

- Jen Murillo – Director/LWC Project Manager
- Stefano Richichi – Senior Associate (via Zoom)
- Ethan Stan – Lead Associate (via Zoom)

OVERVIEW

Holly Pearson, Zoning Update Project Manager, welcomed participants to the workshop and introduced LWC Director, Jen Murillo. Jen Murillo then introduced the project team and gave a PowerPoint-supported presentation. The presentation covered the following topics:

- What is Zoning?
- Zoning Ordinance Update Background
- Public Review Draft Zoning Ordinance
- Next Steps

After the presentation, workshop participants divided into two breakout tables for discussion. One breakout table was facilitated by Holly Pearson, and the other breakout table was facilitated by Jen Murillo. Participants had time to speak about their topics of interest and ask questions about the project and Public Review Draft Zoning Ordinance and Zoning Map. A question sheet was used to facilitate discussion.

PARTICIPANT COMMENTS AND QUESTIONS

A summary of responses given for each discussion question is provided below (the questions sheet is attached).

1. Why did you attend this Community Workshop? Did a specific topic bring you here?
 - Interested in all aspects of zoning.
 - Hillside preservation.
 - Support zoning code changes to address evolving business needs, trends, and activities.
 - Preserve employment and tax generating lands.
 - Provide input on the Housing Opportunity Districts (HODs) part of zoning [*Note – the HODs is a separate project from the Comprehensive Zoning Ordinance Update, and City Council is expected to take action on the HODs prior to taking action on the zoning update*].
2. What topics in the Zoning Ordinance are of most interest to you?
 - All topics
 - Business-supportive regulations
 - Land use
 - Permit procedures

- Parking
 - Development density/intensity
3. What are your thoughts/comments about those topics?
- Lower permit barriers based on types of use. Reduce Planning Commission decision making where sensible and feasible to attract, retain, and expand businesses.
 - Streamline and simplify permitting to support small businesses.
 - Promote and support innovative and emerging technologies (e.g., artificial intelligence (AI), advanced manufacturing, etc.).
 - Make Milpitas a more predictable place for companies to do business.
 - Protect employment lands from multi-unit housing proposals; locate housing on housing opportunity sites.
 - Rezone industrial to residential along S. Milpitas Blvd.
 - Ensure density and intensity of buildings are compatible with neighboring residences and do not result in negative environmental or safety impacts (e.g., impacts to foundations of existing structures). *[Note – this comment was provided in relation to HODs; HODs is a separate project from the Comprehensive Zoning Ordinance Update, and City Council is expected to take action on the HODs prior to taking action on the zoning update].*
 - Concerns about traffic congestion; desire to get more people on bicycles.
4. What questions/comments do you have about how the Zoning Ordinance Update proposes to address those topics, if any?
- What adjustments to zoning will address changing industries like AI, machine learning, automotive technology/autonomous vehicles, robotics and automation, augmented and virtual reality, etc.?
 - Ensure non-industrial uses that locate in industrial-zoned areas do not adversely impact existing industrial uses or deter potential future uses.
 - Encourage redevelopment of underperforming commercial corridors by continuing to allow vertical and horizontal mixed uses.

MEETING CONCLUSION

After the facilitated breakout discussions, the workshop concluded.

Attached: Community Workshop #2, Question Sheet



Question Sheet

Please provide feedback on this sheet if you prefer to write your responses.

- 1. Why did you attend this Community Workshop? Did a specific topic bring you here?** *Examples include: To be informed, general interest, concern about a specific issue, etc.*

- 2. What topics in the Zoning Ordinance are of most interest to you?**

- | | |
|--|--|
| ☐ Land use | ☐ Accessory dwelling units (ADUs) |
| ☐ Single-family home design standards | ☐ Landscaping |
| ☐ Business-supportive regulations | ☐ Development density/intensity |
| ☐ Sign standards | ☐ Permit procedures |
| ☐ Parking | ☐ Other _____ |

- 3. What are your thoughts/comments about those topics? (additional space on back)**

- 4. What questions/comments do you have about how the Zoning Ordinance Update proposes to address those topics, if any? (additional space on back)**



5. Do you have any general questions or comments about the City's Zoning Ordinance? If so, please list them here.

[illegible]



Comprehensive Zoning Ordinance Update – Zoning Advisory Group

City of Milpitas

Zoning Advisory Group (ZAG) Meeting #5 Summary

INTRODUCTION

At 6:12 p.m. on January 16, 2025, the fifth and final meeting of the City of Milpitas Zoning Advisory Group (ZAG) commenced. The meeting was conducted in person at the Milpitas Community Center and with virtual attendance available via Zoom. Notifications of this meeting were distributed by the City and posted on the project website (www.milpitaszoningupdate.org). The meeting was recorded and posted on the project website so it may be viewed at any time.

ATTENDANCE

ZAG Members

- Frank Bush – Energy & Environmental Sustainability Commission
- Ricky Davis – Parks, Recreation & Cultural Resources Commission
- Parveen Gupta – Planning Commission (Alternate for Mercedes Albana)
- Chris Norwood – Economic Development and Trade
- Becky Strauss – Parks, Recreation & Cultural Resources Commission

ZAG members John Agg (Arts Commission), Prakash Daryani (Economic Development and Trade Commission), Joyita Ghose (Arts Commission), Mercedes Albana (Planning Commission), and Dipak Awasthi (Planning Commission) were absent.

City Staff

- Holly Pearson – Zoning Update Project Manager
- Kristina Phung – Senior Planner
- Liz Medina – Administrative Assistant

Lisa Wise Consulting, Inc.

- Jen Murillo – Director/LWC Project Manager
- Abby Weizer – Associate

OVERVIEW

The ZAG members approved the agenda for this meeting and approved the summary notes for the September 26, 2024 ZAG meeting (Ayes: 4; Abstain: 1).

Jen Murillo introduced the Zoning Ordinance Update item and then gave a PowerPoint-supported presentation. The presentation covered the following topics:

- Project Objectives and Outreach
- Summary of Public Review Draft Full Zoning Ordinance and Map
- ZAG Action Sheet
- Next Steps

ZAG members asked general questions throughout the presentation. The ZAG Action Sheet, along with the topics included in the Summary portion of the presentation, were used to facilitate discussion.

ZAG MEMBER COMMENTS

Below is a summary of comments and questions from ZAG members.

1. Outreach for Draft Zoning Ordinance

- There was interest in the level of public awareness and engagement on this project. The team reported that there were over 80 respondents to the Online Community Survey offered last year, and press releases, an email list, flyers, mailers, and social media were used for outreach to the public.
- There has generally been low public turnout for events on this project. However, online focus groups offered for the first phase of this project generated more engagement from interested parties (this was after the draft new Business Park Research and Development (BPRD) Zone was available for public review).
- For future public meetings, the Draft Zoning Ordinance should be presented to highlight the changes proposed that would provide new/more benefit(s) to the community.

2. General Comments and Key Topics

- The Zoning Ordinance was last comprehensively updated in 2008.
- The Draft Zoning Ordinance aims to encourage alternative forms of transportation as much as possible (e.g., bicycle parking, car-share opportunities, sufficient pedestrian infrastructure, transit pass subsidies to employees and residents, etc.) to support reduced parking requirements. Proposed parking requirements reflect and implement policy direction provided in the City's General Plan, Housing Element, and Climate Action Plan.

- Using public transportation (in lieu of requiring more residential parking spaces) may not be realistic for commuters or parents. The Zoning Ordinance establishes the minimum number of residential parking spaces required, and maximum parking requirements are only proposed where required by state law or through the adopted Metro Specific Plan. This means that developers and property owners would be at liberty to provide more parking spaces than the minimum number required by the code, if they felt that demand for parking would warrant this and that it would support the marketability of the property to potential buyers or renters. With generally lower parking requirements, property/business owners may consider redesigning their property for increased site utilization. The Draft Zoning Ordinance includes dimensional requirements for parking spaces, so those standards would still need to be complied with and considered with any site redesign.
- Accessory dwelling units (ADUs) are heavily regulated by the State, and the City has provided additional opportunities for ADUs (beyond that required by the State) by allowing for a discretionary review and approval process for ADUs that do not comply with the State requirements.
- A question about building exterior colors was raised, and City staff responded that colors for buildings must be regulated objectively.
- The City plans to bring forward an updated fee schedule to address new permits/approvals included in the Draft Zoning Ordinance and establish appropriate fees based on the revised permit levels and review authorities in the Draft Zoning Ordinance.

PUBLIC COMMENTS

Following the presentation, there was an opportunity for public comment. Members of the public offered the following comments:

- The City should consider updating/revising the ADU manual/handbook as appropriate in light of changes proposed in the Draft Zoning Ordinance.
- Reduced parking requirements for residential would not be ideal for households with older children (with a driver's license), especially since older/adult children are staying at home with their parents longer.
- During the discussion of reduced parking requirements, there was acknowledgement that delivery services (e.g., restaurant delivery – Uber Eats, etc.) may modify/lower need for parking spaces.
- Though the Housing Opportunity District (HOD) project is separate from the Zoning Ordinance update, there is concern that the HOD project (on Landess Avenue specifically) conflicts with the goal of preserving and protecting established single-family neighborhoods.

Note: Public Comment was agendized after Action Sheet Questions and Discussion, but the ZAG elected to hold Public Comment after ZAG Member Comments.

ACTION SHEET QUESTIONS AND DISCUSSION

An Action Sheet was prepared to showcase how ZAG Member input throughout the project has or has not been implemented into the Draft Zoning Ordinance. The Action Sheet provided reference to relevant Draft Zoning Ordinance sections. Items that were not implemented were largely outside of the scope of the Zoning Ordinance update. Below summarizes comments/questions from the ZAG regarding the ZAG Action Sheet.

