



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: April 10, 2013

APPLICATION: ZONING TEXT AMENDMENT NO. ZA13-0002

**APPLICATION
SUMMARY:**

A request to amend the text within the Zoning Ordinance to: incorporate “live-work” units as a conditionally permitted use within the Town Center Zoning District; introduce “live-work” specifications under Section 13 “Special Uses”; and further define “live-work” units in Section 2 “Definitions”

LOCATION: Town Center Zoning District

APPLICANT: DRG Builders Inc., Doyle Heaton, 3480 Buskirk Ave, Ste 260, Pleasant Hill, CA 94523

OWNER: N/A

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution No. 13-015 recommending approval to the City Council.**

PROJECT DATA:

General Plan/

Zoning Designation: Town Center / Town Center with Site and Architectural Overlay (TC-S)

Related Permits: MT12-0002, SD12-0003, and UP12-0016

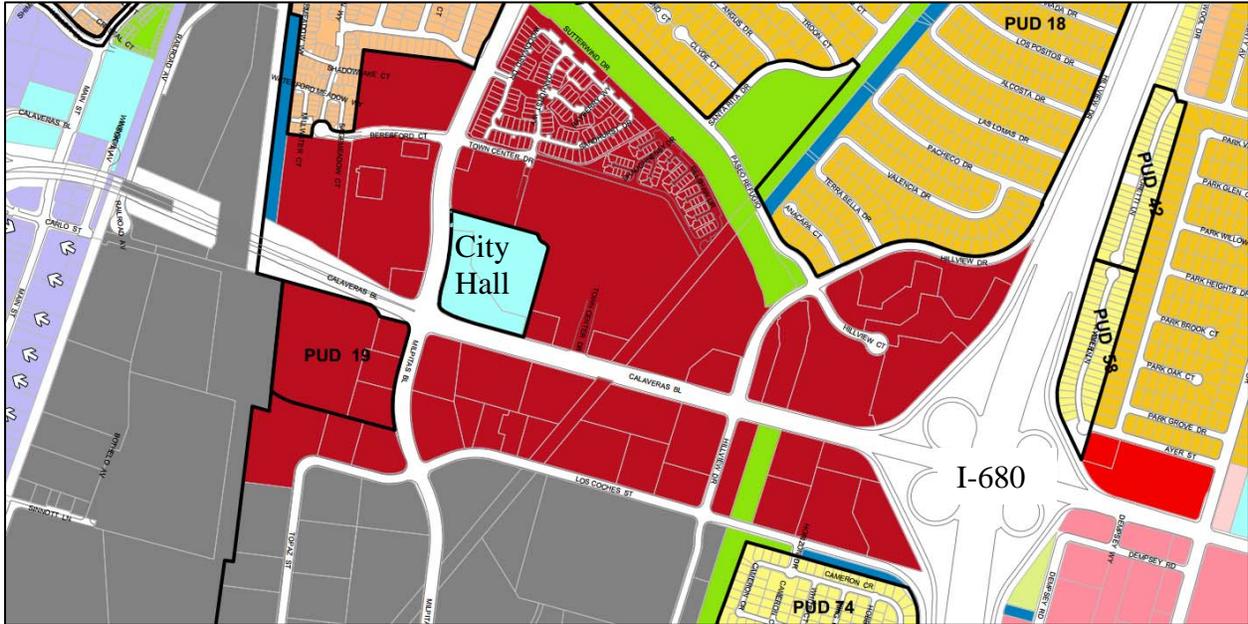
CEQA Determination: Exempt pursuant to Section 15061 of CEQA Guidelines. The activity is covered by the general rule that CEQA applies only to projects, which have the potential to cause a significant effect on the environment.

PLANNER: Tiffany Brown, Assistant Planner

ATTACHMENTS:

- A. Resolution No. 13-015
- B. Underline and Strikeout of Amendments
- C. Live-Work Regulations in other Santa Clara County Cities Chart (Information only)

ZONING MAP



 Town Center Zoning District


No scale

BACKGROUND

On March 27, 2013, the Planning Commission recommended that the City Council approve 28 single family units, four live-work units with a total of 2,000 square feet of commercial along South Milpitas Boulevard on an approximate 2.7 acre site at 375 Los Coches Blvd. Due to the applicant adding the live-work request late in the planning process, staff was unable to meet the Public Hearing Notification required for a zoning text amendment at the time of project consideration. This was understood by the Planning Commission with a project condition of approval requiring that a text amendment be prepared prior to the project being forwarded to the City Council. Incorporating the “live-work” units at this location requires a Zoning Text Amendment to conditionally allow “live-work” units within the Town Center Zoning District.

PROJECT DESCRIPTION

Staff also notes that “live-work” units are currently conditionally allowed in Multi-Family Residential (R3), Multi-Family Residential Very High Density (R4), and Urban Residential (R5) Zoning Districts. Although our Zoning Ordinance addresses “live-work” units, currently, there are none constructed within the City. With the introduction of “live-work” units to our City through new/proposed projects, Staff is proposing to further define the “live-work” unit and development standards / regulations similar to other cities that currently have “live-work” units.

Title IX, Chapter 10, Section 2 of the Milpitas Zoning Ordinance includes a list of definitions for the chapter. A “live-work unit” is currently included as part of those definitions. The existing definition reads as follows:

“Live-Work Unit” means a dwelling unit with a separate living space attached to a work space within the same unit. The work space and the living space must be occupied by the same tenant.

Staff proposes to further define the “live-work” unit. The new definition, if approved, will read as follows:

“Live-Work Unit” means a dwelling unit with a separate living space attached to a work space within the same unit. The work space and the living space must be owned and occupied by the same tenant. Live-work uses are allowed one non-residential employee, more customers, and a broader range of uses, than permitted in Home Occupations. See Section 10-13.12 within Special Uses for Live-Work Unit purpose, intent, and regulations.

Examples of establishments covered by this designation include, but are not limited to:

Art and craft work;
Office only use;
Accountant;
Architects;
Artists and artisans;
Attorneys;
Computer software and multimedia related professionals;
Engineers;
Fashion;
Interior and other designers; and
Commercial Service

Currently, the Zoning Ordinance does not identify specific regulations, restrictions, or standards for the operation of a live-work unit beyond the definition. Staff researched neighboring cities,

such as Sunnyvale, San Jose, Fremont, Campbell and Palo Alto. Attachment C. shows a summary chart of what nearby city regulations as a basis for developing the proposed Milpitas “live-work” unit regulations. Staff recommends the addition of “live-work” unit to Title IX, Chapter 10, Section 13-for Special Uses, to address regulations and standards for the city. This Section shall read as follows:

13.12 Live-Work Units

A. Purpose and Intent. The purpose of this Section is to control and regulate land use activities for the live-work unit. The intent of a live-work unit is to allow for small-scale business activities in residential uses which meet certain standards. No portion of the live-work unit may be separately occupied or sold. Live-work uses are allowed one non-residential employee, and a broader range of uses, than permitted in Home Occupations, and therefore are subject to granting of a conditional use permit to ensure compatibility.

B. Applicability. This Section shall apply to existing and new residential development that includes live-work units.

C. Review Requirements. Live-work units shall require the approval of a Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits, of this Chapter.

C. Minimum Performance Standards

1. A business license and certificate of occupancy shall be obtained for every commercial space within the live-work units.
2. Only one live-work business is allowed per residential unit.
3. Living space shall occupy a minimum of 60% of the total gross floor area of the unit.
4. The commercial component as designated on the floor plan approved through the conditional use permit shall remain commercial and cannot be converted to a residential use.
5. The residential component as designated on the floor plan approved through the conditional use permit shall remain residential and cannot be converted to commercial use.
6. 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 residential unit shall have direct interior access to the commercial unit.
7. The residential unit shall provide additional exterior access to the main residential unit that is not through the commercial component.
8. Exterior Appearance: The commercial component of the live-work unit shall have a commercial, store front appearance located on the 1st floor of the home.
9. 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 use not permitted.
10. Shall demonstrate compliance with parking per Section 53 for required parking spaces.
11. Sign size, location, illumination and materials, shall be consistent with the architectural building design and approved through the live-work conditional use permit and sign program.

12. Business shall not involve the use of hazardous materials or produce medical or hazardous waste, except that de minimis amounts of essential hazardous materials will be subject to the review and approval of the Milpitas Fire Department. Specific conditions, as well as permitting, disclosure, and periodic inspection requirements, will be a part of any approval granted. Classes of materials that are prohibited include: 1-A flammable liquids, pyrophoric, unstable, reactive, toxic, highly toxic, or explosive materials including fireworks and small arms ammunition; flammable combustible, corrosive or oxidizing solids, liquids and gasses; organic peroxides and cryogenes.
13. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved use permit
14. All foods must be produced, prepared, packaged, stored, transported, and marketed in compliance with County Environmental Health Standards. The Market shall maintain in good standing all necessary health permits for the operations of the Market and shall be responsible for requiring all vendors be in possession of necessary health permits for all products sold.
15. The commercial use shall not create external noise, odor, glare, vibration or electrical interference detectable to the normal sensory perception by adjacent neighbors.

C. Prohibited Uses

1. Any use not permitted within the underlying zoning district along with the following:
 - a. Adult-oriented businesses;
 - b. Astrology;
 - c. Palmistry;
 - d. Massage;
 - e. Sauna or Spa;
 - f. Pharmacy or drug store
 - g. Head/smoke/tobacco shop;
 - h. Tattoo and Piercing;
 - i. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale;
 - j. All vehicle related uses such as auto sales, repair, or maintenance of vehicles including boats, motorcycles, or recreational vehicles;
 - k. Places of Assembly;
 - l. Group Instruction;
 - m. Club or Social Organization;
 - n. Religious Assembly;
 - o. Educational Institutions;
 - p. Motion picture theaters; and
 - q. Sit Down Restaurants

See Attachment C, for a summary of regulations for other Cities within the County.

Parking

Neighboring cities vary on parking regulations. Some cities do not require additional parking, as where other cities require additional parking based upon the square footage of commercial being proposed. See Table 1 below summarizing nearby city regulations.

Table 1
Parking Regulations Comparison Table

Sunnyvale	San Jose	Campbell	Palo Alto
No Special regulations	1 parking space per unit	3 parking spaces per unit	A maximum total of two spaces for the residential unit, plus on space per 200 square feet for the gross square footage of the work area, less one space from the total (to reflect the overlap of the resident and one employee.)

Staff recommends applying the same residential requirements for the home with the addition of 1.5 parking spaces for the commercial component. The parking requirements will be addressed in Title IX, Chapter 10, Section 53 for Off Street Parking and will read as follows in Table 2 below:

Table 2
Number of Parking Spaces Required

I. Residential Uses	
<u>Live-Work Units</u>	<u>Single family and Duplexes parking requirements shall apply, plus 1.5 for the commercial component</u>
<i>Single Family and Duplexes:</i> 3 bedrooms or fewer 4 or more bedrooms	2 per unit ⁴ 3 per unit, plus 1 per each additional bedroom ⁴
<i>Multi-Family (R3-R5 zones):</i> Studio 1 bedroom 1 or more 2 - 3 bedrooms 4 or more bedrooms	1 covered per unit 1.5 covered per unit 2 covered per unit 3 per unit, plus 1 additional space for each additional bedroom (at least two covered). ⁴
Guest parking Projects with Parking structures Projects with Private garages	15% of the total required, may be uncovered 20% of the total required, may be uncovered
Bicycle parking	5% of the total required

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The Town Center designation, according to the general plan, states that it should provide for a variety of commercial, civic and residential uses appropriate to the Center’s role as the functional and visual focus of Milpitas. The Town Center is a meeting place and a market place, the home of commercial and professional firms, an entertainment area and a place for restaurants and hotels. The general plan lists Land Use Principles and Policies to help enforce the intent of the general plan. The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 3
General Plan Consistency

Guiding Principles and Implementing Policies	Consistency Finding
<i>2.a-G-2: Maintain a relatively compact urban form.</i>	Consistent
<i>2.a-G3. Provide for a variety of housing types and densities that meet the needs of individuals and families.</i>	Consistent
<i>2.a-G-4: The Town Center will be the “heart” of Milpitas’ civic, cultural, business, and professional life.</i>	Consistent
<i>2.a-I-20: Develop the Town Center as an architecturally distinctive mixed-use complex which will add to Milpitas’ identity and image.</i>	Consistent

The addition of “live-work” units within the Town Center Zoning District is consistent with the General Plan in that “live-work” units provide a new type of housing and a compatible transition from single-family homes to commercial, cultural, and civic uses. This use will support the distinctive identity and image envisioned by the General Plan for the Town Center area.

Zoning Ordinance

The purpose and intent of the Town Center Zoning District, according to the Zoning Ordinance, is to provide for an area that supports a wide range of administrative, business, entertainment, residential, dining, and cultural activities in the geographic center of the City to suit the varying lifestyles of residents and visitors alike. The Town Center allows a variety of residential densities ranging from 1 to 40 dwelling units per acre. The “live-work” type of residential use meets the intent of the zoning district in that the live-work” units will support both the residential and commercial/cultural/administrative/business type of uses and provides a compatible and complementary transition between the uses.

ENVIRONMENTAL REVIEW

Staff an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is exempt from further environmental review pursuant to Section 15061 of the CEQA Guidelines. The activity is covered by the general rule that CEQA applies only to projects, which have the potential to cause a significant effect on the environment. This project consists only of a text amendment to the Zoning Ordinance.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

CONCLUSION

The proposed Zoning Text Amendment will update the City Code and allow for a compatible use within the Town Center Zoning District. The proposed use is consistent with the intent of the General Plan and Zoning District and will be a aesthetically harmonious with all uses in the zoning district.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing after hearing testimony and adopt Resolution No. 13-015 recommending approval to the City Council.