- Though tree loss and replacement are concerns (Item C-3), the Zoning Ordinance addresses street frontage planting and maintenance, but tree replacement is addressed outside of the Zoning Ordinance.
- ZAG members may continue to refer to this Action Sheet as the Draft Zoning Ordinance update project continues, although the ZAG meetings have concluded.

ADJOURNMENT

At 7:41 p.m., the meeting adjourned.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	FY 2024-25 2nd Quarter Financial Status Report for the Quarter Ended December 31, 2024 (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	3/04/2025
Recommendation:	Review the FY 2024-25 Quarterly Financial Status Report for the quarter ended December 31, 2024.

BACKGROUND:

On June 4, 2024, the City Council approved the Fiscal Year (FY) 2024-25 Adopted Operating Budget in the amount of \$249.8 million and the General Fund Budget in the amount of \$138.5 million. After adoption of the budget, staff monitors revenues and expenditures for all funds on an on-going basis, with an emphasis on the General Fund and Enterprise Funds and provides a Quarterly Financial Status Report for City Council review.

ANALYSIS:

This staff report provides a quarterly update on budget versus actual revenues and expenditures of the General, Water, and Sewer Funds, the City's major operating funds. The summary information below as well as the attachments comprise the FY 2024-25 Quarterly Financial Status Report for the quarter ended December 31, 2024. Major revenue sources and expenditures for these funds are discussed below. The attachments provide a more detailed summary of budget versus actual revenues and expenditures for the second quarter of FY 2024-25 as well as prior year actuals for comparison purposes.

General Fund

On June 4, 2024, the City Council approved the FY 2024-25 Adopted Operating General Fund Budget in the amount of \$138.5 million. As of December 31, 2024, the City received \$39.3 million in revenues, or 29.2% of the FY 2024-25 adopted revenue budget and incurred \$77.0 million in expenditures, or 54.3% of the FY 2024-25 adopted operating budget.

Revenues and expenditures are seasonal with cash flow fluctuations due to timing of revenue receipts and City services rendered. As such, actual percentage of revenues may not match the lapsed period of the quarterly report (i.e., 29.2% of revenue received fiscal year to date versus an expected approximately 50% for 6-month time period).

General Fund Revenues

As noted above, the six months ending December 31, 2024, the General Fund has received \$39.3 million, or 29.2% of the FY 2024-25 amended revenue budget of \$139.5 million, which includes \$2.5 million in Facilities Replacement Reserve for the FY 2024-25 appropriation of the FY 2025-29 Capital Improvement Program approved by City Council on [April 16, 2024](#)¹, the appropriation of \$1,288,745 million of Public Employees Retirement (PERS) Rate Stabilization Reserve through the [June 4, 2024](#) Council adoption of the FY 2024-25 Operating Budget, the \$532,404 use of Future Deficit Reserve approved by Council on [November 19, 2024](#) to fund economic incentives in an adopted Memorandum of Understanding between the City of Milpitas and International Association of Firefighters, and the \$521,061 use of the Facilities Replacement Reserve approved by Council on [January 7, 2025](#) to fund critical Library elevator repairs. The FY 2024-25 Adopted Budget assumed a slight recovery in revenue, which is discussed further below by major categories.

¹ CIP 2494 City Hall Air Handlers \$2.5 million

General Fund Revenues	FY2024-25 Adopted Budget	FY2024-25 Adjusted Budget	FY2024-25 Receipts 12/31/2024	Outstanding Favorable/ (Unfavorable)	% Receipts	FY2023-24 Receipts 12/31/2023	FY2024-25 vs FY2023-24 % Increase/ (Decrease)
Property Tax	\$50,271,338	\$50,071,338	\$8,323,274	\$(41,948,064)	16.6%	\$7,911,311	5.2%
Sales and Use Tax	29,562,305	29,562,305	9,634,553	(19,927,752)	32.6%	9,753,064	(1.2)%
Sales and Use Tax - Measure F	7,340,550	7,340,550	2,229,905	(5,110,645)	30.4%	2,392,006	(6.8)%
Transient Occupancy Tax	13,032,550	13,032,550	5,582,660	(7,449,890)	42.8%	4,973,415	12.3%
Licenses, Permits & Fines	9,231,118	9,231,118	4,279,887	(4,951,231)	46.4%	3,750,316	14.1%
Operating Transfer In	8,478,722	8,478,722	2,401,861	(6,076,861)	28.3%	2,721,743	(11.8)%
Charges for Services	7,877,721	7,877,721	3,176,589	(4,701,131)	40.3%	2,970,218	6.9%
Franchise Fees	5,990,422	5,990,422	1,338,074	(4,652,348)	22.3%	1,544,063	(13.3)%
Use of Money and Property	1,179,201	1,179,201	968,130	(211,067)	82.1%	415,059	133.3%
Other Taxes	1,135,518	1,135,518	425,964	(709,554)	37.5%	473,380	(10.0)%
Intergovernmental	299,201	299,201	651,316	352,115	217.7%	156,506	316.2%
Other Revenues	288,309	288,309	285,057	(3,252)	98.9%	937,682	(69.6)%
Total General Fund Revenue¹	\$134,686,955	\$134,686,955	\$39,297,270	(\$95,389,685)	29.2%	\$37,998,763	3.4%

¹ Total General Fund Revenue does not include the use of \$3.0 million in Facilities Replacement Reserve, \$1,288,745 million of Public Employees Retirement (PERS) Rate Stabilization Reserve, and \$532,404 of the Future Deficit Reserve.

- **Property Taxes and Redevelopment Property Tax Trust Fund:** The significant majority of property tax revenue is received in December and April, following the payment of property taxes by taxpayers. The revenue forecast estimates \$50 million in total property tax revenue for the City of Milpitas based on County of Santa Clara (County) projections. The County's most recent update on February 7, 2025 forecasts property tax projections as \$1.3 million higher than the adopted budget.
- **Sales & Use Tax:** Sales tax is distributed to municipalities two quarters in arrears from the State of California Department of Tax and Fee Administration (CDTFA). As of December 31, 2024, the City received four months of sales tax receipts, July through October. Revenues are 1.2% lower than last year at the same time, largely due to reduced consumer consumption.
- **Sales & Use Tax – Measure F:** This voter-approved district tax became operative April 1, 2021 and sunsets on March 31, 2029. Measure J, which extends Measure F by eight years to March 31, 2037, was placed on the November 5, 2024 ballot was approved by the voters with approximately 80.1% "Yes" votes. As of December 31, 2024, the City has received four months of sales tax receipts, July through October, for Measure F. Revenues are 6.8% lower than last year at the same time, largely due to reduced consumer consumption.
- **Franchise Fees:** Revenue is trending 13.3% lower compared to last year. Sanitation franchise fees attributed to December has not yet been received; sanitation franchise fees are typically received one month in arrears.
- **Hotel/Motel (Transient Occupancy Tax [TOT]) Tax:** Revenues are 12.3% higher than last year at the same time. Hotel operators are beginning to see higher TOT revenues although the City has received

slightly less than 50% of the adopted budget this quarter.

- License and Permits: Revenues are 14.1% higher than last year at the same time. Developer and builder project delivery timelines and respective building permit revenues fluctuate and are seldom within City control.
- Charges for Services: Revenues are 6.9% higher than last year at the same time. This is largely due to an increase in Recreation and Community Services program revenues.
- Use of Money and Property: Revenues are two times higher than last year at the same time, as the City's investment portfolio is earning significantly higher income than last year. This uptick in investment income is primarily due to higher yield rates in the short-term portfolio, given sustained high interest market rates through most of the fiscal quarter.
- Intergovernmental – Revenues are four times higher than last year at the same time, largely due to Fire mutual aid reimbursements received. Intergovernmental revenues also include grant revenues which varies based upon grants received year by year.

Expenditures

For the six months ending December 31, 2024, the General Fund has utilized \$77.0 million (including encumbrances of \$5.5 million), or 54.3%, of the FY 2024-25 amended operating budget of \$141.6 million. The adjusted operating budget represents \$138.5 million of the adopted appropriation and \$2.1 million of carryover encumbrances and \$1.0 million in amendments. As of December 31, 2024 General Fund expenditures are consistent with prior year as a percentage expended of the budget.

Departments	FY2024-25 Adopted Budget	FY2024-25 Adjusted Budget	Expenditure	Encumbrance	Total YTD Expenditure + Encumbrances	% of Adjusted Budget	FY2023-24 Expenditure Including Encumbrance	FY2024-25 vs. FY2023-24
								Increase/ (Decrease)
City Attorney	1,214,142	1,249,302	578,245	109,179	687,423	55.0%	621,691	10.6%
City Clerk	634,488	634,488	277,205	a0	277,205	43.7%	290,157	(4.5%)
City Council	631,378	679,887	256,048	48,774	304,822	44.8%	256,536	18.8%
City Manager	2,196,244	2,254,845	1,074,844	170,179	1,245,023	55.2%	1,152,690	8.0%
Economic Development	1,229,397	1,345,250	511,760	129,895	641,655	47.7%	467,444	37.3%
Engineering	4,721,478	4,870,659	1,842,700	92,758	1,935,458	39.7%	1,667,995	16.0%
Finance	5,205,109	5,515,445	2,274,208	423,622	2,697,830	48.9%	2,531,200	6.6%
Fire	31,442,612	32,656,491	16,724,589	188,570	16,913,159	51.8%	14,752,353	14.6%
Human Resources	2,348,798	2,404,176	1,086,123	175,012	1,261,135	52.5%	1,009,991	24.9%
Information Technology	5,135,405	5,425,896	1,948,913	534,990	2,483,903	45.8%	2,301,237	7.9%
Non-Departmental	6,971,506	6,809,226	6,763,326	372,991	7,136,317	104.8%	7,060,291	1.1%
Office of Building Safety ¹	5,209,329	5,351,243	2,565,907	53,313	2,619,220	48.9%	3,643,946	(23.2%)
Office of Housing ¹	316,778	316,778	177,856	0	177,856	56.1%		
Planning	3,346,853	3,409,785	1,527,222	281,921	1,809,142	53.1%	1,127,984	60.4%
Police	45,836,039	46,148,925	21,193,500	895,376	22,088,876	47.9%	20,928,466	5.5%
Public Works	11,709,439	12,128,978	5,668,849	1,541,739	7,210,588	59.4%	6,906,129	4.4%
Recreation & Community Services	6,981,060	7,087,511	3,673,048	454,276	4,127,324	58.2%	3,798,771	8.6%
Transfers In/Out/Revenue	3,345,645	3,345,645	3,345,645	0	3,345,645	100.0%	3,243,817	3.1%

Grand Total	\$138,475,700	\$141,634,531	\$71,489,987	\$5,472,593	\$76,962,580	54.3%	\$71,760,698	7.2%
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¹ The Department of Building Safety and Housing was realigned in FY 2024-25. The Department was separated into two functions – Office of Building Safety and Office of Housing – under the governance of the City Manager’s Office. Code Enforcement was merged into the Planning Department. Due to this restructuring, direct comparison of FY 2023-24 expenses and percentage changes to FY2024-25 is not feasible.

Grants and Donations

In accordance with City Council approved Budget Guidelines, the City Manager has the authority to accept grants and donations up to \$100,000. Staff is reporting on acceptance of these grants and donations for this quarter.

1. Bulletproof Vest Partnership (BVP) Grant - \$6,279
2. Santa Clara County Public Health Department for Healthy Cities Program Grant - \$22,997

Unanticipated Expenditure Reserve

In accordance with the City Council approved Budget Guidelines, as part of the quarterly financial status reports, Staff is reporting on the expenditures from the Unanticipated Expenditure Reserve for this quarter.

Unanticipated Expenditure Reserve Use	
DataProse LLC (Measure F Bill Inserts)	\$15,537
Admail-Express, Inc. (Measure J Material Printing Services)	\$22,184
TOTAL for the Quarter Ending December 31, 2024	\$ 37,721

Water Maintenance & Operation (M&O) Fund Financial Status

Revenues: For the six months ended December 31, 2024, \$19.0 million of charges for services, or 57.6%, of the \$33.0 million budgeted, has been received. Total revenue received amounts to \$19.4 million, or 57.8%, of the \$33.6 million budgeted.

Expenditures: For the six months ended December 31, 2024, \$32.6 million, or 80.4%, of the \$40.5 million amended budget has been spent and/or encumbered. The Santa Clara Valley Water District and San Francisco Water Department wholesale water purchase contract encumbrances were posted for the full year in the first quarter of FY 2024-25.

Sewer Maintenance & Operation (M&O) Fund Financial Status

Revenues: For the six months ended December 31, 2024, \$13.1 million of charges for services, or 52.8%, of the \$24.8 million budgeted has been received. Total revenue received amounts to \$13.3 million, or 52.9%, of the \$25.2 million budgeted.

Expenditures: For the six months ended December 31, 2024, \$14.1 million, or 77.4%, of the \$18.2 million amended budget has been spent and/or encumbered. The City of San José wastewater treatment contract encumbrance was posted for the full year in the first quarter of FY 2024-25.

POLICY ALTERNATIVE(S):

This Agenda Report does not recommend any policy action by the City Council. Staff is presenting actual unaudited financial data to keep the Council and the public informed about the City’s financial status.

FISCAL IMPACT:

There is no fiscal impact to the review of this report, which provides a financial update of the City’s General, Water and Sewer funds for the quarter ended December 31, 2024.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This item is not a Project under CEQA exempt under CEQA Guideline 15378(b)(4) as it is a government fiscal activity that does not involve a commitment to any specific project which may result in a potentially significant physical impact on the environment.

RECOMMENDATION:

Review the FY 2024-25 Quarterly Financial Status Report for the quarter ended December 31, 2024.

ATTACHMENT(S):

- (a) FY 2024-25 Revenue Report for Fiscal Year-To-Date December 31, 2024
- (b) FY 2024-25 General Fund Expenditures by Department December 31, 2024
- (c) FY 2024-25 Water and Sewer Funds Financial Status for Fiscal Year-To-Date December 31, 2024



CITY OF MILPITAS

Attachment A

General Fund Revenues For Fiscal Year-To-Date December 31, 2024

	FY25	FY25	FY25	FY25	FY25	FY24	Percentage Increase/(Decrease)
	Adopted Budget	Amended Budget	Receipts 12/31/2024	Outstanding Favorable/ (Unfavorable)	% Receipt	FY24 Receipts 12/31/2023	FY24 vs FY25
General Fund Revenues							
Property Tax	\$ 50,271,338	\$ 50,271,338	\$ 8,323,274	\$ (41,948,064)	16.6%	7,911,311	5.2%
Sales and Use Tax	29,562,305	29,562,305	9,634,553	\$ (19,927,752)	32.6%	9,753,064	-1.2%
Sales and Use Tax - Measure F	7,340,550	7,340,550	2,229,905	\$ (5,110,645)	30.4%	2,392,006	-6.8%
Transient Occupancy Tax	13,032,550	13,032,550	5,582,660	\$ (7,449,890)	42.8%	4,973,415	12.3%
Licenses, Permits & Fines	9,231,118	9,231,118	4,279,887	\$ (4,951,231)	46.4%	3,750,316	14.1%
Operating Transfer In	8,478,722	8,478,722	2,401,861	\$ (6,076,861)	28.3%	2,721,743	-11.8%
Charges for Services	7,877,721	7,877,721	3,176,589	\$ (4,701,132)	40.3%	2,970,218	6.9%
Franchise Fees	5,990,422	5,990,422	1,338,074	\$ (4,652,348)	22.3%	1,544,063	-13.3%
Use of Money and Property	1,179,201	1,179,201	968,130	\$ (211,071)	82.1%	415,059	133.3%
Other Taxes	1,135,518	1,135,518	425,964	\$ (709,554)	37.5%	473,380	-10.0%
Intergovernmental	299,201	299,201	651,316	\$ 352,115	217.7%	156,506	316.2%
Other Revenues	288,309	288,309	285,057	\$ (3,252)	98.9%	937,682	-69.6%
Total General Fund Revenue	134,686,955	134,686,955	\$ 39,297,270	\$ (95,389,685)	29.2%	\$ 37,998,763	3.4%
Facility & Technology Reserves	2,500,000	3,021,061					
PERS Stabilization Reserve	1,288,745	1,288,745					
Future Deficit Reserve		532,404					
Total General Fund Revenues & Reserves	\$ 138,475,700	\$ 139,529,165					



City of Milpitas

Attachment B

General Fund Expenditures By Department Financial Status For Fiscal Year-To-Date December 31, 2024

Departments	Adopted Budget	Amendments	Grants C/O	Encumb. C/O	Amended Budget	Expenditure	Encumbrance	Total YTD Expenditure	% of Amended Budget	FY24		Percentage Increase (Decrease) FY25 / FY24
										Expenditure Including Encumbrance	% of Amended FY24 Budget	
City Attorney	1,214,142	0	0	35,160	1,249,302	578,245	109,179	687,423	55.0%	621,691	50.8%	10.6%
City Clerk	634,488	0	0	0	634,488	277,205	0	277,205	43.7%	290,157	44.7%	-4.5%
City Council	631,378	0	0	48,509	679,887	256,048	48,774	304,822	44.8%	256,536	38.1%	18.8%
City Manager	2,196,244	-109,779	0	168,380	2,254,845	1,074,844	170,179	1,245,023	55.2%	1,152,690	47.0%	8.0%
Economic Development	1,229,397	50,000	0	65,853	1,345,250	511,760	129,895	641,655	47.7%	467,444	39.8%	37.3%
Engineering	4,721,478	74,168	0	75,013	4,870,659	1,842,700	92,758	1,935,458	39.7%	1,667,995	41.6%	16.0%
Finance	5,205,109	109,779	0	200,558	5,515,445	2,274,208	423,622	2,697,830	48.9%	2,531,200	49.5%	6.6%
Fire	31,442,612	1,020,882	0	192,997	32,656,491	16,724,589	188,570	16,913,159	51.8%	14,752,353	49.9%	14.6%
Human Resources	2,348,798	0	0	55,378	2,404,176	1,086,123	175,012	1,261,135	52.5%	1,009,991	49.7%	24.9%
Information Technology	5,135,405	0	0	290,491	5,425,896	1,948,913	534,990	2,483,903	45.8%	2,301,237	45.6%	7.9%
Non-Departmental	6,971,506	-435,108	0	272,828	6,809,226	6,763,326	372,991	7,136,317	104.8%	7,060,291	84.5%	1.1%
Office of Building Safety	5,209,329	36,588	46,594	58,732	5,351,243	2,565,907	53,313	2,619,220	48.9%	3,643,946	56.4%	-23.2%
Office of Housing	316,778	0	0	0	316,778	177,856	0	177,856	56.1%			
Planning	3,346,853	0	16,050	46,882	3,409,785	1,527,222	281,921	1,809,142	53.1%	1,127,984	52.3%	60.4%
Police	45,836,039	86,295	16,618	209,973	46,148,925	21,193,500	895,376	22,088,876	47.9%	20,928,466	50.5%	5.5%
Public Works	11,709,439	89,947	0	329,592	12,128,978	5,668,849	1,541,739	7,210,588	59.4%	6,906,129	60.6%	4.4%
Recreation & Community Service	6,981,060	12,664	0	93,787	7,087,511	3,673,048	454,276	4,127,324	58.2%	3,798,771	55.4%	8.6%
Transfers In/Out/Revenue	3,345,645	0	0	0	3,345,645	3,345,645	0	3,345,645	100.0%	3,243,817	100.0%	3.1%
Grand Total	138,475,700	935,436	79,262	2,144,134	141,634,531	71,489,987	5,472,593	76,962,580	54.3%	71,760,698	54.4%	7.2%