Attachments:

- A. Resolution No. 13-015
- B. Underline and Strikeout of Amendments
- C. Live-Work Regulations in other Santa Clara County Cities Chart

RESOLUTION NO. 13-015

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, RECOMENDING APPROVAL OF ZONING TEXT AMENDMENT NO. ZA13-0002, TO CONDITIONALLY ALLOW LIVE-WORK UNITS WITHIN THE TOWN CENTER ZONING DISTRICT

WHEREAS, on March 19, 2013, an application was submitted by Doyle Heaton with DRG Builders Inc., 3480 Buskirk Ave., Ste 260, Pleasant Hill, CA 94523, A request to amend the text within the Zoning Ordinance to incorporate “live-work” units as a conditionally permitted use within the Town Center Zoning District, introduce “live-work” specifications under Section 13 for Special Uses, and further define “live-work” units in Section 2 for Definitions;

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project exempt;

WHEREAS, The Planning Commission, during its March 27, 2013 meeting, reviewed the applicants request to approve four live-work units at 375 Los Coches Boulevard and recommended a zoning text amendment to conditionally allow live-work units in the Town Center Zoning District; and

WHEREAS, the Planning Commission recommends that live-work units in the Town Center Zoning District will be compatible and Complimentary; and

WHEREAS, on April 10, 2013, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

SECTION 1: The Planning Commission 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 the Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2: Exemption pursuant to Section 15061 of CEQA Guidelines. The activity is covered by the general rule that CEQA applies only to projects, which have the potential to cause a significant effect on the environment.

SECTION 3: The Zoning Text Amendment is consistent with the General Plan, and specifically guiding principles and policies 2.a-G-2, 2.a-g-3, 2.a-g-4, and 2.a-I-20, in that the addition of “live-work” units within the Town Center Zoning provide a new type of housing and

a compatible transition from single-family homes to commercial, cultural, and civic uses. This use will support the distinctive identity and image envisioned by the General Plan for the Town Center area.

SECTION 4: The Zoning Text Amendment will not adversely affect the public health, safety, and welfare in that Town Center Zoning District, is to provide an area that supports a wide range of administrative, business, entertainment, residential, dining, and cultural activities in the geographic center of the City to suit the varying lifestyles of residents and visitors alike. The Town Center allows for variety of residential densities ranging from 1 to 40 dwelling units per acre. The “live-work” type of residential use meets the intent of the zoning district in that the live-work” units will support both the residential and commercial/cultural/administrative/business type of uses and provides a compatible and complementary transition between the uses.

SECTION 5: AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10
Title XI, Chapter 10, Section 2.03 (“Definitions”) of the Milpitas Municipal Code is hereby amended to change the definition of “live-work” units to read as follows:

“Live-Work Unit” means a dwelling unit with a separate living space attached to a work space within the same unit. The work space and the living space must be owned and occupied by the same tenant. Live-work uses allow one non-residential employee, more customers, and a broader range of uses, than permitted in Home Occupations. See **XI-10-13.12 within Special Uses** for Live-Work Unit purpose, intent, and regulations.

Examples of establishments covered by this designation include, but are not limited to:

- Art and craft work;
- Office only use;
- Accountant;
- Architects;
- Artists and artisans;
- Attorneys;
- Computer software and multimedia related professionals;
- Engineers;
- Fashion;
- Interior and other designers; and
- Commercial Service

SECTION 6: AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10
Title XI, Chapter 10, Section 13 (“Special Uses”) of the Milpitas Municipal Code is hereby amended with the addition of a new “live-work” unit entry, to be placed at the end of the section, and read as follows:

13.12 Live-Work Units

A. Purpose and Intent. The purpose of this Section is to control and regulate land use activities for the live-work unit. The intent of a live-work unit is to allow for small-scale business activities in residential uses which meet certain standards. No portion of the live-work unit may be separately occupied or sold. Live-work uses are allowed one non-residential employee, and a broader range of uses, than permitted in Home Occupations, and therefore are subject to granting of a conditional use permit to ensure compatibility.

B. Applicability. This Section shall apply to existing and new residential development that includes live-work units.

C. Review Requirements. Live-work units shall require the approval of a Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits, of this Chapter.

C. Minimum Performance Standards

1. A business license and certificate of occupancy shall be obtained for every commercial space within the live-work units.
2. Only one live-work business is allowed per residential unit.
3. Living space shall occupy a minimum of 60% of the total gross floor area of the unit,
4. The commercial component as designated on the floor plan approved through the conditional use permit shall remain commercial and cannot be converted to a residential use.
5. The residential component as designated on the floor plan approved through the conditional use permit shall remain residential and cannot be converted to commercial use.
6. 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 residential unit shall have direct interior access to the commercial unit,
7. The residential unit shall provide additional exterior access to the main residential unit that is not through the commercial component.
8. Exterior Appearance: The commercial component of the live-work unit shall have a commercial, store front appearance located on the 1st floor of the home.
9. 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 use not permitted.
10. Shall demonstrate compliance with parking per Section 53 for required parking spaces.

11. Sign size, location, illumination and materials, shall be consistent with the architectural building design and approved through a master sign program.
12. Business shall not involve the use of hazardous materials or produce medical or hazardous waste, except that de minimis amounts of essential hazardous materials will be subject to the review and approval of the Milpitas Fire Department. Specific conditions, as well as permitting, disclosure, and periodic inspection requirements, will be a part of any approval granted. Classes of materials that are prohibited include: 1-A flammable liquids, pyrophoric, unstable, reactive, toxic, highly toxic, or explosive materials including fireworks and small arms ammunition; flammable combustible, corrosive or oxidizing solids, liquids and gasses; organic peroxides and cryogens.
13. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved use permit.
14. All foods must be produced, prepared, packaged, stored, transported, and marketed in compliance with County Environmental Health Standards.
15. The commercial use shall not create external noise, odor, glare, vibration or electrical interference detectable to the normal sensory perception by adjacent neighbors.

C. Prohibited Uses

1. Any use not permitted within the underlying zoning district along with the following:
 - a. Adult-oriented businesses;
 - b. Astrology;
 - c. Palmistry;
 - d. Massage;
 - e. Sauna or Spa;
 - f. Pharmacy or drug store
 - g. Head/smoke/tobacco shop;
 - h. Tattoo and Piercing;
 - i. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale;
 - j. All vehicle related uses such as auto sales, repair, or maintenance of vehicles including boats, motorcycles, or recreational vehicles;
 - k. Places of Assembly;
 - l. Group Instruction;
 - m. Club or Social Organization;
 - n. Religious Assembly;
 - o. Educational Institutions;
 - p. Motion picture theaters; and
 - q. Sit Down Restaurants

SECTION 7: AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title IX, Chapter 10, Section 53, Table 53.09-1 (“Number of Parking Spaces Required”), is amended with the addition of a new row for live-work unit parking requirement, and shall read as follows:

I. Residential Uses	
<i>Live-Work Units</i>	<i>Single family and Duplexes</i> parking requirements shall apply, plus 1.5 for the commercial component

SECTION 8: THE PROVISIONS OF THIS Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 9: The Planning Commission of the City of Milpitas hereby recommends approval of ZA13-0002, Zoning Text Amendment, subject to the above Findings.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on April 10, 2013.

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on April 10, 2013, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
John Luk				
Rajeev Madnawat				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Garry Barbadillo				
Demetress Morris				

SECTION 2 DEFINITIONS**10-2.01 Purpose and Intent****10-2.02 General Definitions****10-2.03 Definitions****10-2.01 Purpose and Intent**

The purpose of this chapter is to ensure precision in interpretation of this title. This section provides definitions of terms and phrases used in this Zoning Code that are technical or specialized, or that may not reflect common usage. If any of the definitions in this chapter conflict with definitions in other provisions of the Municipal Code, these definitions shall control for the purposes of this Zoning Code. If a word is not defined in this chapter, or other provisions of the Municipal Code, the most common dictionary definition is presumed to be correct.

10-2.02 General Definitions

- A. The word “shall” is mandatory and not discretionary. The word “may” is permissive and discretionary.
- B. The word “should” indicates a guideline that must be followed in the absence of compelling considerations to the contrary.
- C. In the case of any difference of meaning or implication between the text of any provision and any caption or illustration, the text shall control.
- D. Unless the context clearly indicates to the contrary, words in the present and the future tense are interchangeable, and words in the singular and plural are interchangeable.
- E. Unless the context clearly indicates to the contrary, the following conjunctions shall be interpreted as follows:
 - 1. “And” indicates that all connected items or provisions shall apply;
 - 2. “Or” indicates the connected items or provisions apply singly; and
 - 3. “And/or” indicates the connected items or provisions may apply singly or in any combination; and
 - 4. “Either...or” indicates that the connected items or provisions shall apply singly but not in combination.
- F. The word “used” shall include arranged, designed, constructed, altered, converted, rented, leased, occupied, or intended to be utilized.
- G. The words “Planning Director” shall mean the Planning Director of the City or designee.
- H. The words “Planning Division” shall mean staff representing the City in implementing this chapter, the General Plan, and other regulations affecting land use.
- I. The words “City Engineer” shall mean the City Engineer of the City or designee.
- J. The words “Building Official” shall mean the Building Official of the City or designee charged with the administration and enforcement of the Building Code of the City of Milpitas.
- K. The words “City Manager” shall mean the City Manager of the City or designee.
- L. The words “Planning Commission” or “Commission” shall mean the City Planning Commission.

- M. The words "Planning Commission Subcommittee" or "PC Subcommittee" shall mean the City Planning Commission Subcommittee.
- N. The word "Council" shall mean the City Council, the governing body of the City.
- O. The word "City" shall mean the City of Milpitas.
- P. The word "County" shall mean the County of Santa Clara.
- Q. The word "State" shall mean the State of California.
- R. The words "Zoning Ordinance" or "this chapter" or "Zoning Code" shall mean Title XI, Chapter 10 of the municipal code of the City.
- S. The words "General Plan" shall mean the General Plan of the City.
- T. The word "code" shall mean the municipal code of the City.
- U. Unless otherwise indicated, reference in this Chapter to whole numbers of sections includes all of the decimal-numbered paragraphs listed under such whole number section; i.e., a reference to Section 1.00 includes Subsections 1.01, 1.01-1 where the same are applicable.
- V. The word "lot" includes "plot".
- W. The word "building" includes "structure" except as specified.
- X. The words "Enforcement Officer" means that person or persons specifically designated by the City Manager to enforce the provisions of this Chapter.

10-2.03 Definitions

A

"Abate" shall mean to repair, replace, remove, destroy or otherwise remedy the condition in violation of this Chapter.

"Accessory Building or Use" means a subordinate building or use, 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 (3/4) ton size. Second family units, as defined in this subsection 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 is separated from the main structure by no more than ten (10) feet at any given point.

"Accessory Structure" means a structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building. An accessory structure is that which an accessory building is not, by definition. Examples include, but are not limited to fences, trellises, covered patios, and porte cocheres.

"Adjacent" means 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 abutting 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.

“Airport” means any area of land or water designed, used, or intended to be used or set aside for the landing and taking off of aircraft. The term "Airport" includes all necessary taxi-ways, aircraft storage and tie-down area, hangars and other necessary buildings and open spaces.

“Alley” means any public thoroughfare which affords only a secondary means of access to abutting property.

“Alteration, Structural” means 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.

“Amateur Radio Facility” means a wireless communication facility operated by an FCC licensed amateur radio operator within the Amateur Radio Service (USC Title 47, Part 97).

“Amateur Radio Operator” means a person holding written authorization to be the control operator of an Amateur Radio facility. This authorization may be in the form of a license or permit issued by the Federal Communications Commission or a foreign national or multi-national license or permit recognized by treaty as valid in the United States. (Ord. 38.761 (part), 5/20/03)

“Antenna” means any system of towers, poles, panels, rods, wires, drums, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves. See also “Satellite dish or satellite antenna”. (Ord. 38.761 (part), 5/20/03)

Apartment House. See “Dwelling Multiple-Family.” (Ord. 38 (part), 3/15/55)

Apartment, Efficiency. Efficiency apartment means a dwelling unit in a multi-family building consisting of not more than one (1) habitable room, together with kitchen or kitchenette and sanitary facilities. (Ord. 38.22, 2/1/62; Ord. 38 (part), 3/15/55)

“Assembly from pre-processed materials” means assembling, packaging, or distributing from previously prepared materials, such as cloth, plastic, paper, leather, precious or semi-precious metals or stones, electric or electronic instruments and devices such as television, radios, and pharmaceutical products.