City of Milpitas

Attachment C

Water and Sewer Funds Financial Status
For Fiscal Year-To-Date December 31, 2024 (unaudited)

Water Fund

Revenue Categories	Adopted Budget	Amendments	Grants C/O	Amended Budget	Receipt	Outstanding	% Receipt	Receipt 12/31/2023	% Receipt 12/31/2023
Charges for Services	\$ 32,971,334	\$ -	\$ -	\$ 32,971,334	\$ 18,996,675	\$ 13,974,659	57.6%	\$ 17,566,685	52.1%
Intergovernmental	-	-	-	-	(256,495)	256,495	-	-	-
Licenses, Permits & Fines	-	-	-	-	-	-	-	-	-
Other Revenues	-	-	-	-	\$ 176,074	(176,074)	-	283,743	-
Use of Money and Property	585,286	-	-	585,286	\$ 466,037	119,249	79.6%	286,556	66.9%
Grand Total	\$ 33,556,620	\$ -	\$ -	\$ 33,556,620	\$ 19,382,291	\$ 14,174,329	57.8%	\$ 18,136,984	53.1%

Expenditures by Department	Adopted Budget	Amendments	Grants C/O	Encumb. C/O	Amended Budget	Expenditure	Encumbrance	Total YTD Exp.	% of Amended Budget	Total YTD Exp. 12/31/2023	% of Amended Budget 12/31/2023
City Attorney	\$ 9,270	\$ -	\$ -	\$ -	\$ 9,270	\$ -	\$ -	\$ -	-	\$ -	-
City Manager	9,167	-	-	-	9,167	3,438	4,813	8,251	-	-	-
Finance	1,251,174	-	-	27,379	1,278,553	611,414	53,109	664,523	52.0%	559,270	50.4%
Non-Departmental	27,032,724	-	-	2,958,353	29,991,077	12,346,575	14,526,803	26,873,378	89.6%	24,411,144	98.3%
Public Works	5,433,833	150,000	-	250,424	5,834,257	2,682,560	487,292	3,169,852	54.3%	2,285,003	45.6%
Transfers In/Out/Revenue	3,363,508	-	-	-	3,363,508	1,844,254	-	1,844,254	54.8%	1,434,649	50.0%
Grand Total	\$ 37,099,676	\$ 150,000	\$ -	\$ 3,236,156	\$ 40,485,832	\$ 17,488,241	\$ 15,072,017	\$ 32,560,258	80.4%	\$ 28,690,066	84.7%

Sewer Fund

Revenue Categories	Adopted Budget	Amendments	Grants C/O	Amended Budget	Receipt	Outstanding	% Receipt	Receipt 12/31/2023	% Receipt 12/31/2023
Charges for Services	\$ 24,820,533	\$ -	\$ -	\$ 24,820,533	\$ 13,117,302	11,703,231	52.8%	\$ 12,325,220	52.4%
Intergovernmental	-	-	-	-	\$ -	-	-	-	-
Licenses, Permits & Fines	-	-	-	-	\$ (209,781)	209,781	-	553	-
Other Revenues	-	-	-	-	150,878	(150,878)	-	111,297	-
Use of Money and Property	340,742	-	-	340,742	\$ 253,050	87,692	74.3%	154,492	53.8%
Grand Total	\$ 25,161,275	\$ -	\$ -	\$ 25,161,275	\$ 13,311,449	11,849,826	52.9%	\$ 12,591,562	52.8%

Expenditures by Department	Adopted Budget	Amendments	Grants C/O	Encumb. C/O	Amended Budget	Expenditure	Encumbrance	Total YTD Exp.	% of Amended Budget	Total YTD Exp. 12/31/2023	% of Amended Budget 12/31/2023
City Manager	\$ 9,167	\$ -	\$ -	\$ -	\$ 9,167	\$ 3,438	\$ 4,813	\$ 8,251	-	\$ -	-
Engineering	-	-	-	-	-	-	-	-	-	-	-
Finance	802,132	-	-	27,221	829,353	398,027	53,109	451,136	54.4%	359,981	52.8%
Non-Departmental	11,351,009	-	-	139,547	11,490,556	7,223,869	3,340,338	10,564,207	91.9%	12,324,040	109.6%
Public Works	3,538,201	136,293	-	264,783	3,939,277	1,695,394	233,149	1,928,543	49.0%	1,436,642	38.3%
Transfers In/Out/Revenue	1,908,148	-	-	-	1,908,148	1,116,574	-	1,116,574	58.5%	751,812	50.0%
Grand Total	\$ 17,608,657	\$ 136,293	\$ -	\$ 431,551	\$ 18,176,501	\$ 10,437,302	\$ 3,631,409	\$ 14,068,711	77.4%	\$ 14,872,475	86.5%



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Review Fiscal Year 2024-25 Mid-Year Report, Adopt a Resolution Approving FY2024-25 Mid-year Budget Amendments, and Adopt a Resolution Amending Resolution No. 1626, the Classification Plan to Approve and Adopt the Pay Schedule titled “New Job Classifications/Salary Table” (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)
Category:	Leadership and Support Services
Meeting Date:	3/4/2025
Recommendation:	(1) Review Fiscal Year 2024-25 Mid-Year Report; (2) Adopt a resolution approving FY2024-25 Mid-Year Budget Amendments; and (3) Adopt a resolution amending Resolution No. 1626, the Classification Plan to approve and adopt the pay schedule titled “New Job Classifications/Salary Table,” and amend budgeted allocated positions.

BACKGROUND:

On [June 4, 2024](#), the City Council approved the Fiscal Year (FY) 2024-25 Adopted Operating Budget in the amount of \$249.8 million and the General Fund Budget in the amount of \$138.5 million. After adoption of the budget, staff monitors revenues and expenditures for all funds with an emphasis on the General Fund and Enterprise Funds.

ANALYSIS:

This staff report provides FY 2024-25 mid-year budget adjustments and position change recommendations for Council consideration.

General Fund

On June 4, 2024, the City Council approved the Fiscal Year FY 2024-25 Adopted Operating General Fund Budget in the amount of \$138.5 million. As of December 31, 2024, the City received \$39.3 million in revenues and incurred \$77.0 million in expenditures. Revenues and expenditures are seasonal with cash flow fluctuations due to timing of revenue receipts and City services rendered. As such, actual percentage of revenues may not match the lapsed period.

Revenues

For the six months ending December 31, 2024, the General Fund has received \$39.3 million and increased the use of reserves estimate by \$1.1 million for an amended revenue budget of \$139.5 million. The proposed FY 2024-25 mid-year budget adjustments total \$1.8 million, resulting in a FY 2024-25 amended revenue budget of \$141.3 million.

	Adopted Budget	BCF Through 01/23/25	Amended Budget (01/23/25)	Proposed Mid-Year	Amended Budget Mid-Yr
	FY 24-25	FY 24-25 Amend	FY24-25	Amendments	FY24-25
Revenues					
Property Taxes	\$ 50,271,338	\$ -	\$ 50,271,338	\$ -	\$ 50,271,338
Sales & Use Tax	\$ 29,562,305	\$ -	\$ 29,562,305	\$ -	\$ 29,562,305
Sales Tax - Measure F/Measure J	\$ 7,340,550	\$ -	\$ 7,340,550	\$ -	\$ 7,340,550
Transient Occupancy Tax	\$ 13,032,550	\$ -	\$ 13,032,550	\$ -	\$ 13,032,550
Licenses, Permits & Fines	\$ 9,231,118	\$ -	\$ 9,231,118	\$ -	\$ 9,231,118
Charges for Services	\$ 7,877,721	\$ -	\$ 7,877,721	\$ 95,850	\$ 7,973,571
Franchise Fees	\$ 5,990,422	\$ -	\$ 5,990,422	\$ -	\$ 5,990,422
Use of Money and Property	\$ 1,179,201	\$ -	\$ 1,179,201	\$ -	\$ 1,179,201
Other Taxes	\$ 1,135,518	\$ -	\$ 1,135,518	\$ -	\$ 1,135,518
Intergovernmental	\$ 299,201	\$ -	\$ 299,201	\$ 1,685,000	\$ 1,984,201
Other Revenues	\$ 288,309	\$ -	\$ 288,309	\$ -	\$ 288,309
Operating Transfers In	\$ 8,478,722	\$ -	\$ 8,478,722	\$ -	\$ 8,478,722
Use of Reserves (Technology, Facility Replacement Reserve)	\$ 2,500,000	\$ 521,061	\$ 3,021,061	\$ -	\$ 3,021,061
Use of Reserves - PERS stabilization Reserve	\$ 1,288,745		\$ 1,288,745		\$ 1,288,745
Use of Reserves - Future Deficit Reserve	\$ -	\$ 532,404	\$ 532,404		\$ 532,404
				\$ -	\$ -
Total Sources	\$ 138,475,700	\$ 1,053,465	\$ 139,529,165	\$ 1,780,850	\$ 141,310,015

- **Charges for Services (Increase \$95,850):** The proposed amendment increases the revenue estimate by \$0.1 million, resulting in estimated Charges for Services of \$8.0 million. The proposed amendments align with current trends for the Recreation and Community Services Department, as follows:
 - **Recreation Fees** – An increase of \$27,000 brings the FY 2024-25 revenue estimate to \$2.7 million. Contract classes revenues are trending approximately 4% higher than originally anticipated. An increase in contract services to fund instructor compensation is also recommended to sustain the projected enrollment in spring and summer 2025, which is directly tied to the increase in sales.
 - **After the Bell (ATB) program** – ATB, a long-standing City program, has partnered with the Milpitas Unified School District for the past two years to bus students to the ATB satellite site at Sal Cracolice Recreational Facility. Direct costs for bussing students are the responsibility of the City. However, 100% of those direct costs for this service are passed on to the customers through the respective program fees. A proposed increase in costs for drivers and bus fuel of \$68,850 is directly offset by a proposed increase in estimated revenue of \$0.9 million.
- **Intergovernmental (Increase \$1,685,000):** The proposed amendment increases the revenue estimate by \$1,685,000, resulting in estimated Intergovernmental revenue of \$2.0 million. This action recognizes revenue for reimbursable overtime, vehicle and equipment, and administrative support costs related to fire mutual aid provided to other municipalities in response to the wildfire season and other events.

Expenditures

For the six months ending December 31, 2024, the General Fund incurred \$77.0 million of expenditures and encumbrances. The proposed FY 2024-25 mid-year adjustments total \$2.3 million, resulting in a \$141.3 million FY 2024-25 amended expenditure budget.

	Adopted Budget	BCF Through 01/23/25	Amended Budget (01/23/25)	Proposed Mid-Year	Amended Budget Mid-Yr
	FY 24-25	FY 24-25 Amend	FY24-25	Amendments	FY24-25
EXPENDITURES					
Salaries	\$ 64,124,816	\$ 967,512	\$ 65,092,328	\$ 1,485,214	\$ 66,577,542
Benefits	\$ 42,919,236	\$ -	\$ 42,919,236	\$ 534,828	\$ 43,454,064
Services & Supplies	\$ 26,550,094	\$ 521,061	27,071,155	\$ 263,850	\$ 27,335,005
Debt Services	\$ 1,257,200	\$ -	\$ 1,257,200	\$ -	\$ 1,257,200
Capital Outlay	\$ 278,709	\$ -	\$ 278,709	\$ -	\$ 278,709
Operating Transfers Out	\$ 3,345,645	\$ -	\$ 3,345,645	\$ -	\$ 3,345,645
Reduce CMO Unanticipated Expenditure	\$ -	\$ (435,108)	\$ (435,108)		\$ (435,108)
Total Uses	\$ 138,475,700	\$ 1,053,465	\$ 139,529,165	\$ 2,283,892	\$ 141,813,057
Annual Surplus/(Deficit)	\$ -	\$ -	\$ -	(\$503,042)	(\$503,042)

- Salaries and Benefits (Increase \$1,485,214): This action increases salaries and benefits by \$1.5 million to the Fire Department for the following:
 - Salaries increase of \$585,214 for Fire personnel longevity pay and to adjust Unrepresented Fire personnel compensation in alignment with the negotiated International Association of Firefighters (IAFF) Memorandum of Agreement adopted by City Council on [November 19, 2024](#).
 - Overtime increase of \$0.9 million to better align actual overtime costs incurred due to fire mutual aid provided to other municipalities in response to the wildfire season and other events.
- Benefits (Increase \$598,665): This action increases benefits by \$0.6 million to fully fund required Other Pension Employment Benefits costs per the latest actuarial report. The cost is allocated among multiple City funds, \$534,828 is funded by the General Fund and \$63,837 is applied to other special funds that support personnel costs.
- Services and Supplies (Increase \$263,850): This action increases services and supplies by \$0.3 million for the following:
 - Maintenance supplies increase of \$150,000 for streets and park divisions operating budget for operational repairs, including but not limited to, traffic signals and streetlight repairs and park maintenance.
 - Contractual services increase of \$113,850 to the Recreation and Community Services for increased contract classes demand, and After the Bell program sites.

Other Funds

- Equipment Replacement Fund – This action increases vehicle replacement by \$356,098 from the equipment replacement fund for the following:
 - Vactor truck rental of \$80,213 for the Utility Maintenance Division. The existing vactor truck is in need of repairs and not operational. Staff was required to rent a backup vactor truck to maintain current operations until the unit is repaired.
 - Mobile stage replacement of \$275,885 for the Recreational and Community Services Department. The existing stage sustained significant damage and needs replacement.
- Capital Improvement Program (CIP) amendments are as follows:
 - CIP 3415 PD Communications – This action defunds CIP 3415 in an amount of \$154,000 and returns \$154,000 to General Government CIP Fund. The defund is due to cost of work less than estimated. This project is anticipated to be completed by June 30, 2025.
 - CIP 3423 Police Records Management System – This action defunds CIP 3423 in an amount of \$110,944 and returns \$110,944 to General Government CIP Fund. This project is complete.

- CIP 3434 Permitting Technology Improvements – This action defunds CIP 3434 in an amount of \$314,925 and recommends reappropriation of the \$314,925 to CIP 3502 Land Management System. This action is to reimburse the initial funding source of CIP 3502 Information Technology Replacement fund by \$314,925.
- CIP 3506 Watershed Analysis – This action defunds CIP 3506 in amount of \$59,210 and returns \$59,210 to General Government CIP Fund. This project is complete.
- CIP 3426 Annual Sidewalk Repair Program – This action increases CIP 3426 in an amount of \$125,000. The City received a developer reimbursement for sidewalk construction, which is requested to be appropriated into CIP 3426 Annual Sidewalk Program for use on maintenance projects.
- CIP 6118 San José-Santa Clara Regional Wastewater Facility (RWF) – This action is to reimburse the operating transfer from Sewer Treatment Fund to the Project in an amount of \$1,849,000, as originally adopted in the FY 2025-29 Capital Improvement Program budget. Costs for the City contribution to the RWF have been less than prior estimates; as such, the City will use the remaining Project balance for its FY 2024-25 annual capital obligation to the RWF.
- CIP 3447 Fire Station No. 2 Replacement – This action appropriates \$5 to 2020 Lease Revenue Bonds for interest earned to CP 3447 to increase Project funding.

POLICY ALTERNATIVE:

Alternative 1: Do not approve FY 2024-25 Mid-Year Budget Amendment Recommendations

Pros: Not approving certain budget amendment recommendations risks misaligning the budget with current trends, complicating the Administration's ability to respond effectively to pressing service needs, integrate new revenue streams, and manage the overall budget more efficiently.

Cons: The proposed budget amendments include essential funding requests and necessary adjustments to budget projections.

Reason not recommended: Not approving the FY 2024-25 Mid-Year budget amendment recommendations will result in not funding certain programs and failing to adjust budget estimates to reflect revenue received to date.

FISCAL IMPACT:

If the City Council approves the recommendations, the FY 2024-25 budget for General Fund revenues will increase by \$1.8 million and appropriations by \$1.7 million. General Fund reserves and fund balances will be administered in accordance with City policies.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The action being considered is exempt from environmental review pursuant to CEQA Guideline 15378(b)(4) as a governmental fiscal activity without a commitment to any project that would result in a potentially significant impact on the environment. Further, it is also exempt pursuant to CEQA Guideline 15378(b)(2) as a continuing administrative activity, including the purchases of supplies and personnel-related actions.

RECOMMENDATION:

- (1) Review Fiscal Year 2024-25 Mid-Year Report;
- (2) Adopt a resolution approving the FY 2024-25 Mid-Year Budget Amendments; and
- (3) Adopt a resolution amending Resolution No. 1626, the Classification Plan, to reclassify positions, approve and adopt the pay schedule titled "New Job Classifications/Salary Table" and amend budgeted allocated positions.

Attachment(s):

- (a) Resolution Approving the FY 2024-25 Mid-Year Budget Amendments
- (b) Resolution Amending Resolution No. 1626, the Classification Plan, and Amending Budgeted Allocated Positions
- (c) City of Milpitas Complete Salary Table 2025

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING
THE FISCAL YEAR 2024-25 MID-YEAR BUDGET REPORT FOR THE CITY OF
MILPITAS AND AUTHORIZING VARIOUS FINANCIAL ACTIONS**

WHEREAS, as part of the Fiscal Year 2024-25 Mid-Year Budget Report, budget adjustments have been recommended in the General Fund, and certain Special Funds and Capital Funds to bring projected revenues and expenditures into alignment based on performance through the first half of the fiscal year, to account for updated cost projections to implement technical adjustments, to recognize various revenues, and to adjust funding for a limited number of projects funded with Special and/or Capital Funds; and

WHEREAS, the City Council reviewed the Fiscal Year 2024-25 Mid-Year Report; and

WHEREAS, staff recommends the use of \$254,021 from the Contingency Reserve in the General Fund, leaving a balance of \$20,555,147; and \$254,021 from the Budget Stabilization Reserve in the General Fund, leaving a balance of \$20,555,147, to fund projected expenditures as indicated in the Fiscal Year 2024-25 Mid-Year Budget Report; and

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council and Authority have considered the full record before them, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to them. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The Fiscal Year 2024-25 Mid-Year Budget Report, as attached in the City Council meeting packet, inclusive of capital improvement program appropriations, for the City of Milpitas for Fiscal Year 2024-25 is hereby affirmed and adopted. All appropriations and other financial actions, accounting, and amendments recommended in that staff report are approved unless expressly disapproved by majority vote of the City Council at the meeting on March 4, 2025.