“Auto” means any motor vehicle requiring a license pursuant to the California Vehicle Code. (Ord. 38.760 (2), 9/17/02)

“Automobile Service Station” means any premises used for supplying gasoline and oil at retail, direct to the customer, including minor accessories and services for automobiles, but not including automobile repairs. (Ord. 38 (part), 3/15/55)

“Automobile and Trailer Sales Area” means an open area, other than a street, used for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed or sold on the premises. (Ord. 38 (part), 3/15/55)

“Automobile Wrecking” means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts. (Ord. 38 (part), 3/15/55)

B

“Bar or nightclub” means a commercial establishment serving alcoholic beverages for consumption on the premises where the service of food is only incidental to the consumption of such beverages. Dancing and live entertainment may also be conducted within the establishment. Ord. 38.795 (part), 4/6/10

“Basement” means a story, partly or wholly, underground. For purposes of height measurements, a basement shall be counted as a story where more than one-half (1/2) of its height is above the average level of the adjoining ground. (Ord. 38 (part), 3/15/55)

“Bay Window” means 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. (Ord. 38.667 (part), 1/21/92)

“Bedroom” means 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 fifty (50) percent of one (1) wall is open to an adjacent room or hallway and which can be readily used for private sleeping purposes shall be counted as a bedroom in order to determine parking or other requirements. For the purpose of calculating parking requirements, the following rooms which regularly make up a standard dwelling unit shall not be considered a “bedroom”: one (1) kitchen, one (1) living room; one (1) family or recreation room; one (1) dining room; and the customary sanitary facilities. Planning staff shall determine whether or not a room qualifies as one (1) of the above exceptions. (Ord. 38.789 (2), 4/21/09)

“Billiards” means a “Recreation and Entertainment facility” for the public to view and participate in cue sports, such as but not limited to billiards, pocket billiards (e.g., pool), snooker, and the various forms of carom billiards.

“Block” means that property so designated on an official map of the City, or part of the City, or bounded by streets, or by a street or streets, and railroad right-of-way, canal right-of-way, or unsubdivided acreage. (Ord. 38 (part), 3/15/55)

“Boarding House” means a building or portion thereof other than a hotel, where meals and lodging for compensation including a bed and breakfast. (Ord. 38.763 (3), 4/20/04: Ord. 38 (part), 3/15/55)

“Breezeway” means a covered passageway between buildings which does not exceed ten (10) feet in width and which has at least one side open, except for necessary supporting columns. (Ord. 38 (part), 3/15/55)

“Building” means a structure having a roof supported by columns or walls for the housing or enclosure of 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. (Ord. 38 (part), 3/15/55)

Building, Height of. “Height of building” means the vertical distance measured from the adjoining curb grade to the highest point of the roof surface, if a flat roof; and to the mean height level between eaves and ridge for a gable, hip or gambrel roof; provided, however, that where buildings are set back from the street line, then the height may be measured from the average elevation of the finished grade along the front of the building. (Ord. 38 (part), 3/15/55)

Building, Main. “Main building” means a building in which is conducted the principal use of the lot on which it is situated. The main building shall contain all area within the interior faces of the building, including enclosed areas that are attached. In any “M” district any dwelling shall be deemed to be the main building on the lot on which the same is situated. (Ord. 38.760 (3), 9/17/02; Ord. 38 (part), 3/15/55)

Building, Unit Group. “Unit group building” means two (2) or more buildings (other than dwellings) grouped upon a lot and held under single ownership such as universities, hospitals, institutions and industrial plants. (Ord. 38 (part), 3/15/55)

Business, Retail. “Retail business” means retail sale of any article, substance, or commodity for profit or livelihood conducted within a building, but not including the sale of lumber or other building materials or the sale of used or second-hand goods or materials of any kind. (Ord. 38 (part), 3/15/55)

“Business support services” means establishments primarily within structures, providing other businesses with services including maintenance, repair, and service, testing, rental, etc., also includes:

1. Business equipment repair services (except vehicle repair);
2. Commercial art and design (production);
3. Computer-related services (rental, repair);
4. Copying and quick printing services;
5. Equipment rental businesses within structures;
6. Film processing laboratories;
7. Heavy equipment repair services where repair occurs on the client site;
8. Janitorial services;
9. Mail advertising services (reproduction and shipping);
10. Other “heavy service” business services;
11. Outdoor advertising services;
12. Photo developing/finishing/printing;
13. Protective services (other than office related);
14. Rental, repairs and distribution of office or business equipment;
15. Soils and materials testing laboratories;
16. Window cleaning.

(Ord. 38.789, (3) 4/21/09)

Business, Wholesale. “Wholesale business” means the wholesale handling of any article, substance or commodity for profit or livelihood, but not including the handling of lumber or other building material or the open storage or sale of material or commodity, and not including the processing or manufacture of any product or substance. (Ord. 38 (part), 3/15/55)

C

Camp, Trailer. “Trailer camp” means an area or tract of land used or designed to accommodate two (2) or more automobile or house trailers. (Ord. 38 (part), 3/15/55)

“Candidate” means any person, party, referendum, initiative or other ballot measure.

“Cemetery” means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery. (Ord. 38 (part), 3/15/55)

“Child care center” means any child care facility other than a family child care home, in which less than twenty-four (24) hour per day non-medical care and supervision are provided to children in a group setting. It includes infant centers, preschools, and extended child day care facilities, but does not include after school programs. Ord. 38.795 (part), 4/6/10

“Class A Office Space” means a high quality, modern building with large floor plates and amenities that typically attracts rents in the top twenty-five percent (25%) bracket. (Ord. 124.27 (14) (part), 8/2/05; Ord. 38.761 (part), 5/20/03; Ord. 38.759 (part), 4/2/02)

“Commercial Athletic Facility” means a building or site equipped for physical training or athletic type games and sports, such as but not limited to, health spas, 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. (Ord. 124.27 (14) (part), 8/2/05; Ord. 38.761 (part), 5/20/03; Ord. 38.694 (1) (part), 10/4/94)

“Commercial Fueling Facility” means 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, provided that said facility is located not closer than five hundred (500) feet from any residentially zoned district or any area designated on the General Plan as being “residential” or any mobile home park. (Ord. 124.27 (14) (part), 8/2/05; Ord. 38.761 (part), 5/20/03; Ord. 38.654 (A) (part), 3/20/90)

“Commercial laboratory” means a facility for scientific research in technology-intensive fields. Examples include biotechnology, pharmaceuticals, genetics, plastics, polymers, films and fibers.

“Commercial Service” means 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. These establishments include businesses that provide both personal and business services, but not industrial services. Any assembly, processing or customization of products on the premises must be incidental and integral to the retail sale of the product. All such completed products must be sold on the premises and may not be distributed to another location for future retail sale or wholesale or for storage to be shipped to another location where the product is sold. This restriction shall not preclude the sale of completed products that are delivered or shipped to the retail customer. The total floor area devoted to assembly, processing, customization and packaging of products sold on the premises shall be less than half the area devoted to sales and display of the completed product.

Examples of establishments covered by this designation include:

1. Accountants;
2. Architects;
3. Dry-cleaners;
4. Floral shops;
5. Barber and beauty shops;
6. Interior decorators;
7. Laundromats (self-service laundries);
8. Locksmiths;
9. Mail box rentals;
10. Photocopy shops;
11. Shoe repair shops;
12. Tailors;
13. Tuxedo rental shops.

Examples of establishments not covered by this designation include any dry cleaning plants, metal shops, machine shops, welding shops, and any customer fabrication or machinery repair shops.

(Ord. 38.789 (4), 4/21/09) Previous (Ord. 124.27 (14) (part), 8/2/05; Ord. 38.761 (part), 5/20/03; Ord. 38.760 (3), 9/17/02; Ord. 38.759 (part), 4/2/02)

“Condominium” means 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. A condominium may include in addition a separate interest in other portions of such real property. Such estate may, with respect to the duration of its enjoyment, be either of the following:

1. An estate of inheritance or perpetual estate.
2. An estate of life.
3. An estate for years, such as leasehold or sub-leasehold. (Ord. 124.27 (14) (part), 8/2/05; Ord. 38.761 (part), 5/20/03; Ord. 38 (part), 3/15/55)

“Condominium Conversion” means a change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined 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. (Ord. 124.27 (14) (part), 8/2/05; Ord. 38.761 (part), 5/20/03; Ord. 38.485, 7/3/79; Ord. 38 (part), 3/15/55)

“Conference Center” means a facility used for holding conventions, seminars, workshops or similar activities, including dining facilities and lounges for use by participants, as well as compatible accessory facilities such as offices and business centers. (Ord. 38.761 (part), 5/20/03)

“Continuing Violation” means a violation, infringement or breach of a provision of this chapter that is uninterrupted and lasts for a continuous period in excess of 24 hours. (Ord. 124.27 (9), 8/2/05)

“Court” means an open unoccupied space, other than a yard, on the same lot with a building or buildings, and bounded on two (2) or more sides by a building, or buildings, including the open space in a dwelling group providing access to the units thereof. (Ord. 38 (part), 3/15/55)

“Court Apartment” means one (1), two (2) or three (3) multiple dwellings arranged around two (2) or three (3) sides of a court which opens onto a street, or a place approved by the Commission. (Ord. 38 (part), 3/15/55)

“Curb Grade” means 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 Chapter. (Ord. 38 (part), 3/15/55)

D

“District” means a portion of the City within which certain uses of land and buildings are permitted or prohibited and within which certain yards and other open spaces are required and certain height limits are established for buildings, all as set forth and specified in this Chapter. (Ord. 38 (part), 3/15/55)

“Drive Through Uses” means any component or part of a building or structure which attracts or invites persons in motor vehicles to drive their vehicles upon the premises, and which is used to conduct business or used for the purpose of selling merchandise from the inside of said building to the occupants of motor vehicles.

“Dwelling” means a building or portion thereof designed exclusively for residential occupancy, including single-family, two-family and multiple-family dwellings, but not including hotels. (Ord. 38.763 (4), 4/20/04; Ord. 38 (part), 3/15/55)

Dwelling, Group. “Group dwelling” means one (1) or more dwellings, other than a tourist court, arranged around two (2) or three (3) sides of a court, which opens onto a street, or a place approved by the commission, including single-family, two-family or multiple-family dwellings and court apartments. Group dwelling include homeless shelters and transitional housing. (Ord. 38.761 (part), 5/20/03; Ord. 38 (part), 3/15/55)

Dwelling, Multiple-Family. “Multiple-family dwelling” means a building or portion thereof, designed for occupancy by three (3) or more families living independently of each other. (Ord. 38 (part), 3/15/55)

Dwelling, Single-Family. “Single-family dwelling” means a detached building designed exclusively for occupancy by one (1) family for living purposes and having only one (1) kitchen. (Ord. 38.763 (5), 4/20/04: Ord. 38 (part), 3/15/55)

Dwelling, Two-Family. “Two-family dwelling” means a building designed exclusively for occupancy by two (2) families living independently of each other. (Ord. 38 (part), 3/15/55)

“Dwelling Unit” means a habitable room or group of habitable rooms (e.g., living room, bedroom, den, library, recreation, studio, etc.) designed for occupancy by one (1) 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 (1) kitchen.

E

“EcoPass” means a program offered by the Valley Transportation Agency (VTA) in which employers or property owners purchase annual EcoPass stickers that allow their employees, tenants or residents to ride all VTA bus and light rail vehicles at no cost. (Ord. 38.759 (part), 4/2/02)

“Educational Institution” means a college or university giving general academic instruction equivalent to the standards prescribed by the State Board of Education. (Ord. 38 (part), 3/15/55)

“Elevation” means:

1. A scale drawing of the front, rear or side of a building or structure; or
2. A vertical distance above or below a fixed reference level.

Emergency Cache, Community: “Community emergency cache” means a collection of disaster response supplies approved by the City’s Office of Emergency Services that would benefit the surrounding community.

“Erosion” means the wear and removal of the material in the earth’s crust from one site and the deposition at another. (Ord. 38.355, 9/16/75: Ord. 38 (part), 3/15/55)

F

“Family” means an individual, or two (2) or more persons related by blood or marriage or legal adoption or joined through a judicial or administrative order of placement or guardianship, or unrelated persons who function together as a single household unit. (Ord. 38.763 (6), 4/20/04: Ord. 38 (part), 3/15/55)

“Family Child Care Homes” means a home in which care, protection, and supervision of fourteen (14) or fewer children is regularly provided, in the care giver’s own home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away. Such homes are licensed by the State of California and include the following:

1. **“Large family child care home”** means a home in which family child care is provided to nine (9) to fourteen (14) children, including children under the age of ten (10) who reside at the home.
2. **“Small family child care home”** means a home in which family day care is provided to eight (8) or fewer children, including children under the age of ten (10) who reside at the home. (Ord. 38.761 (part), 5/20/03: Ord. 38.702 (2) (part), 8/15/95; Ord. 38.339, 2/19/74: Ord. 38 (part), 3/15/55)

“Farmers’ Market” means an event offering for sale produce, food items, and related goods and merchandise by certified growers authorized to sell, directly to consumers, products that are produced on land the producer controls or taken in consignment from other producers. (Ord. 38.770 (4) (part), 1/2/07)

“Floor Area Ratio” (FAR) is defined for non-residential Zoning Districts as the maximum permitted ratio of gross floor area to site area and is calculated as follows:

$$\text{FAR} = \frac{\text{Total of Gross Floor Area for All Structures on Site}}{\text{Site Area}}$$

Increases above the maximum permitted FAR for any district can be allowed with approval of a Use Permit by the Planning Commission. This can be considered when the applicant can demonstrate that the proposed development will (1) generate low peak-hour traffic; (2) will not create a dominating visual prominence. Examples of such uses include wholesaling, distribution and hospitals. In each case where an increase in the maximum permitted FAR has been allowed, all other development standards for the site must be met. (Ord. 38.761 (part), 5/20/03; Ord. 38.713 (1) (part), 12/3/96)

“Frontage” means 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. (Ord. 38 (part), 3/15/55)

G

Garage, Private. “Private garage” means a detached accessory building or portion of a main building for the parking or temporary storage of automobiles of the occupants of the premises. (Ord. 38 (part), 3/15/55)

Garage, Public. “Public garage” means a building, other than a private garage, used for the care, repair, or equipment of automobiles, or where such vehicles are parked or stored for remuneration, hire or sale. (Ord. 38 (part), 3/15/55)

Game Machine, Mechanical or Electronic. “Mechanical or electronic game machine” means any machine, apparatus, contrivance, appliance, or device which may be operated or played upon the placing or depositing therein of any coin, check, slug, ball, token, or any other article or device, or by paying therefore either in advance or after use, involving in its use either skill or chance, including, but not limited to tape machine, card machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, basketball game machine, baseball game machine, football game machine, electronic video game or any other similar machine or device, exclusive of food, beverage and tobacco vending machine. (Ord. 38.551, 9/7/82; Ord. 38 (part), 3/15/55)

Grade, Finished. “Finished grade” means the final elevation of the ground surface after development, as shown on a precise Grading Plan.