PASSED AND ADOPTED this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Christopher Creech, Acting City Attorney

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING RESOLUTION NO 1626, THE CLASSIFICATION PLAN, TO ADJUST SALARY RANGES FOR UNREPRESENTED FIRE PERSONNEL, IN ALIGNMENT WITH THE ADOPTED MEMORANDUM OF UNDERSTANDING WITH THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 1699, AND APPROVE AND ADOPT THE PAY SCHEDULE TITLED “ALL JOB CLASSIFICATIONS/SALARY TABLE EFFECTIVE 07/01/2024” DATED WHEN PASSED AND ADOPTED

WHEREAS, the City of Milpitas has a Classification Plan adopted as Resolution No. 1626 on December 17, 1968, which has been amended from time to time, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792 as amended); and

WHEREAS, the current Memorandum of Understanding (MOU) between the International Association of Firefighters Local 1699 (IAFF) and the City of Milpitas covering the period of July 1, 2024, through June 30, 2027 was approved on November 19, 2024 through Resolution No. 9364; and

WHEREAS, consistent with the salary changes in the IAFF MOU, the salaries of Unrepresented Fire Personnel shall be increased in accordance with, and on a par with, the salary adjustments granted to the IAFF membership to address salary compaction; and

WHEREAS, amendments to the Classification Plan are necessary to account for adjustments to salary ranges; and

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The table below presents adjustments for the salaries of Unrepresented Fire Personnel increased in accordance with, and on a par with, the salary adjustments granted to the IAFF membership in their current MOU; and
3. Resolution No. 1626, as amended, is hereby further amended to adjust the salary ranges for the below listed classifications effective July 1, 2024, dated when passed and adopted, as follows:

FROM							
	Step A				Top Step		
Classification	Hourly	Biweekly	Annual		Hourly	Biweekly	Annual
Assistant Fire Marshal	81.30	6,503.96	169,102.96		113.82	9,105.56	236,744.56
Chief Fire Enforcement Officer	70.29	5,623.59	146,213.34		98.41	7,873.03	204,698.78
Deputy Fire Chief	102.44	8,195.58	213,085.08		143.42	11,473.81	298,319.06
Fire Chief	112.95	9,035.72	234,928.72		158.13	12,650.04	328,901.04
TO							
	Step A				Top Step		
Classification	Hourly	Biweekly	Annual		Hourly	Biweekly	Annual
Assistant Fire Marshal	88.62	7,089.60	184,329.60		124.07	9,925.60	258,065.60
Chief Fire Enforcement Officer	76.63	6,130.40	159,390.40		107.28	8,582.40	223,142.40
Deputy Fire Chief	111.67	8,933.60	232,273.60		156.34	12,507.20	325,187.20
Fire Chief	123.12	9,849.60	256,089.60		172.36	13,788.80	358,508.80

4. The City Council approves and adopts the pay schedule “ALL JOB CLASSIFICATIONS/SALARY TABLE EFFECTIVE 07/01/2024,” dated this day when passed and adopted, which is attached hereto as **Exhibit A**.
5. These adjusted salary ranges will be included in the All Job Classifications/Salary Table attached to the February 18, 2025 Resolution of the City Council of the City of Milpitas amending Resolution No. 1626, the Classification Plan, to Adjust the Salary Schedules for Fire Unrepresented Classifications.

PASSED AND ADOPTED this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Christopher Creech, Acting City Attorney

Classification	Union Code	Occ Code	Pay Grade	Step A			Step B			Step C			Step D			Step E		
				Hourly	BiWeekly	Annual	Hourly2	BiWeekly3	Annual4	Hourly5	BiWeekly6	Annual7	Hourly8	BiWeekly9	Annual10	Hourly11	BiWeekly12	Annual13
Accountant	50	2101	500	51.81	4,144.60	107,759.60				57.11	4,568.50	118,781.00	59.98	4,798.00	124,748.00	62.96	5,037.03	130,962.78
Accounting Technician I	50	6104	513	33.74	2,699.17	70,178.42	35.43	2,834.16	73,688.16	37.20	2,975.87	77,372.62	39.06	3,124.66	81,241.16	41.01	3,280.90	85,303.40
Accounting Technician II	50	6105	514	37.11	2,969.08	77,196.08	38.97	3,117.58	81,057.08	40.92	3,273.45	85,109.70	42.96	3,437.16	89,366.16	45.11	3,608.94	93,832.44
Administrative Analyst I	80	2102	801	43.28	3,462.67	90,029.42										56.98	4,558.39	118,518.14
Administrative Analyst II	80	2103	802	47.80	3,824.11	99,426.86										62.92	5,033.41	130,868.66
Administrative Assistant	80	6111	828	41.29	3,303.48	85,890.48	43.36	3,468.65	90,184.90	45.53	3,642.10	94,694.60	47.80	3,824.18	99,428.68	50.19	4,015.38	104,399.88
Assistant Chief of Police	60	1405	649	116.80	9,344.14	242,947.64										163.52	13,081.79	340,126.54
Assistant City Attorney	60	1113	645	80.82	6,465.24	168,096.24										109.40	8,751.75	227,545.50
Assistant City Manager	60	1104	666	101.41	8,112.63	210,928.38										141.97	11,357.69	295,299.94
Assistant Dir Recr & Comm Svcs	60	1121	659	69.20	5,535.95	143,934.70										96.88	7,750.33	201,508.58
Assistant Engineer	50	2201	502	56.13	4,490.60	116,755.60	58.94	4,715.12	122,593.12	61.89	4,950.86	128,722.36	64.98	5,198.44	135,159.44	68.23	5,458.39	141,918.14
Assistant Finance Director	60	1109	669	72.98	5,838.26	151,794.76										102.17	8,173.76	212,517.76
Assistant Fire Marshal	60	2501	632	88.62	7,089.60	184,329.60										124.07	9,925.60	258,065.60
Assistant Planner	50	2801	503	53.82	4,305.89	111,953.14	56.52	4,521.30	117,553.80	59.33	4,746.55	123,410.30	62.30	4,983.82	129,579.32	65.41	5,233.11	136,060.86
Assistant Pool Manager	70	5609	709	22.16	1,772.80	46,092.80										28.55	2,284.00	59,384.00
Assistant Water Operator	20	7212	221	46.16	3,462.27	90,019.02	48.47	3,635.40	94,520.40	50.90	3,817.16	99,246.16	53.44	4,008.00	104,208.00	56.11	4,208.43	109,419.18
Assistant Water Operator - 40	20	8611	226	46.43	3,714.73	96,582.98	48.76	3,900.66	101,417.16	51.20	4,095.86	106,492.36	53.77	4,301.48	111,838.48	56.46	4,516.46	117,427.96
Associate Civil Engineer	50	2202	504	64.55	5,164.16	134,268.16	67.78	5,422.40	140,982.40	71.17	5,693.53	148,031.78	74.73	5,978.21	155,433.46	78.46	6,277.14	163,205.64
Associate Planner	50	2802	505	61.89	4,950.99	128,725.74	64.99	5,199.21	135,179.46	68.24	5,459.44	141,945.44	71.65	5,731.70	149,024.20	75.23	6,018.18	156,472.68
Budget Manager	80	1115	839	63.09	5,047.51	131,235.26										83.05	6,643.99	172,743.74
Building & Housing Director	60	1802	658	88.20	7,055.63	183,446.38										123.47	9,877.89	256,825.14
Building Inspection Manager	80	3809	848	65.73	5,258.33	136,716.58										79.89	6,391.58	166,181.08
Building Inspector Apprentice	70	8610	770	28.00	2,240.00	58,240.00										35.00	2,800.00	72,800.00
Building Official	60	1804	676	77.58	6,206.24	161,362.24										108.61	8,688.74	225,907.24
Building Permit Technician	50	5801	508	41.10	3,288.12	85,491.12	43.16	3,452.88	89,774.88	45.33	3,626.11	94,278.86	47.58	3,806.73	98,974.98	49.96	3,996.87	103,918.62
Building/NP Inspector	50	3801	507	54.48	4,358.21	113,313.46	57.20	4,576.17	118,980.42	60.06	4,804.93	124,928.18	63.07	5,045.20	131,175.20	66.22	5,297.43	137,733.18
Business Systems Analyst/Dev	80	2119	853	57.70	4,615.99	120,015.74										75.95	6,076.05	157,977.30
Buyer	80	2106	803	42.89	3,431.28	89,213.28										56.46	4,516.63	117,432.38
CIP Manager	60	2211	642	67.02	5,361.33	139,394.58										93.83	7,506.45	195,167.70
Case Manager	50	5612	544	36.83	2,946.17	76,600.42										45.96	3,676.76	95,595.76
Chief Fire Enforcement Officer	60	1505	656	76.63	6,130.40	159,390.40										107.28	8,582.40	223,142.40
Chief of Police	60	1402	650	122.64	9,811.05	255,087.30										171.69	13,735.51	357,123.26
City Attorney	60	1112	644	99.96	7,997.00	207,922.00										124.95	9,996.27	259,903.02
City Clerk	60	1101	605	67.06	5,364.87	139,486.62										93.90	7,511.67	195,303.42
City Engineer	60	1201	606	78.23	6,258.32	162,716.32										109.52	8,761.65	227,802.90
City Manager	60	1102	697	138.16	11,052.69	287,369.94										138.16	11,052.69	287,369.94
Code Enforcement Officer	50	5804	515	47.63	3,810.70	99,078.20	50.02	4,001.29	104,033.54	52.53	4,202.20	109,257.20	55.15	4,412.30	114,719.80	57.91	4,632.76	120,451.76
Communications Dispatch Superv	40	6409	456	61.94	4,954.90	128,827.40	65.03	5,202.64	135,268.64	68.28	5,462.79	142,032.54	71.70	5,735.94	149,134.44	75.28	6,022.74	156,591.24
Communications Dispatcher	40	6408	455	53.63	4,290.14	111,543.64	56.31	4,504.62	117,120.12	59.12	4,729.84	122,975.84	62.08	4,966.29	129,123.54	65.18	5,214.61	135,579.86
Community Service Officer	40	6412	460	46.22	3,697.73	96,140.98	48.53	3,882.63	100,948.38	50.96	4,076.76	105,995.76	53.51	4,280.59	111,295.34	56.18	4,494.64	116,860.64
Councilmember	60	1107	699	20.87	1,417.40	36,430.40										20.87	1,417.40	36,430.40
Crime Analyst	80	2105	809	51.81	4,145.13	107,773.38										68.20	5,456.27	141,863.02
Cross Connection Specialist	20	8626	239	47.99	3,839.31	99,822.06	50.52	4,041.37	105,075.62	53.18	4,254.08	110,606.08	55.97	4,477.97	116,427.22	58.92	4,713.65	122,554.90
Customer Services Supervisor	80	2127	847	50.24	4,019.43	104,505.18										66.13	5,290.45	137,551.70
Deputy City Attorney	60	1114	646	63.14	5,050.96	131,324.96										87.52	7,001.35	182,035.10
Deputy City Clerk	80	6102	835	49.34	3,947.07	102,623.82										59.97	4,797.68	124,739.68
Deputy City Manager	60	1119	672	99.38	7,950.37	206,709.62										139.07	11,125.91	289,273.66
Deputy Director of IT	60	1123	679	80.31	6,424.82	167,045.32										102.85	8,227.82	213,923.32
Deputy Fire Chief	60	1504	633	111.67	8,933.60	232,273.60										156.34	12,507.20	325,187.20
Deputy Public Works Director	60	1207	654	78.23	6,258.32	162,716.32										109.52	8,761.65	227,802.90
Digital Media Specialist	80	2121	840	44.63	3,570.76	92,839.76										58.75	4,700.21	122,205.46
Dir of Recr & Community Svcs	60	1208	655	86.37	6,909.53	179,647.78										121.15	9,692.19	251,996.94
Econ Dev Dir & Strat Init	60	1206	653	86.37	6,909.53	179,647.78										121.15	9,692.19	251,996.94
Economic Development Coord	80	8623	852	54.45	4,355.63	113,246.38										67.51	5,400.93	140,424.18
Economic Development Spec	80	8606	850	51.85	4,147.86	107,844.36										62.59	5,006.89	130,179.14
Electrical/Building Inspector	50	3802	511	57.20	4,576.16	118,980.16	60.06	4,804.93	124,928.18	63.06	5,045.19	131,174.94	66.22	5,297.43	137,733.18	69.53	5,562.32	144,620.32
Emergency Services Coordinator	80	2502	836	57.28	4,582.72	119,150.72												

Classification	Union Code	Occ Code	Pay Grade	Step A			Step B			Step C			Step D			Step E		
				Hourly	BiWeekly	Annual	Hourly2	BiWeekly3	Annual4	Hourly5	BiWeekly6	Annual7	Hourly8	BiWeekly9	Annual10	Hourly11	BiWeekly12	Annual13
Executive Assistant	80	6117	812	45.42	3,633.30	94,465.80	47.69	3,815.00	99,190.00	50.07	4,005.74	104,149.24	52.58	4,206.02	109,356.52	55.20	4,416.32	114,824.32
FF/Paramedic Trainee - 40	10	4504	107	59.28	4,742.68	123,309.68	59.28	4,742.68	123,309.68	59.28	4,742.68	123,309.68	59.28	4,742.68	123,309.68	59.28	4,742.68	123,309.68
FF/Paramedic Trainee - 56	10	4514	155	42.35	4,742.68	123,309.68	42.35	4,742.68	123,309.68	42.35	4,742.68	123,309.68	42.35	4,742.68	123,309.68	42.35	4,742.68	123,309.68
Finance Director	60	1103	627	88.58	7,086.27	184,243.02										124.00	9,919.98	257,919.48
Finance Manager	60	1116	647	62.51	5,001.18	130,030.68										87.52	7,001.68	182,043.68
Financial Analyst I	80	2125	844	40.41	3,233.17	84,062.42										53.20	4,255.81	110,651.06
Financial Analyst II	80	2126	845	44.63	3,570.76	92,839.76										58.75	4,700.21	122,205.46
Fire Battalion Chief	10	2508	153	59.47	6,660.85	173,182.10										83.26	9,325.19	242,454.94
Fire Battalion Chief - 40	10	2509	154	83.26	6,660.85	173,182.10										116.56	9,325.19	242,454.94
Fire Captain	10	2504	100	52.05	5,829.39	151,564.14	54.65	6,120.86	159,142.36	57.38	6,426.91	167,099.66	60.25	6,748.27	175,455.02	63.27	7,085.69	184,227.94
Fire Captain - 40	10	2507	108	72.87	5,829.39	151,564.14	76.51	6,120.86	159,142.36	80.34	6,426.91	167,099.66	84.35	6,748.27	175,455.02	88.57	7,085.69	184,227.94
Fire Chief	60	1502	630	123.12	9,849.60	256,089.60										172.36	13,788.80	358,508.80
Fire Engineer/EMT	10	4501	102	45.90	5,140.36	133,649.36	48.19	5,397.39	140,332.14	50.60	5,667.26	147,348.76	53.13	5,950.63	154,716.38	55.79	6,248.16	162,452.16
Fire Engineer/EMT - 40	10	4515	156	64.25	5,140.36	133,649.36	67.47	5,397.39	140,332.14	70.84	5,667.26	147,348.76	74.38	5,950.63	154,716.38	78.10	6,248.16	162,452.16
Fire Engineer/Paramedic	10	4505	151	51.40	5,757.22	149,687.72	53.97	6,045.09	157,172.34	56.67	6,347.34	165,030.84	59.51	6,664.72	173,282.72	62.48	6,997.96	181,946.96
Fire Prevention Inspector	10	3501	106	73.58	5,886.25	153,042.50	77.26	6,180.57	160,694.82	81.12	6,489.61	168,729.86	85.18	6,814.09	177,166.34	89.44	7,154.80	186,024.80
Fire Protection Engineer	10	3507	110	73.58	5,886.25	153,042.50	77.26	6,180.57	160,694.82	81.12	6,489.61	168,729.86	85.18	6,814.09	177,166.34	89.44	7,154.80	186,024.80
Firefighter/EMT	10	4502	103	43.77	4,902.01	127,452.26	45.96	5,147.12	133,825.12	48.25	5,404.48	140,516.48	50.67	5,674.71	147,542.46	53.20	5,958.45	154,919.70
Firefighter/EMT - 40	10	4516	157	61.28	4,902.01	127,452.26	64.34	5,147.12	133,825.12	67.56	5,404.48	140,516.48	70.93	5,674.71	147,542.46	74.48	5,958.45	154,919.70
Firefighter/EMT Trainee - 40	10	4509	109	52.93	4,234.53	110,097.78	52.93	4,234.53	110,097.78	52.93	4,234.53	110,097.78	52.93	4,234.53	110,097.78	52.93	4,234.53	110,097.78
Firefighter/Paramedic	10	4503	104	49.02	5,490.25	142,746.50	51.47	5,764.77	149,884.02	54.04	6,053.01	157,378.26	56.75	6,355.67	165,247.42	59.58	6,673.46	173,509.96
Fitness Instructor	70	5620	713	35.00	2,800.00	72,800.00										75.00	6,000.00	156,000.00
Fleet Maint Worker I -40	20	8615	230	40.31	3,224.94	83,848.44	42.33	3,386.56	88,050.56	44.45	3,555.63	92,446.38	46.66	3,733.18	97,062.68	49.00	3,920.33	101,928.58
Fleet Maint Worker II - 40	20	8616	231	44.34	3,547.12	92,225.12	46.56	3,724.68	96,841.68	48.88	3,910.74	101,679.24	51.33	4,106.40	106,766.40	53.90	4,311.62	112,102.12
Fleet Maint Worker III -40	20	8617	232	51.00	4,079.81	106,075.06	53.55	4,283.98	111,383.48	56.22	4,497.70	116,940.20	59.03	4,722.03	122,772.78	61.99	4,959.14	128,937.64
Fleet Maintenance Worker I	20	7207	213	40.31	3,023.39	78,608.14	42.33	3,174.53	82,537.78	44.44	3,333.28	86,665.28	46.67	3,499.88	90,996.88	49.00	3,674.90	95,547.40
Fleet Maintenance Worker II	20	7208	214	44.34	3,325.74	86,469.24	46.56	3,491.99	90,791.74	48.89	3,666.62	95,332.12	51.33	3,849.97	100,099.22	53.90	4,042.39	105,102.14
Fleet Maintenance Worker III	20	7209	215	50.99	3,824.56	99,438.56	53.54	4,015.77	104,410.02	56.22	4,216.53	109,629.78	59.03	4,427.34	115,110.84	61.98	4,648.79	120,868.54
GIS Technician	50	2212	552	56.13	4,490.60	116,755.60	58.94	4,715.12	122,593.12	61.89	4,950.90	128,723.40	64.98	5,198.42	135,158.92	68.23	5,458.41	141,918.66
Hazardous Materials Inspector	10	3502	105	73.58	5,886.25	153,042.50	77.26	6,180.57	160,694.82	81.12	6,489.61	168,729.86	85.18	6,814.09	177,166.34	89.44	7,154.80	186,024.80
Housing Official	60	1120	673	72.98	5,838.26	151,794.76										102.17	8,173.76	212,517.76
Human Resources Analyst I	80	2124	843	43.28	3,462.67	90,029.42										56.98	4,558.39	118,518.14
Human Resources Analyst II	80	2123	842	47.80	3,824.11	99,426.86										62.92	5,033.41	130,868.66
Human Resources Assistant	80	2108	846	30.83	2,466.62	64,132.12	32.37	2,589.86	67,336.36	33.99	2,719.35	70,703.10	35.69	2,855.34	74,238.84	37.48	2,998.08	77,950.08
Human Resources Director	60	1105	613	88.08	7,046.40	183,206.40										123.31	9,864.99	256,489.74
Human Resources Manager	60	1209	677	67.22	5,377.53	139,815.78										94.11	7,528.53	195,741.78
Human Resources Technician	80	2107	816	37.40	2,991.70	77,784.20	39.27	3,141.93	81,690.18	41.23	3,298.33	85,756.58	43.30	3,463.89	90,061.14	45.46	3,636.63	94,552.38
I T Director	60	2113	624	86.92	6,953.71	180,796.46										121.69	9,735.17	253,114.42
I T Manager	80	2116	819	65.16	5,212.88	135,534.88										85.78	6,862.06	178,413.56
I T Technician	50	3101	542	44.66	3,572.89	92,895.14	46.89	3,751.52	97,539.52	49.24	3,939.05	102,415.30	51.70	4,136.01	107,536.26	54.29	4,342.83	112,913.58
Information Technology Analyst	80	2118	831	54.81	4,385.16	114,014.16										72.15	5,772.16	150,076.16
Junior Engineer	50	2203	519	51.03	4,082.33	106,140.58	53.58	4,286.46	111,447.96	56.26	4,500.79	117,020.54	59.07	4,725.82	122,871.32	62.03	4,962.12	129,015.12
Junior Planner	50	2804	520	46.20	3,696.12	96,099.12	48.51	3,880.95	100,904.70	50.94	4,074.97	105,949.22	53.48	4,278.78	111,248.28	56.16	4,492.67	116,809.42
Legal Assistant	60	1124	689	41.29	3,303.48	85,890.48	43.36	3,468.65	90,184.90	45.53	3,642.10	94,694.60	47.80	3,824.18	99,428.68	50.19	4,015.38	104,399.88
Lifeguard	70	5610	710	17.70	1,416.00	36,816.00										22.88	1,830.40	47,590.40
Maint Worker III - 40	20	8619	234	43.42	3,473.75	90,317.50	45.60	3,647.70	94,840.20	47.87	3,829.97	99,579.22	50.27	4,021.63	104,562.38	52.78	4,222.66	109,789.16
Maintenance Assistant	20	8625	238	26.48	2,118.21	55,073.46	27.73	2,218.58	57,683.08	29.03	2,322.41	60,382.66	30.40	2,432.30	63,239.80	31.83	2,546.52	66,209.52
Maintenance Custodian I	20	8101	203	30.93	2,319.75	60,313.50	32.48	2,435.74	63,329.24	34.10	2,557.55	66,496.30	35.81	2,685.43	69,821.18	37.60	2,819.70	73,312.20
Maintenance Custodian I - 40	20	8107	222	30.93	2,474.42	64,334.92	32.48	2,598.11	67,550.86	34.10	2,728.03	70,928.78	35.81	2,864.45	74,475.70	37.60	3,007.65	78,198.90
Maintenance Custodian II	20	8102</																