“Grocery store” means any premises wherein any of the following are exposed, offered for sale, or sold by retail: fresh fruits; fresh vegetables; bakery; meat; poultry, or fish products; frozen foods; and processed and pre-packaged food. Ord. 38.795 (part), 4/6/10

“Gross Acreage” means 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. (Ord. 38.767 (part), 2/7/06; Ord. 38.759 (part), 4/2/02)

“Gross Floor Area” 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. (Ord. 38.761 (part), 5/20/03: Ord. 38.760 (2), 9/17/02)

“Guest House Accessory Building” means a one accessory structure, used for the accommodation of guests. Said guest house shall not contain any kitchen or cooking facilities but may contain one (1) bedroom, one (1) living area and one (1) bathroom, and shall be limited in floor area to a maximum of twenty (20%) percent of the total floor area of the main residence. (Ord. 38.646 (A) (part), 8/1/89: Ord. 38 (part), 3/15/55)

H

“Habitable Space” means a room designed for living, sleeping, eating or food preparation, including but not limited to a den, study, library, home office, sewing room or recreational room and excluding such areas as garages. (Ord. 38.760 (2), 9/17/02)

“Home Occupation” means a business enterprise conducted within a dwelling by the residents of the dwelling and which is incidental and secondary to the use the dwelling for residential purposes.

“Hospital” means an institution that maintains and operates facilities for primarily inpatient medical care, including x-ray, laboratory and surgical, for the diagnosis, care and treatment of human illness, injury and disease (physical or mental).

“Hotel or Motel” means a building or group of buildings containing individual sleeping or living units, provided with or without individual kitchen facilities, designed and intended for use by paying automobile tourists or paying temporary guests. The term also includes ancillary uses when incidental to the primary use, including but not limited to manager’s living unit and accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, incidental merchandise sales, meeting rooms, maid service and laundry facilities. (Ord. 38.708 (2) (part), 8/6/096: Ord. 38.603 (A) (part), 7/15/86: Ord. 38.591 (part), 11/5/85: Ord. 38 (part), 3/15/55)

I

“Individual Violation” means a non-continuous condition or occurrence in violation, infringement or breach of a provision of this chapter that does not exceed twenty four (24) hours in duration. An Individual Violation may be recurrent. Examples of “Individual Violations” for the purposes of this Chapter include, but are not limited to, the illegal outdoor storage of materials, entertainment events, or outdoor seating in violation of a use permit. (Ord. 124.27 (10), 8/2/05)

“Instruction, group and private” means the provision of instructional services, including but not limited to photography, fine arts, crafts, dance or music studios, driving schools, diet centers, yoga, martial arts studios, after school programs or similar uses. This definition does not include instruction received through trade or vocational schools nor a post-secondary school or child care centers. Private instruction includes fewer than six (6) students or clients at any one time and group instruction includes six (6) or more students or clients at any one time. (Ord. 38.795, 4/6/10)

“Intensity” means 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. (Ord. 38.793, (2) 5/17/11)

“Intensification of Use” means to alter the character of a use to the extent that the use generates new or different impacts on the health, safety, or welfare of the surrounding neighborhood, including but not limited to the level or amount of traffic, noise, light, smoke, odor, vibration, outdoor storage, or other similar conditions associated with the use. (Ord. 38.793, (2) 5/17/11)

J

“Junk Yard” means the use of more than one hundred (100) square feet of the area of any lot for the storage of junk, including scrap materials and metals, or wrecked vehicles and machinery, whether or not sale of such junk is made or proposed. (Ord. 38 (part), 3/15/55)

K

“Kennel” means any lot or premises on which four (4) or more dogs, more than four (4) months of age, are kept. (Ord. 38 (part), 3/15/55)

“Kitchen (for residential uses)” means a residential kitchen shall be enclosed and interior to the dwelling unit utilized for the preparation of food and include two (2) or more of each of the following:

1. A sink (typically larger than 14” x 17”);
2. A full size refrigerator (typically larger than 24” x 64”);
3. A 220-V electrical service outlet (typically used for major cooking appliances such as a stove, oven or cooking range). (Ord. 38.763 (7), 4/20/04: Ord. 38.760 (2), 9/17/02)

L

“Live-Work Unit” means a dwelling unit with a separate living space attached to a work space within the same unit. The work space and the living space must be owned and occupied by the same tenant. Live-work uses are allowed one non-residential employee, more customers, and a broader range of uses, than permitted in Home Occupations. See Section 10-13.12 within Special Uses for Live-Work Unit purpose, intent, and regulations. (Ord. 38.759 (part), 4/2/02)

Examples of establishments covered by this designation include, but are not limited to:

Art and craft work;

Office only use;

Accountant;

Architects;

Artists and artisans;

Attorneys;

Computer software and multimedia related professionals;

Engineers;

Fashion;

Interior and other designers; and

Commercial Service

“Loading Area” means an open area, other than a street or alley, used for the loading or unloading of vehicles. (Ord. 38 (part), 3/15/55)

“Loading Space” means an off-street space or berth on the same lot with a building, or contiguous to a group of buildings, 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. (Ord. 38 (part), 3/15/55)

“Lot” means land occupied or to be occupied by a building, or unit group of buildings, and accessory buildings, together with such yards and lot area as are required by this Chapter and having its principal frontage upon a street or a place approved by the Commission. (Ord. 38 (part), 3/15/55)

1. **“Corner lot”** means a lot, or portion thereof, not greater than seventy-five (75) feet in width and situated at the intersection of two (2) or more streets. (Ord. 38 (part), 3/15/55)
2. **“Flag lot”** means a lot having access or an easement to a public or private street by a narrow, private right-of-way.
3. **“Interior lot”** means a lot other than a corner lot. (Ord. 38 (part), 3/15/55)
4. **“Key lot”** means a lot with a side line that abuts the rear line of any one (1) or more adjoining lots.
5. **“Reversed corner lot”** means a corner lot the street line of which is substantially a continuation of the front line of the lot to its rear. (Ord. 38 (part), 3/15/55)
6. **“Through lot”** means a lot having frontage on two (2) paralleled or approximately paralleled streets. (Ord. 38 (part), 3/15/55)

Lot Dimensions.

1. **“Lot Area”** means the total horizontal area within the lot lines of a lot.
2. **“Lot Depth”** means the horizontal distance between the front and rear lot lines, measured along the median between the two (2) side lot lines.
3. **“Lot Lines”** means the lines bounding a lot as defined herein.
 - a. In the case of an irregular shaped lot or a lot with more than four (4) sides where there is question as to which are the front, side, and rear property lines in order to determine setbacks and required yards, there shall be at a minimum of one (1) front property line and one (1) rear property line. The rear property line shall be the lot line directly parallel to the front property line and of a width of at least thirty (30) feet in length. If no such lot line exists, the Director of Planning shall make the final determination as to the rear property line of such lot.
4. **“Lot Width”** means 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. (Ord. 38.789, (6) 4/21/09)
Previous (Ord. 38 (part), 3/15/55)

M

“Manufacture” means preparation, making treatment or processing of articles as merchandise. (Ord. 38 (part), 3/15/55)

“Massage Establishment” means an establishment having a fixed place of business, including but not limited to any establishment in which massage, acupressure or similar services are made available (except those which are exempt by Government Code Section 51033 as amended from time to time), in which the teaching, practice, or the giving of massage, acupressure or similar procedure is conducted. (Ord. 38.694 (1) (part), 10/4/94)

“Medical and Dental Offices” means 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. (Ord. 38.761 (part), 5/20/03)

“Medical and Dental Clinics” means the same as Medical and Dental Offices, except they also include minor operating rooms and out-patient surgery with no overnight stay.

“Medical support laboratory” means a facility for scientific laboratory analysis of medical resources. The analysis is generally performed for an outside customer, to support the work of that customer. (Ord. 38.795, 4/6/10)

“Mixed Use Development” means a development that consists of vertical or horizontal combination of residential and commercial uses within a single building or site. (Ord. 38.759 (part), 4/2/02)

“Mobile Home” means a transportable structure designed to be used as a dwelling unit when connected to required utilities. (Ord. 38.761 (part), 5/20/03; Ord. 38.541, 4/20/82; Ord. 38.227 (part), 6/20/72)

“Mobile Home Accessory Building or Structure” means any awning, portable, demountable or permanent cabana, ramada, storage cabinet, carport, fence, windbreak or porch established for the use of the occupant of the mobile home. (Ord. 38.227 (part), 6/20/72)

“Mobile Home Lot” means a portion of mobile home park designated or used for the occupancy of one mobile home. (Ord. 38.227 (part), 6/20/72)

“Mobile Home Park” means any areas or tract of land where mobile home lots are rented or leased or held out for rent or lease to accommodate mobile homes used for human habitation. (Ord. 38.227 (part), 6/20/72)

“Mobile Home Stand” means the area on which the mobile home is placed when it is stationed on the lot, including the land lying under the mobile home. (Ord. 38.227 (part), 6/20/72)

“Mobile Recycling Unit” means an automobile, truck, trailer or van, licensed by the Department of Motor Vehicles or bins, boxes or containers transported by a truck, van or trailer, and used for the collection of recyclable materials. (Ord. 38.629 (A) (part), 10/27/87)

N

“Natural Land Slope” means the average slope of the lot in percent, determined by observation on simple slopes, or more precisely by the formula:

$$S = 100 \frac{I}{L A}$$

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.

(Ord. 38.355, 9/16/75; Ord. 38 (part), 3/15/55)

“Non-Conforming Building” means a building or structure or portion thereof lawfully existing at the time this Chapter became effective, which was designed, erected or structurally altered, for a use that does not conform to the use regulations of the district in which it is located. A non-conforming building shall also mean any building or structure built in compliance with all city land use and zoning laws in existence at the time and which does not comply with current development standards, including but not limited to height, setbacks, floor area ratio, maximum lot coverage, maximum size of residence, front yard paving and impervious surface coverage. (Ord. 38.760 (3), 9/17/02; Ord. 38 (part), 3/15/55)

“Non-Conforming Use” means a use which lawfully occupied a building or land at the time this Chapter became effective and which does not conform to the use regulations of the district in which it is located. (Ord. 38 (part), 3/15/55)

O

“Occupation” means a principal business, profession or vocation in which one is regularly and habitually engaged for the purpose of compensation for a livelihood. (Ord. 38.39, 8/15/63; Ord. 38 (part), 3/15/55)

“Open-Air Business” means drive-in business where persons are served in automobiles. (Ord. 38 (part), 3/15/55)

“Owner/Occupant” means 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. (Ord. 124.27 (16), 8/2/05)

P

“Parcel” means a “parcel” shall mean a legal lot of record. (Ord. 38.761 (part), 5/20/03)

Parking Area, Private. “Private parking area means an open area, other than a street or alley, used for the parking of the automobiles of occupants of a building. (Ord. 38 (part), 3/15/55)

Parking Area, Public. “Public parking area means an open area, other than a private parking area, street or alley, used for the parking of automobiles and available for public or quasi-public use. (Ord. 38 (part), 3/15/55)

Parking Space, Automobile. “Automobile parking space” means a space within a building or a private or public parking area for the parking of one (1) automobile. (Ord. 38 (part), 3/15/55)

“Parking Structure” means a structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed. (Ord. 38.785, (part) 4/07/09)

“Patio Cover” means a one-story structure, not exceeding twelve (12) feet in height and open on one (1) 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. (Ord. 38.760 (3), 9/17/02; Ord. 38.342, 7/2/74)

“Person” means a natural person, his heirs, executors, administrators, or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid. (Ord. 38 (part), 3/15/55)

“Place” means an open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property. (Ord. 38 (part), 3/15/55)

“Private Recreational Areas” means any usable open space or recreational facility available for use by all of the site’s residents. (Ord. 38.759 (part), 4/2/02)

“Property” means 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. (Ord. 124.27 (17) (part), 8/2/05)

“Public Right-of-Way” as defined in Chapter V-500-1.3 of the Milpitas Municipal Code, “public right-of-way” shall mean 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. (Ord. 124.27 (17) (part), 8/2/05; Ord. 38.761 (part), 5/20/03)

“Public Use” means a use intended to serve the whole city and/or region and operated by a public institution or entity. Such uses have the purpose primarily of serving the general public and include public schools, recreational facilities, government housing, government clinics, and the like. (Ord. 124.27 (17) (part), 8/2/05; Ord. 38.761 (part), 5/20/03)

Q

“Quasi-Public Use” means a use intended to serve the whole city and/or region and are operated by a private, non-profit, educational, religious, recreational, or charitable, and having the purpose primarily of serving the general public. Such uses include religious facilities, private schools, community theaters, community and club organizations, private hospitals, places of assembly and the like. (Ord. 124.27 (17) (part), 8/2/05; Ord. 38.761 (part), 5/20/03; Ord. 38.760 (2), 9/17/02)

R

“Recreation or Entertainment Facility” means a commercial establishment (indoors or outdoors) where patrons can actively participate in entertainment or recreation activities either independently or in conjunction with other uses. Ord. 38.795 (part), 4/6/10

“Recyclable Material” means 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. (Ord. 38.761 (part), 5/20/03; Ord. 38.629 (A) (part), 10/27/87)

“Recyclable Processing Facility” means a building or space used for the collection and processing of recyclable materials. Processing means the preparation of material for shipment by such means as baling, briquetting, compacting, flattening, grinding, crushing, sorting, shredding, cleaning and remanufacturing. (Ord. 38.629 (A) (part), 10/27/87)

“Research and Development (R and D) Uses” means one or more buildings which feature a combination of offices, manufacturing, assembly, warehousing, distribution, laboratories and clean rooms, and ancillary uses such as cafeterias and employee fitness facilities. (Ord. 38.708 (1), 8/6/96)

“Restaurant” means an establishment in which the principal use is the preparation and sale of food and non-alcoholic beverages. If approved, the service of alcoholic beverages is incidental to the principal use.

1. **“Drive-in”** means a restaurant that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.
2. **“Drive-thru”** means a restaurant which includes one (1) or more drive-through lanes for the ordering and receipt of foods and/or beverages by patrons remaining in their vehicles.
3. **“Fast-food”** means a restaurant that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared. Orders are generally not taken at the customer’s table, and food is generally served for consumption either on or off the premises. For the

purposes of parking requirements, the ordering or take-out area is defined as the counter and the area between the counter and the main entry to the establishment.

4. **“Take-out”** means a restaurant where foods and/or beverages are sold directly to the customer in a ready-to-consume state for consumption off site with no seats onsite. For the purposes of parking requirements, the ordering or take-out area is defined as the counter and the area between the counter and the main entry to the establishment. (Ord. 38.795, 4/6/10)

“Retail stores, General merchandise” means retail trade establishments selling lines of merchandise. These stores and lines of merchandise include:

1. Art supply;
2. Antiques;
3. Bakeries (retail only);
4. Bicycles;
5. Candy stores;
6. Clothing and accessories;
7. Collectables;
7. Fabrics and sewing supplies;
8. Gifts (novelties and souvenirs);
9. Hobby materials;
10. Jewelry;
11. Luggage and leather goods;
12. Music stores;
13. Sporting goods and equipment;
14. Toys and games;
15. Variety stores;
16. Video rentals and sales. (Ord. 38.795, 4/6/10)

“Reverse Vending Machine” means an automated mechanical device which accepts at least one or more types of empty beverage containers including, but not limited to aluminum cans, glass and plastic containers, and issues a cash refund or a redeemable credit slip. A reverse vending machine sorts, and processes containers mechanically provided that the entire process is enclosed within the machine. In order to accept and temporarily store all three container types in a proportion commensurate with their relative redemption rates, and to meet the requirements of certification as a recycling facility, multiple grouping of reverse vending machines may be necessary.

A bulk reverse vending machine is a reserve vending machine that is larger than fifty (50) square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container. (Ord. 38.629 (A) (part), 10/27/87)

S

“Satellite Dish Antenna or Satellite Antenna” means any device incorporating a reflective surface that is solid, open mesh or bar configured to form a shallow dish, cone, horn or cornucopia used to transmit and/or receive electromagnetic signals. This definition includes antennas that are sometimes called “SES,” “TVRO,” “TVBS,” and “DBS.” (Ord. 38.761 (part), 5/20/03)

“School: Elementary, Middle, or High” means an institution which offers instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of California. (Ord. 38.710 (part), 8/6/96; Ord. 38 (part), 3/15/55)

“School, trade and vocational” means an establishment where training is received to learn a particular trade or craft that involves skilled labor. Trades and crafts include but are not limited to the various construction trades, auto mechanics, machining, HVAC installation/repair/maintenance and similar trades and crafts. (Ord. 38.795, 4/6/10)

Setback. See “Yard.” (Ord. 38.761 (part), 5/20/03)

Signs. For purposes of Section XI-10-24, Sign Regulations, of this Chapter, the following definitions shall apply:

1. **“Abandoned Signs”** means any sign used for advertising or other purposes where the business it advertised or the use or event it supported has ceased operation for or occurred more than ninety (90) days prior to the sign’s posting.
2. **“Abate”** means to repair, replace, remove, destroy, or otherwise remedy the condition in violation of this Chapter.
3. **“A-Frame Sign”** means and includes a sign that is portable, is capable of standing without support or attachment, and folds open in the form of an “A” or “sandwich-board”.
4. **“Ancillary services sign”** means a sign displaying ancillary services such as smog services, lotto, or that represent trade affiliations, such as credit card services, or other similar services and not for the purpose of displaying products being sold.
5. **“Approved Plastics”** means those materials specified in the U.B.C. Standard No. 52-1 which have a flame spread rating of 225 or less and a smoke density not greater than that obtained from the burning of untreated wood under similar conditions when tested in accordance with U.B.C. Standard No. 42-1 in the way intended for use. The products of combustion shall be no more toxic than the burning of untreated wood under similar conditions.
6. **“Architectural Sign”** means and includes a sign used for advertising purposes which constitutes an integral part of a roof or marquee and is designed with an intent and purpose to relate to the architectural style of the main building.
7. **“Area Identification Sign”** means and includes a permanent sign which serves to identify an area.
8. **“Awning sign”** means any sign or graphic attached to, painted on or applied to an awning or canopy.
9. **“Balloon Sign”** means and includes any large [over three (3) cubic feet in size] inflatable hot/cold air or helium balloon that is used as an advertising device for any business or promotional event.
10. **“Banner Sign”** means and includes a temporary sign composed of lightweight, flexible, non-rigid material either enclosed or not enclosed in a rigid frame.
11. **“Blade Sign”** means a pedestrian oriented sign, adjacent to a pedestrian walkway or sidewalk, attached to a building wall, marquee, awning, or arcade with the exposed face of the sign in a plane that is perpendicular to the plane of the building wall.
12. **“Building Perimeter”** means the total exterior wall length for any and all buildings intended for human occupancy, as measured at the ground elevation. No second story or subsequent upper story areas shall be considered as a part of this calculation.

13. **“Canopy Sign”** See awning sign.
14. **“City Identification Sign”** means and includes a sign placed at the point of entry to the City of Milpitas for the purpose of informing a person that they are entering the City of Milpitas.
15. **“Construction Sign”** means and includes a sign placed on the property where site work, building construction and/or a tenant improvement within an existing building is in progress. The sign may denote that a business will be opening soon, the opening date, names of the architect, engineer, contractor, future business and lending agency.
16. **“Directional Sign”** means a sign which guides and directs motorists to a specified destination in the most direct manner possible.
17. **“Display Surface”** means the area made available by the sign structure of building surface for the purpose of displaying the advertising message.
18. **“Electric Sign”** means any sign containing electrical wiring, but not including signs illuminated by an exterior light source.
19. **“Erect”** means to build, construct, attach, hang, place, suspend or affix.
20. **“Exposed raceway”** means an enclosure or conduit that is used to conceal wiring for a lighted sign and is visible from any elevation, typically located between the sign and the building to which the sign is attached.
21. **“Flag”** means a visual device with no commercial copy, usually rectangular in shape and made of a cloth material suspended by, or attached to, a pole or post and may be raised or lowered.
22. **“Flag sign”** means a visual display device with commercial copy, usually rectangular in shape and made of a cloth material suspended by, or attached to, a post, or pole and may be raised and lowered.
23. **“Freestanding Sign”** means a sign which is supported by one or more uprights, poles, or braces in or upon the ground, or partially supported and attached to any building, other structure, or foundation on the ground.
24. **“Garage Sale Sign”** means a sign used primarily for the purpose of advertising a “garage sale” and/or “yard sale” at a residence.
25. **“Grand Opening Sign”** means and includes banners, pennants, flags, balloons, and similar advertising devices when used only for bona fide grand-opening functions, new ownership, name change, or the reopening of a business that has completely closed for remodeling for at least two weeks.
26. **“Graphic Panel, Freestanding”** Freestanding graphic panel means a freestanding sign located within five (5) feet of the main building wall, which relates to the architecture of the building and depends primarily on a graphic image for delivering its advertising message. Graphic panels do not count as freestanding signs. The display area on graphic panels counts towards overall sign area.
27. **“Impact Resistive Plastic”** means any plastic material capable of resisting fifty (50) foot pounds of force as tested in accordance with ANSI/UL 972 Multiple Impact Test or any similar test procedure.

28. **“Information Sign”** means and includes signs providing courtesy information, or direction to the public without advertising the business products, or services such as hours, entrance, exit, self-serve, credit cards, restrooms, telephone drive-up, or which serves to direct motorist and pedestrians on private property.
29. **“Joint Use Sign”** means and includes a freestanding sign 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 encouraged.
30. **“Logo”** means a trademark, or symbol of an organization which is registered with the federal or State government and consistently used in conducting the business activities of said organization.
31. **“Marquee”** means a permanent roofed structure, attached to, and supported by the building and projecting beyond the main building.
32. **“Multi-use Structures”** means any commercial, industrial, quasi-public, or agricultural farm products sales use, containing five (5) or more stores, or businesses on a single parcel of land.
33. **“Mural”** means a display, or illustration painted on a building, or wall within a public view not intended to advertise a product, service, or business, and therefore is not considered a sign.
34. **“Mural sign”** means a display, or illustration painted on a building, or wall intended to advertise a product, service, or business.
35. **“Noncombustible Material”** means any material which will not ignite at, or below a temperature of one thousand two hundred (1,200) degrees during an exposure of five (5) minutes, and which will not continue to burn or glow at that temperature. Tests shall be made as specified in U.B.C. Standard No. 4-1.
36. **“Nonstructural Trim”** means the molding, battens, capping, nailing strips, laticing, cutout, or letters and walkways which are attached to the sign structure.
37. **“Off-site Advertising Display”** means any sign that advertises, or informs about a business organization, event, goods, products, services, or uses not available on the property upon which the sign is located.

The term Off-site Advertising Sign does not include Joint Use Sign, Temporary Tract Advertising Signs for subdivisions under construction in the City, Open House Directional Signs, Garage Sale Signs, Off-site Public Information Signs, off-site directional signs for purposes of identifying regional shopping centers, and Temporary Tract Advertising Signs.

38. **“Off-site Directional Sign”** means any sign that provides direction to retail, community, and cultural events not available on the property upon which the sign is located.

The term Off-site Directional Sign does not include Garage Sale Signs, Joint Use Signs, Official City or City-sponsored signs, Off-site Directional Signs identifying regional shopping centers, Off-site Public Information Signs, Open House Directional Signs, and Temporary Tract Advertising Signs.

39. **“Off-site Public Information Sign”** means a sign that is placed proximate to a major city entry on privately owned property that is used to provide non-advertising information and/or identification symbols or plaques to the public for civic organizations, service clubs or other quasi-public uses and is erected within the public right-of-way.

40. **“Open House Directional Sign”** means a sign, no larger than six (6) square feet in sign area per side, used primarily for the purpose of directing traffic to a house being offered for sale or lease.
41. **“Other Advertising Structure”** means any device erected or used for the same purpose as a sign, whether erected, or used:
 - a. Exclusively for advertising purposes, upon which any poster bill, printing, painting device, or other advertisement or identification of any kind whatsoever may be placed, posted, painted, fastened, or affixed.
 - b. Exclusively for advertising purposes and including any spectacle, display or advertising statuary.
42. **“Permanent Sign”** means every sign except temporary sign as defined herein.
43. **“Political Sign”** means a sign which is designated to influence the action of the voters, and election, or defeat of a candidate for the nomination, or election to any public office, or a measure appearing on the ballot at any national, state, district, or local election.
44. **“Portable”** means an object that is capable of being borne or carried, easily transported, or conveyed without difficulty.
45. **“Portable Sign”** means and includes a sign that is portable and capable of being borne, or carried, easily transported, or conveyed without difficulty, is capable of standing without support or attachment, is unattached to any structure, and is used for advertising purposes.
46. **“Projection”** means the distance by which a sign extends over public property or beyond the building line.
47. **“Projecting Sign”** means a sign other than a wall sign which projects from, and is supported by a wall of a building or structure.
48. **“Public Information Sign”** means a sign erected for the sole purpose of displaying advertising for community activities and/or identification symbols or plaques for civic organizations or service clubs.
49. **“Public Street Frontage”** means a publicly owned street immediately adjacent to the parcel, for purposes of sign area and height calculations. Public streets for which the parcel does not have access rights are not included for purposes of any sign calculations.
50. **Raceway.** See "exposed raceway."
51. **“Regional Shopping Center”** means any commercial development on one (1) or more parcels of land which are contiguous, or across from a right-of-way which contains a gross land area of at least thirty (30) acres or a gross building area of at least 200,000 square feet. Current regional shopping centers are McCarthy Ranch Marketplace, the Town Center shopping center, and the Great Mall and its out-parcels zoned General Commercial.
52. **“Roof Sign”** means a sign erected upon or above a roof or a part of a parapet of a building or structure.
53. **“Scoreboard Sign”** means a sign located on scoreboard structures located in an adult or youth outdoor playing field on public property and shall be for products or businesses available to persons of all ages.