Classification	Union Code	Occ Code	Pay Grade	Step A			Step B			Step C			Step D			Step E		
				Hourly	BiWeekly	Annual	Hourly2	BiWeekly3	Annual4	Hourly5	BiWeekly6	Annual7	Hourly8	BiWeekly9	Annual10	Hourly11	BiWeekly12	Annual13
Plan Checker	50	3803	522	56.33	4,506.38	117,165.88										68.47	5,477.88	142,424.88
Plan Review Manager	60	1210	678	73.27	5,861.99	152,411.74										95.30	7,624.07	198,225.82
Planning Commissioners	70	1108	698	1.00	20.00	520.00										1.00	20.00	520.00
Planning Director	60	1803	607	88.20	7,055.63	183,446.38										123.47	9,877.89	256,825.14
Planning Manager	60	2803	602	67.22	5,377.53	139,815.78										94.11	7,528.53	195,741.78
Planning Technician	50	2813	554	41.10	3,288.12	85,491.12												
Police Assistant	40	6401	450	54.48	4,358.54	113,322.04												
Police Captain	60	1401	651	111.24	8,898.85	231,370.10												
Police Clerk I	40	6402	451	39.05	3,124.14	81,227.64												
Police Clerk II	40	6403	452	42.96	3,436.49	89,348.74												
Police Clerk Supervisor	40	6404	454	49.62	3,969.23	103,199.98												
Police Evidence Technician	40	8607	459	45.56	3,644.48	94,756.48												
Police Lieutenant	40	2402	400	89.65	7,172.22	186,477.72												
Police Officer	40	4403	403	63.91	5,113.19	132,942.94												
Police Officer Trainee	40	4404	457	62.54	5,003.38	130,087.88												
Police Sergeant	40	4405	401	77.21	6,176.88	160,598.88												
Police Support Services Mgr	60	1404	657	65.19	5,215.27	135,597.02												
Pool Manager	70	5608	708	23.22	1,857.60	48,297.60												
Principal Civil Engineer	80	2204	822	68.48	5,478.50	142,441.00												
Principal Planner	80	2811	823	70.61	5,648.47	146,860.22												
Program Coordinator	50	5606	523	40.44	3,235.55	84,124.30												
Public Information Officer	60	1122	674	64.70	5,175.88	134,572.88												
Public Services Assistant I	50	6601	524	33.74	2,699.17	70,178.42												
Public Services Assistant II	50	6602	525	37.11	2,969.08	77,196.08												
Public Works Director	60	1204	635	90.69	7,255.01	188,630.26												
Public Works Inspector	50	3202	526	54.48	4,358.21	113,313.46												
Public Works Manager	60	1117	648	60.36	4,828.73	125,546.98												
Purchasing Agent	80	1106	826	56.53	4,522.79	117,592.54												
Recreation Administrative Asst	70	5619	712	17.70	1,416.00	36,816.00												
Recreation Attendant	70	5618	711	17.70	1,416.00	36,816.00												
Recreation Instructors	70	5607	707	18.82	1,505.60	39,145.60												
Recreation Leader	70	5617	706	17.70	1,416.00	36,816.00												
Recreation Services Supervisor	80	2601	827	54.01	4,320.43	112,331.18												
Recreation Svcs Assistant I	50	8601	527	19.07	1,525.69	39,667.94												
Recreation Svcs Assistant II	50	8602	528	22.64	1,811.48	47,098.48												
Recreation Svcs Assistant III	50	8603	529	26.03	2,082.27	54,139.02												
Recreation Svcs Assistant IV	50	8604	530	30.54	2,443.05	63,519.30												
Retired Annuitant - Extra Help	70	5107	747	50.00	4,000.00	104,000.00												
Retired Annuitant - Interim	70	5108	748	50.00	4,000.00	104,000.00												
Risk Analyst	80	2130	857	44.63	3,570.76	92,839.76												
SCADA Technician	20	8627	240	48.92	3,913.60	101,753.60												
Senior Accountant	80	2110	829	50.24	4,019.43	104,505.18												
Senior Accounting Technician	50	6106	539	40.82	3,265.99	84,915.74												
Senior Administrative Analyst	80	2112	834	55.50	4,439.60	115,429.60												
Senior Building Inspector	50	3804	531	62.92	5,033.70	130,876.20												
Senior Buyer	80	2129	856	53.33	4,266.36	110,925.36												
Senior Executive Assistant	80	6123	855	47.80	3,824.11	99,426.86												
Senior HR Analyst	80	2122	841	51.81	4,145.16	107,774.16												
Senior Plan Check Engineer	50	3806	534	72.67	5,813.21	151,143.46												
Senior Planner	80	2805	830	64.73	5,178.17	134,632.42												
Senior Public Works Inspector	50	3203	535	62.92	5,033.74	130,877.24												
Senior Public Works Lead	20	8609	225	57.56	4,605.03	119,730.78												
Senior SCADA Technician	20	8628	241	53.81	4,304.97	111,929.22												
Special Project Associate	70	5105	750	20.00	1,600.00	41,600.00												
Sr Code Enforcement Officer	50	5806	545	55.90	4,472.03	116,272.78												
Sr. Public Services Assistant	50	5615	549	41.40	3,311.82	86,107.32												
Sr. Special Projects Associate	70	5106	749	50.00	4,000.00	104,000.00												
Staff Assistant	70	5104	745	17.70	1,416.00	36,816.00												
Student Intern	70	5103	740	17.70	1,416.00	36,816.00												
Transportation & Traffic Mgr	60	1202	675	64.70	5,175.88	134,572.88												
Water Meter Technician I	20	8104	216	34.02	2,551.68	66,343.68												
Water Meter Technician I -40	20	8620	235	34.03	2,722.00	70,772.00												
Water Meter Technician II	20	8105	217	37.43	2,806.93	72,980.18												
Water Meter Technician II -40	20	8621	236	37.43	2,994.19	77,848.94												
Water Systems Operator	20	7211	219	52.01	3,901.04	101,427.04												
Water Systems Operator - 40	20	8622	237	52.31	4,185.18	108,814.68												

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Union Code	Union Description
10	IAFF - International Association of Firefighters
20	MEA - Milpitas Employee Association
40	MPOA - Milpitas Police Officers Association
50	Pro-Tech - Milpitas Professional and Technical Group
60	Unrep - Unrepresented
70	Temps - Temporary
80	Mid-Con - UPEC Mid-Mgmt-Confidential Unit