54. **“Shopping Center”** means any commercial development containing five (5) or more stores or businesses on one (1) or more parcels of land operating as an integrated use and having a gross parcel area of five (5) or more acres.
55. **“Shopping Center Identification Sign”** means a sign located on the site of a shopping center or regional shopping center that states the name of the shopping center or regional shopping center.
56. **“Sign”** means every announcement, declaration, demonstration, display, illustration insignia, surface, or space when erected or maintained out of doors in view of the general public for identification, advertisement or promotion of the interests of any person.
57. **“Sign Area”** means the area of a sign to be calculated that includes all lettering, wording, and accompanying designs or symbols, together with any background of a different material or color than the remainder of the wall of the building to which is affixed or upon which it is painted. In the case of a freestanding sign, the supports or uprights on which any sign is supported should not be included in determining the sign area unless such supports or uprights are designed in a manner as to form an integral background of the sign.

Where the sign consists of individual letters or symbols, the area shall be considered to be that of the smallest rectangle, circle, square, or triangle which can be drawn to encompass all of the letters. Provided however, that where such individual type letters or symbols are separated more than thirty-six (36) inches from each other, those letters or symbols shall be calculated separately.

If the sign has more than one (1) advertising surface, the sum of all the areas of all such surfaces shall be the area of the advertising surface of such sign except that, if two (2) surfaces on the same face in opposite directions (i.e., the relative angles between the directions they face is 180 degrees) and the distance between such two (2) surfaces is not more than twenty-four (24) inches, then the area of only one of the two surfaces (the largest if they are not equal) shall be included in the computation.

58. **“Sign Program”** means a specific set of design standards established for the purpose of unifying a variety of signs associated with a multitenant or multiuse project, building or complex of buildings.
59. **“Sign Surface”** means the surface of the sign upon, against or through which the message is displayed or illustrated.
60. **“Snipe sign”** means temporary or portable signs advertising events that are fastened to fences, trees, utility poles, or other structures or fixtures and also including signs on sticks stuck in the ground and usually found off-site. These do not include real estate, political or open house signs.
61. **“Statuary Sign”** means statuary used for advertising purposes or representing the logo of a business.
62. **“Temporary Sign”** means any sign, banner, flag, valance, pennant, streamer, whirligig or advertising display, constructed of cloth, canvas, fabric, cardboard, plywood or other light material with or without a frame, whether attached or portable, and designed or intended to be displayed for a short period of time.
63. **“Temporary Promotional Sign”** means any temporary Balloon Signs, banners, and similar advertising devices when used only for special promotional events.
64. **“Temporary Tract Advertising Sign”** means a uniformly designed sign which advertises a residential development.

65. **“Vehicle-Mounted Sign”** means a sign, used for the purpose of advertising, larger than three (3) feet by three (3) feet mounted on, attached to or capable of being borne or carried, easily transported or conveyed without difficulty by a vehicle, where that vehicle is parked on public or private property. This definition does not include signs on delivery vehicles in the act of making a delivery or signs on vehicles parked on residential driveways or public streets.
66. **“Wall Sign”** means any sign painted on, attached to or erected against the wall of a building or structure.
67. **“Window Sign”** means any sign painted, attached, glued or otherwise affixed to the interior or exterior surfaces of a window or suspended or located within three (3) feet of the window for the primary purpose of being visible from the exterior of the building.

“Single Household Unit” means the functional equivalent of a traditional family, whose members are a non-transient interactive group of persons jointly occupying a single dwelling unit, including the joint use of common areas which are not compartmentalized, such locked cabinets or doors. A single housekeeping unit shall be limited to one (1) kitchen and shall have permanent internal access to all rooms within the dwelling unit, except as provided for Second Family Units. (Ord. 38.763 (2), 4/20/04)

Slope. Same as "Natural Land Slope." (Ord. 38.355, 9/16/75)

“Special events and activities” means any temporary event or activity sponsored by a business, shopping center or organization which is held outside the confines of a permanent building. (Ord. 38.795, 4/6/10)

“Specific plan” means a detailed plan for the development of a specific area. Specific plans are a significant 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 as a whole.

Stable, Private. “Private stable” means a detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale. (Ord. 38 (part), 3/15/55)

Stable, Public. “Public stable” means a stable other than a private stable. (Ord. 38 (part), 3/15/55)

“Story” means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and ceiling next above it. (Ord. 38 (part), 3/15/55)

Story, Half. “Half story” means a story under a gable, hip or gambrel roof, the wall plates on which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story. (Ord. 38 (part), 3/15/55)

“Street” means a permanently reserved thoroughfare which affords principal means of access to abutting property. (Ord. 38 (part), 3/15/55)

“Structure” means anything constructed or erected, which requires location on the ground or is attached to something having a location on the ground. (Ord. 38 (part), 3/15/55)

T

“Townhouses” mean dwelling units that are attached at their sides in groups of three or more and are sited on individual lots with vehicular access from driveways. Private rear yards or patios and common open space may be part of a townhouse development. (Ord. 38.759 (part), 4/2/02)

Trailer, Automobile. “Automobile trailer” means a vehicle without motive power designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons and property, including a trailer coach or house trailer. (Ord. 38 (part), 3/15/55)

“Tri-laminate Asphalt Composition” means an asphalt composition roof material that is comprised of three layers of tile adhered together to create one shingle and when installed overlap with another row of three-layered tile for a total minimum thickness of 7/8 inches. (Ord. 38.761 (part), 5/20/03)

“Tutoring Centers” means facilities offering academic instruction to individuals or groups in a classroom setting. (Ord. 38.761 (part), 5/20/03)

U

“Unreasonable Period of Time” means not less than thirty (30) calendar days following notification by the City to the owner/occupant pursuant to Section XI-10-63.09(a) that the property is in violation of this Chapter. The City Manager, upon a finding that the violation in question constitutes a threat to the health and safety of any person may designate a time period of thirty (30) calendar days or less upon notice to the owner/occupant to abate the nuisance. Prior notice shall not be required for summary abatement pursuant to Section XI-30.63.10(h). (Ord. 124.27 (18), 8/2/05)

“Unreasonable Period of Time” means not less than thirty (30) calendar days following notification by the City to the owner/occupant pursuant to this Chapter that the property is in violation of this Chapter. The City Manager, upon a finding that the violation in question constitutes a threat to the health and safety of any person may designate a time period of thirty (30) calendar days or less upon notice to the owner/occupant to abate the nuisance. Prior notice shall not be required for summary abatement pursuant to this Chapter.

“Usable Open Space” means any open space, the smallest dimension of which is at least six (6) feet and which is not used as storage or for movement of motor vehicles. Yards abutting a public street, which are not adequately screened for privacy, in the opinion of the Planning Commission, shall not qualify as usable open space. (Ord. 38.759 (part), 4/2/02)

“Use” means 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. (Ord. 38 (part), 3/15/55)

V

“Video Sales and Rental Store” means any place of business which includes the sale or rental of prerecorded video tapes, laser discs, compact discs, or any other medium which projects pictures on a screen. (Ord. 38.697 (1) (part), 12/20/94)

W

Wireless Communications Facilities Definitions. For the purposes of wireless communications facilities, the following definitions shall apply:

1. **“Commercial Wireless Communication Facility”** means a wireless communication facility operated by a for-profit business or for-profit purposes. See by contrast, “Noncommercial wireless communication facility”.

2. **“Noncommercial Wireless Communication Facility”** means a wireless communication facility operated by a government agency, a nonprofit organization, a for-profit business for non-profit purposes or a private citizen for personal use. It includes all amateur radio facilities. See by contrast, “Commercial wireless communication facility.”
3. **“Stealth Wireless Communications Facility”** means any antenna designed to be architecturally integrated into a building that 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 antennae and resemble natural features.
4. **“Wireless Communication Facility”** means the equipment and associated structures needed to transmit and/or receive electromagnetic signals. A wireless communication facility typically includes antennas, supporting structures (including, but not limited to, monopoles, utility structures, buildings and accessory structures), enclosures and/or cabinets housing associated equipment, cable, access roads and other accessory development.

Y

“Yard” means an open space, other than a court, on a lot, unoccupied and unobstructed, except by eaves, from the ground upward, except as otherwise provided in this Chapter. Where applicable, yards shall be measured perpendicularly from the property line to the face of the nearest exterior wall of any main building, except as otherwise provided in this Chapter (See Section 55.04.11). Setback shall be synonymous with yard. (Ord. 38.761 (part), 5/20/03: Ord. 38 (part), 3/15/55)

Yard, Front. “Front yard” means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot. (Ord. 38 (part), 3/15/55)

Yard, Rear. “Rear yard” means a yard extending across the full width of the lot between the most rear main building and the rear lot line; the depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line toward the nearest exterior wall of the main building. (Ord. 38.761 (part), 5/20/03: Ord. 38 (part), 3/15/55)

Yard, Side. “Side yard” means a yard between the main building and the side lot line extending from the front yard, or front lot line where no front yard is required, to the rear yard; the width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest exterior wall of the main building. (Ord. 38.761 (part), 5/20/03: Ord. 38 (part), 3/15/55)

Z

Zone. See “district.”

SECTION 5 COMMERCIAL ZONES AND STANDARDS

10-5.01 Purpose and Intent

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XI-10-5.01 Purpose and Intent

The General Plan details the goals, objectives and policies for the City's commercial zones, including provisions for a range of retail and office uses necessary to support the daily needs of residents of and visitors to Milpitas. It is the purpose of this section to implement the General Plan's vision for the commercial zones through development of regulations that allow for a variety of retail and office uses, while creating distinct commercial areas that are compatible with their surrounding environment.

A. Administrative and Professional Office (CO) Zone. The purpose and intent of this zone is to provide a district for medical, business, and professional offices, and medical and dental clinics.

B. Neighborhood Commercial (C1) Zone. The purpose and intent of this zone is to provide for general commercial needs of neighborhood areas of the City and to promote stable, attractive commercial development which will afford a pleasant shopping environment and will complement the essential residential character of the neighborhood. The Neighborhood Commercial District shall contain, as permitted uses, those activities which primarily provide for the day-to-day shopping needs of the residential neighborhood it is located in. It shall not include uses which generate loud noises or unpleasant odors. It shall not include retail stores, offices or service establishments which are not open to minors or which are designed to attract customers and traffic from areas other than the neighborhood area in which they are located.

C. General Commercial (C2) Zone. The purpose and intent of this zone is to provide for the wide range of retail sales and personal and business services primarily oriented to the automobile customer to provide for general commercial needs of the City and to promote stable, attractive commercial development which will afford a pleasant shopping environment. It is intended to include those commercial uses in which shopping may be conducted by people walking to several stores as in a center and may include uses customarily of a single-purpose character served from an immediately parked automobile. Special development standards are incorporated in the district regulations in order to provide for orderly development and to minimize potential traffic hazards. The C2 District, when appropriate, will be located along major thoroughfares and in accordance with the adopted City of Milpitas General Plan.

D. Highway Services (HS) Zone. The purpose and intent of this zone is to provide for the wide range of personal and business services primarily oriented to the automobile customer and transient residential uses such as motels or mobile home parks. It is intended to include those commercial uses which customarily located outside of the Central Business District area and tend to require lots with well-maintained grounds. The highway service uses listed are of a relatively low customer volume. Special development standards are incorporated in the district regulations in order to provide for orderly development and to minimize potential traffic hazards. The HS District, when appropriate, will be located along State highways and major City thoroughfares and in accordance with the adopted City of Milpitas General Plan.

E. 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, residential, dining, and cultural

activities in the geographic center of the City to suit the varying lifestyles of residents and visitors alike. The area is easily accessible via the City’s transportation network.

XI-10-5.02 Commercial Use Regulations.

A. Permitted and Conditionally Permitted Uses.

1. Primary uses. The uses identified in Table 5.02-1, Commercial Zone Uses, shall be the primary uses allowed to occur on a property. All uses except for those noted shall be conducted within enclosed structures. The primary uses identified in Table 5.02-1 shall be permitted or conditionally permitted, as indicated:

P	Where the symbol “P” appears, the use shall be permitted.
MCS	Where the symbol “MCS” appears the use shall be permitted subject to the issuance of a Minor Conditional Use Permit by staff, in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
C	Where the symbol “C” appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
MC	Where the symbol “MC” appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
O	Where the symbol “O” appears, the use is subject to an alternative review process described in a subsequent footnote.

B. Prohibited Uses. The following uses are prohibited:

1. Uses where the symbol “NP” appears within Table 5.02-1.
2. Uses that have been excluded from Table 5.02-1, unless they are found by the City to be similar to permitted or conditionally permitted uses in accordance with C below.

C. Other Uses. Any other uses may be considered by the Planning Commission that are similar in accordance with the procedure prescribed in Subsection 10-54.02, Other Uses Permitted by Commission, of this Chapter.

**Table XI-10-5.02-1
Commercial Zone Uses**

Use	CO	C1	C2	HS	TC
1. Commercial Uses					
Alcoholic beverage sales	C ⁶	C	C	NP	C
Art/photography studio or gallery	NP	P	P	P	P
Bookstore	NP	P	P	P	P
Commercial services ¹	P	P	P	NP	P
Funeral home or mortician	NP	NP	C	C	NP
Furniture sales	NP	P	P	P	P
Grocery store (supermarkets)					
Within 1,000 ft. of residential zone	NP	C	C	C	C
Not within 1,000 ft. of residential zone	NP	P	P	P	P
Home improvement (hardware, blinds, interior decorating, etc.)	NP	P	P	C	P
Not fully enclosed operation	NP	C	C	C	C

Use	CO	C1	C2	HS	TC
Household appliance store ⁷	NP	NP	P	P	NP
Small appliance repair	NP	NP	MCS	P	NP
Large appliance repair	NP	NP	NP	P	NP
Janitorial services	NP	NP	P	P	NP
Newsstand					
Indoor	P	P	P	NP	P
Outdoor	C	C	C	NP	C
Nursery (flower or plant)					
Indoor	NP	NP	P ²	P	P
Outdoor	NP	NP	C	P	NP
Office supply sales (stationary, equipment)	P	P	P	P	P
Paint and wallpaper stores	NP	NP	P	P	P
Pawnshops	NP	NP	C	NP	NP
Pet stores	NP	NP	P	P	P
Printing (newspaper, publishing)	NP	NP	P	P	P
Rentals (medical supplies, costumes, party equipment, office equipment)	NP	NP	P	P	P
Retail stores, general merchandise	NP	P	P	NP	P
Tanning salon	NP	NP	P	NP	P
Thrift store	NP	NP	P	P	P
Tobacco shop	NP	C	C	NP	C
2. Entertainment and Recreation					
Adult business ³	NP	NP	NP	P	NP
Bowling alley	NP	NP	P	P	P
Commercial athletic facilities					
Indoor	NP	C	P	P	P
Outdoor	NP	NP	NP	C	NP
Motion picture theater (See 7 below)					
Recreation or entertainment facility	NP	C	C	C	C
Shooting range, indoor	NP	NP	NP	C	NP
3. Health and Veterinarian Uses					
Animal grooming (no boarding)	NP	P	P	P	P
Hospital	C	NP	C	C	C
Kennel	NP	NP	C	NP	NP
Massage establishment	NP	NP	C	C	C
Medical and dental office	P	P	P	NP	P
Medical and dental clinic	P	C	C	NP	P
Medical support laboratories	P	C	C	C	C
Optician and optometrist shop	P	P	P	NP	P
Pharmacy or drug store	NP	P	P	P	P
Sauna and steam bath	NP	NP	NP	P	NP
Veterinary clinic	NP	NP	P	P	P
4. Industrial Uses⁴					
Assembly from pre-processed	NP	NP	C	NP	NP

Use	CO	C1	C2	HS	TC
materials					
Commercial fueling facility	NP	NP	NP	C	NP
Commercial laboratory	NP	NP	C	P	NP
Contractor's yards and offices	NP	NP	C	C	NP
Disinfection and extermination business	NP	NP	C	P	NP
Dry cleaning plant	NP	NP	NP	P	NP
Food storage locker	NP	NP	NP	P	NP
Landscape contractor	NP	NP	C	P	NP
Lumberyards	NP	NP	C	C	NP
Mini-storage complex	NP	NP	C	C	NP
Plumbing, metalworking, glassworking or woodworking	NP	NP	C	C	NP
Research & development	NP	NP	C	NP	NP
Sign sales and fabrication (Electric and neon sign, sign painting)	NP	NP	C	P	NP
Warehousing and wholesale	NP	NP	C	NP	NP
5. Lodging					
Hotel and motel	NP	NP	C	C	C
6. Professional Offices, Financial Institutions and Related Uses					
Automatic Teller Machines (freestanding) ⁵	NP	P	P	P	P
Financial institutions (banks, savings and loans, etc.)	P	P	P	P	P
General offices (administrative and business services, real estate, travel agencies, etc.)	P	P	P	P	P
7. Public, Quasi-Public and Assembly Uses					
Auction hall	NP	NP	C	C	C
Child care					
Child care center	C	C	C	C	C
Day care school	C	C	C	C	C
Large family child care home	NP	NP	NP	NP	C
Small family child care home	NP	NP	NP	NP	C
Club or social organization, religious assembly	C	C	C	C	C
Cultural center	NP	NP	C	C	C
Educational institutions					
Schools, Private (-elementary, middle, high)	NP C	NP NP	C P	NP P	C C
Trade and vocational school					
Farmer's market (not including flea market)	NP	C	C	C	C
Instruction					
Group ⁷	MCS	MCS	MCS	MCS	MCS
Private	P	P	P	P	P
Motion picture theater					
Indoor	NP	C	C	C	C
Outdoor	NP	NP	NP	C	NP

Use	CO	C1	C2	HS	TC
Parking facility, storage garage	NP	P	P	C	C
Public utilities	C	C	C	C	C
Transportation facility (taxi, limousine, etc.)	NP	NP	C	C	C
8. Restaurants or Food Service					
Banquet hall	NP	NP	C	C	C
Bar or nightclub	NP	NP	C	C	C
Catering establishment	NP	NP	P	P	P
Restaurants	C ⁶	P	P	P	P
With live entertainment/dancing	NP	NP	C	C	C
With drive-in or drive-thru	NP	C	C	C	C
With ancillary on-premise beer & wine with no separate bar	NP	MC	MC	MC	MC
9. Residential Uses					
Caretaker (in conjunction with contractor's yard or mini-storage complex)	NP	NP	C	C	NP
Residential dwellings (between 1 and 40 d.u. per gross acre)	NP	NP	NP	NP	C
<u>Live-Work Units</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>C</u>
10. Vehicle Related Uses					
Auto repair (tire, oil change, smog check, etc.)	NP	NP	C	C	NP
Auto sales and rental, outdoor (new and used cars, RV and truck)	NP	NP	C	C	NP
Auto broker (wholesale, no vehicles on site) ⁷	MCS	MCS	MCS	MCS	MCS
Car wash	NP	NP	C	C	NP
Service stations (with or without repair or retail) ^{7,8}	C	C	C	C	C
Drive through uses (restaurants, pharmacies, etc.)	NP	C	C	C	C
11. Unclassified Uses					
Accessory structures ⁹	P	P	P	P	P
Model home complex ¹⁰	NP	NP	NP	NP	P
Mortuary or crematory	NP	NP	NP	C	NP
Radio or television station	NP	NP	C	P	NP
Temporary seasonal sales ¹¹	NP	P	P	P	P

¹ Refer to the definition for "Commercial Services" in Section 2, Definitions, of this Chapter.

² Provided that all incidental equipment and supplies, including fertilizer and empty cans, are kept within a building.

³ In accordance with the Title III, Chapter 4, Adult Business Ordinance, and Subsection 13.04, Adult Businesses, of this Chapter.

⁴ For conditionally permitted uses, refer to Subsection 57.04(C) (9), Certain Industrial Uses within Commercial Districts, of this Chapter.

⁵ Refer to Subsection 57.03, Site Development Permits and Minor Site Development Permits, of this Chapter.

⁶ When intended to serve the occupants and patrons of the permitted use (office, etc.) and conducted and entered from within the building and provided there is no exterior display of advertising.

⁷ Refer to Subsection 5.02-1, Commercial Zone Special Uses, of this Section.

⁸ Refer to Subsection XI-10-6.02-2, Special Uses, of this Chapter, for standards. Service stations shall follow the "General development policy: Gasoline service stations, and automotive service centers" adopted by the City Council on December 19, 1995.

⁹ Not including warehouses on the same site as the permitted use.

¹⁰ No tract sign shall be permitted within 600 feet of a Santa Clara County Expressway.

¹¹ Refer to Section 13.11, Temporary Uses and Structures, of this Chapter.

XI-10-5.02-1 Commercial Zone Special Uses

A. Performance Standards for Certain Uses

For uses requiring approval of a Minor Conditional Use Permit by staff, in accordance with Section XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter, the following performance standards shall be met.

1. Auto Brokers. Auto Brokers may be permitted by right if the following standards are met:
 - a. Local Sales and Use Tax. In order to assist the City of Milpitas 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”) shall be 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.
2. Group Instruction uses shall comply with the following standards:
 - a. No loitering shall be permitted before or after any classes or sessions.
3. Service stations shall comply with the following standards:
 - a. Entrances to the service bays shall not be open to the street, but shall be so designed to face the rear or interior side property line.
4. Small and large appliance repair uses shall comply with the following standards:
 - a. All operations shall be conducted completely within an enclosed building.
 - b. There shall be no dust, fume, or odor emitted from the premise.
 - c. The operations shall not create excessive vibrations.
 - d. The operations shall be consistent with the City’s noise standards.

XI-10-5.03 Commercial Zone General Development Standards

The following minimum requirements shall be observed, except where increased for conditional uses. The minimum requirement shall be one of the following for the district classification as designated on the zoning map.

**Table XI-10-5.03-1
Commercial Zone Development Standards**

Standard	CO	C1	C2	HS	TC
Lot Area, minimum	None	None	10,000 s.f.	Fronting major street (4 or more lanes): 1.5 ac. Fronting all other streets (two lanes): 20,000 s.f.	None.
Lot Width,	None	None	100 ft.	Fronting major	None

Standard	CO	C1	C2	HS	TC
minimum				street: 250 ft. Fronting all other streets: 125 ft.	
Front Yard Setback, minimum	10 ft.	20 ft.	0 ft.	Major street: 50 ft. All other streets: 0 ft.	20 ft. 35 ft. along E. Calaveras Blvd.
Side Yard Setback (Interior), minimum	10 ft.	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District
Street Side Yard Setback, minimum	10 ft.	0 ft.	0 ft.	0 ft.	20 ft. 35 ft. along E. Calaveras Blvd.
Rear Yard Setback, minimum	10 ft. When abutting residential, not less than R District required setback	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District
Building Height, maximum					
Primary building	35 ft. or 3 stories	35 ft. or 2.5 stories	None	None	None ¹
Accessory building	25 ft. or 2 stories	25 ft. or 2 stories			
Parking	Refer to Section 53, Off Street Parking, of this Chapter.				
Lot Coverage	None	None	None	None	None
Floor Area Ratio	0.50	0.35	0.50	0.50	0.85
Landscaping	None	None	None	25% of front yard setback	All required setback areas and the ends of each parking aisle ²

¹ Refer to Subsection 57.04(C)(1), Applicability, of this Chapter for additional requirements.

² The Planning Commission shall determine the size of the planters through site and architectural review.

XI-10-5.04 Commercial Zone Special Development Standards

A. All Zones.

1. Areas for Collecting and Loading Recyclable Materials. There shall be provided areas for collecting materials in accordance with Subsection 54.12, Areas for collecting and loading recyclable materials, of this Chapter.
2. All outdoor storage areas of such things as trash and materials shall be within a completely enclosed building or behind a visually obscure solid wall or tight board fence a minimum six (6) feet in height and shall not be located within any front or street side yard setback area.
3. Such uses, operations or products shall not be objectionable due to odor, dust, smoke, noise, vibration or other similar causes.

B. TC Zone

1. Setbacks for Residential Projects. Except for the Calaveras Boulevard setback, all other setbacks shall be determined through a Site Development Permit.

XI-10-5.05 Conformance with Specific Plans. Properties located within Specific Plans shall conform to the underlying Specific Plan in accordance with Section XI-10-11.06, Conformance with Specific Plans, of this Chapter.

SECTION 13 SPECIAL USES

- 10-13.01 Purpose and Intent
- 10-13.02 Applicability
- 10-13.03 Accessory Uses
- 10-13.04 Adult Businesses
- 10-13.05 Home Occupation
- 10-13.06 Large Family Child Care and Child Care Centers
- 10-13.07 Manufactured Homes
- 10-13.08 Second Family Unit
- 10-13.09 Wireless Communications Facilities
- 10-13.10 Farmers' Markets
- 10-13.11 Temporary Uses and Structures
- 10-13.12 Live Work Units

10-13.01 Purpose and Intent

Given their unique nature, certain activities and uses have special impacts upon the community, giving rise to a need for special review procedures or standards. The purpose of this chapter is to identify and regulate such uses in order to ensure the maintenance of the public health, safety and welfare in accordance with the goals, objectives, policies, and implementation programs of the General Plan.

10-13.02 Applicability

The activities and uses covered or described in this chapter, when permitted within the zone in which they are to be located, shall comply with the provisions described here, as well as all other standards and provisions of this title.

10-13.03 Accessory Uses

In addition to those accessory uses specifically listed in the zoning district sections of this chapter, the following accessory uses shall be allowed:

- A. Massage Services.** Massage services may be allowed as 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 facilities (such as hospitals, nursing homes and sanitariums), and accredited school, college, and university. Massage services, limited to massage of the head, neck, shoulders, hands and feet may be allowed as an accessory use to any permitted or conditionally permitted beauty salon, barbershop, and healing art practices. This section shall not exempt any person or business from complying with all the provisions of Title III, Chapter 6.

10-13.04 Adult Businesses.

A. Purpose and Intent. The purpose of this Subsection is to establish reasonable and uniform regulations regarding the location of Adult Businesses, which will permit the location of Adult 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 Businesses or their close proximity to incompatible uses.

B. Definitions.

1. "Adult Businesses" means any of the following:
 - a. Adult Arcade. The term "adult arcade" as used in this Subsection, means 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 (5) 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.
- b. Adult Bookstore. The term "adult bookstore" as used in this subsection means an establishment that has thirty (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.
 - c. Adult Cabaret. The term "adult cabaret" as used in this subsection, means a nightclub, restaurant, or similar business establishment which: (1) 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 (2) which regularly features persons who appear seminude; and/or (3) shows films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty (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.
 - d. Adult Hotel/Motel. The term "hotel/motel" as use in this subsection means a hotel or motel or similar commercial establishment which:
 - i. 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
 - ii. Offers a sleeping room for rent for a period of time that is less than ten (10) hours or allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours, or rents any single room more than twice in a 24-hour period.
 - e. Adult Motion Picture Theater. The term "adult motion picture theater" as used in this subsection, means 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 thirty (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.
 - f. Adult Theater. The term "adult theater," as used in this Subsection, means 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.
 - g. Escort. The term "escort" as used in this subsection, means 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.
 - h. Escort Agency. The term "escort agency" as used in this subsection means 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.

- i. **Modeling Studio.** The term "modeling studio" as used in this subsection, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display specified anatomical areas to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. Modeling studio does not include schools maintained pursuant to standards set by the State Board of Education. Modeling studio further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available specified sexual activities.
2. **Distinguished or Characterized by an Emphasis Upon.** As used in this subsection, the term "distinguished or characterized by an emphasis upon" shall mean and refer to 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.
3. **Nudity or a State of Nudity.** The term "nudity or a state of nudity" as used in this subsection, means the showing 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.
4. **Regularly Features.** The term "regularly features" with respect to an adult motion picture theater, theater or adult cabaret means 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 (2) or more occasions within a thirty (30) day period, three (3) or more occasions within a sixty (60) day period, or four (4) or more occasions within a one hundred and eighty (180) day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.
5. **School.** The term "school" as used in this subsection is an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university. The term "school" as used in this subsection also means day care center or facilities.
6. **Seminude.** The term "seminude" as used in this subsection, means 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.
7. **Specified Anatomical Areas.** The term "specified Anatomical Areas" as used in this subsection, means and includes any of the following:
 - a. 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
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - c. Any device, costume or covering that simulates any of the body parts included in subdivisions (a) or (b) above.

8. Specified Sexual Activities means and includes any of the following:
 - a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
 - b. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
 - c. Masturbation, actual or simulated;
 - d. Human genitals in a state of sexual stimulation, arousal or tumescence; or
 - e. Excretory functions as part of or in connection with any of the activities set forth in (a) through (d) of this subsection.
9. Establishment of an Adult Business. As used in this subsection, to "establish" an Adult Business shall mean and include any of the following:
 - a. The opening or commencement of any Adult Business as a new business;
 - b. The conversion of an existing business, whether or not an Adult Business, to any Adult Business defined herein;
 - c. The addition of any of the Adult Businesses defined herein to any other existing Adult Business; or
 - d. The relocation of any such Adult Business.

C. Location and Distance Regulations.

1. Adult Businesses shall only be allowed in H-S (Highway Service), M1 (Light Manufacturing) and M-2 (Manufacturing) districts.
2. No Adult Business shall be allowed:
 - a. Within 1,000 feet of any school, public park or recreation area, residential district, mobile home park or MHP District, church or religious institution;
 - b. Within 500 feet of any other Adult Business premises.
3. Any Adult 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 district, 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 and does not apply when an application for an Adult Business permit is submitted after such permit has been revoked.
4. Distance between any two (2) Adult Business premises shall be measured in a straight line, without regard to intervening structures or objects, from the nearest entrance of an adult business premises to the nearest entrance of the second adult business premises. The distance between any Adult Business premises and any school, public park or recreation area, residential district, church 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 church or religious institution. (Ord. 38.711 (part), 8/20/96)

10-13.05 Home Occupation

A. Purpose. The purpose of this Section is to provide residents with the ability to work at home yet ensure that the business does not interfere with, detract from, or otherwise adversely affect the character of the neighborhood.

B. Regulations:

1. All persons operating a home occupation must obtain a home occupation permit from the City prior to commencing any business. It is unlawful to operate a home occupation without a permit.
2. 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.
3. The home occupation shall not involve more than one client visitation on the premises at any time.
4. The home occupation shall not be operated in a manner which creates noise, vibrations, dust, odor, smoke or television and radio interference affecting adjoining properties.
5. No signs are permitted either on or off the premises in connection with the home occupation. Products or equipment produced or used by home occupation shall not be displayed in a manner which is visible from the exterior of the dwelling.
6. There shall be no storage of materials or supplies outdoors in a manner which is visible from adjacent properties or public ways.
7. The home occupation shall not require modification or exterior alterations of the dwelling in which a home occupation is conducted.
8. The home occupation shall be conducted entirely within the dwelling except for those types of occupations which are conducted entirely off-site and away from the dwelling.
9. The occupations listed below shall not be considered incidental and secondary to the residence because they will change the residential character of the dwelling and because they change the character of the neighborhood:
 - a. Barber and beauty shops or similar cosmetology establishments;
 - b. Kennels and other boarding for pets;
 - c. Mechanical and auto repairs;
 - d. Medical and dental offices;
 - e. Retail sales (excluding retail sales in which all products are sold over the phone or internet and shipped to the customer).

C. Violation of Regulations. Violation of any provision of this Chapter may result in the revocation of the home occupation permit after notice and an opportunity for a hearing has been given to the permittee. (Ord. 38.760 (3), 9/17/02; Ord. 38.703, 7/18.95; Ord. 38.175, 1/7/69; Ord. 38.164, 6/4/68; Ord. 38 (part), 3/15/55)

10-13.06 Large Family Child Care and Child Care Centers

A. Purpose. The purpose of provisions dealing with childcare facilities is to allow regulation of such facilities to the extent provided herein. However, nothing is intended to allow regulation to a greater extent than allowed by State law.

B. Required Review.

1. Large family child care homes may be approved administratively by the Planning Division, provided that the applicant submits information to the Planning Division demonstrating compliance with applicable development standards listed in Subsection 18.06(C), Development Standards, below, and the applicant obtains approval from the Fire Department.
2. Child care centers shall require approval of a Conditional Use Permit by the Planning Commission, as per Subsection 57.07, Conditional Use Permits, of this Chapter. The applicable development standards are listed in Subsection 18.06(C), below. (Ord. 38.789, (12) 4/21/09)

C. Development Standards.

1. Density. Large family child care homes shall be spaced at least three hundred (300) feet apart from each other. This spacing requirement does not apply to small family childcare homes.

Exception: The Planning Commission may allow the locating of Large family child care homes closer than three hundred (300) feet apart from each other through the approval of a Conditional Use Permit, pursuant to Subsection 57.04, Conditional Use Permits, of this Chapter. (Ord. 38.789, (13) 4/21/09)

2. Off-Street Parking Requirements. There shall be provided off-street parking spaces for automobiles in accordance with the requirements of Section 53, Off Street Parking Regulations, of this Chapter. All such parking spaces shall be improved as provided for in Subsection 54.03, Improvement of Parking Areas, Auto Sales Areas, and Loading Areas, of this Chapter.
3. Hours of operation. For large family child care homes, hours of operation shall not occur before 6:30 A.M or after 7:30 P.M., in order to maintain compatibility with neighboring properties and limit noise during night-time hours. Hours of operation may be limited through the Conditional Use Permit process and shall be based on compatibility with neighboring properties and other planning principles as set forth in Subsection 57.04, Conditional Use Permits, of this Chapter. (Ord. 38.789, (14) 4/21/09)
4. Fence Height. Outdoor play areas for childcare centers shall be enclosed with a six-foot high fence. The fence type shall be compatible with neighboring properties and other planning principles as set forth in Subsection 57.04, Conditional Use Permits, of this Chapter.
5. Code Enforcement Procedures. If any large family child care home is operating in a manner that constitutes a nuisance, the child care facility operator shall work with the Planning Division to address the nuisance, through such actions as adjusting hours of operation, adjusting hours of outdoor play, staggering times for child drop-off and pick-up, and the like. If any childcare center is operating in a manner which constitutes a nuisance, the Planning Commission shall reopen the Conditional Use Permit to add or change conditions of approval addressing the issue(s). If the nuisance continues, the Planning Commission may review the Conditional Use Permit with a recommendation to the City Council pursuant to Section 63.06 (Revocation, Suspension and Modification). (Ord. 38.761 (part), 5/20/03; Ord. 38.702 (1) (part), 8/15/95)

10-13.07 Manufactured Homes

Manufactured Homes

- A. Purpose and Intent.** This Section provides standards and procedures for individual manufactured homes on individual lots in residential zones. These standards are provided to ensure the compatibility of manufactured homes with other surrounding permitted uses, create a safe and desirable living environment for manufactured home residences, and address land use compatibility.
- B. Applicability and Review Requirements.** A single manufactured home may be permitted on lots zoned for single-family dwellings where it has been determined the lot and structure are compatible:
1. In districts where site plan and architectural review is not generally required for single-family dwellings, the site plan and architectural review process shall be utilized to initially determine if a lot and structure is compatible for a manufactured home. Compatibility of a lot and structure shall be determined by such factors as height, bulk and character of other structures in the neighborhood. If a lot and structure is determined to be compatible, site plan and architectural review is limited only to specifying roof overhang, roofing material and siding material based on the following standards.
- C. Development Standards.** The following development standards shall be applicable to the establishment of manufactured homes as single-family dwellings in the R1 District:
1. Manufactured homes and any garages, carports, and other structures attached thereto, must conform to all regulations for single-family dwellings applicable to the zone.
 2. Manufactured homes must be certified under the National Manufactured Housing Construction and Safety Standards Act of 1974.
 3. Manufactured homes must be attached to a permanent engineered perimeter foundation system approved by the Chief Building Official and pursuant to Section 18551 of the State Health and Safety Code.
 4. Manufactured homes must be covered with stucco and/or wood siding or an exterior material commonly found on new conventionally erected single-family dwellings in the surrounding area.
 5. The roofing material must be wood or composition shingles or other materials commonly found on conventionally erected single-family dwellings in the surrounding area. The roof must have a minimum pitch with respect to roofing material in accordance with the City of Milpitas Building Code.
 6. The roof must have eave and gable overhangs of not less than eighteen (18) inches measured horizontally from the vertical side of the mobile home. The overhang must be constructed with materials commonly found on conventionally erected single-family dwellings in the surrounding area and must be at the same slope and be covered with the same roofing material as the roof itself.
 7. The exterior covering and roofing materials of the garage, carport, or any other structure attached to the manufactured home must be the same as for the manufactured home.

8. As used in this Section, "commonly found" means an architectural feature or construction material that occurs or appears frequently on conventionally erected single-family dwellings within five hundred (500) feet of the boundaries of the lot or parcel on which a manufactured home is proposed.

10-13.08 Second Family Unit

- A. Purpose and Intent.** The purpose of these standards is to ensure that second residential dwelling units located in single-family residential zones do not adversely impact either adjacent residential parcels or the surrounding neighborhood, and are developed in a manner which protects the integrity of the residential zone, while providing for needed housing opportunities for owners of eligible parcels. This section is also intended to comply with State law, Government Code Section 65852.2.
- B. Review Requirements.** Any application for second family unit that meets the following standards in subsection 13.08(C), Minimum Standards, below shall be approved ministerially without discretionary review or public hearing. One second family unit may be allowed per lot, subject to all of the following criteria:
- C. Minimum Standards.**
 1. Existing Use. The lot is residentially zoned and contains only one (1) existing, legal single-family dwelling unit.
 2. Number. A maximum of one (1) second family unit shall be permitted on any lot.
 3. Applicant and Ownership.
 - a. One (1) of the two (2) units shall be occupied by the owner of the property at the time of application submittal.
 - b. The second family unit shall not be sold to a different owner than the main residence, and may be rented.
 4. Attached Second Family Unit.
 - a. If attached to the main dwelling, the second family unit shall comply with the same building height, setback, rear yard coverage and lot coverage requirements and limitations as the main dwelling.
 - b. An attached second family unit shall be located within the living area of the existing dwelling. "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage.
 - c. The increased floor area of an attached second family unit in a non-Hillside combining district shall not exceed thirty (30%) percent of the existing living area, not to exceed four hundred seventy-five (475) square feet in size.
 - d. The increased floor area of an attached second family unit in the Hillside combining district shall not exceed thirty (30%) percent of the existing living area, not to exceed one thousand two hundred (1,200) square feet in size. However, in no case shall the overall building size exceed that allowed in Section 45, Hillside Combining District, of this Chapter.
 5. Detached Second Family Unit.

- a. A detached second family unit in a non-Hillside combining district shall be located on the rear half of the lot, shall not exceed fifteen (15) feet in height, and shall be no closer than six (6) feet, and no farther than one hundred (100) feet, from the main dwelling. It shall conform to the same yard setback and rear yard coverage regulations applicable to accessory buildings and structures, as per Subsection 54.08, Accessory Buildings and Structures, of this Chapter.
 - b. A detached second family unit in the Hillside combining district shall not exceed seventeen (17) feet and one (1) story from finished grade to the highest ridgeline of the building, and it shall not exceed one thousand two hundred (1,200) square feet in size. It shall be located on the rear half of the lot, and shall be no closer than six (6) feet, and no farther than one hundred (100) feet, from the main dwelling, shall not cover more than thirty (30%) percent of the required rear yard, shall conform to the side yard setback requirements as the main dwelling, and shall count towards the maximum allowed impervious surface coverage for the parcel on which it is located.
6. Parking. The second family unit shall provide one (1) more off-street parking space than required for a single-family dwelling. This additional parking space may be tandem and within the required front yard so long as it is located on the driveway serving the main dwelling. Front yard coverage requirements in the R1 zoning district shall apply. No parking shall be permitted on the street side yard of a corner lot. Covered parking shall comply with the requirements in Subsection 54.08, Accessory Buildings and Structures, of this Chapter. Parking space shall measure ten (10) feet by twenty (20) feet, and be improved as provided in Subsection 54.03, Improvement of Parking Areas, Auto Sales Areas and Loading Areas, of this Chapter.

7. Other Standards

- a. A second family unit which is an efficiency unit, as defined Section 17958.1 of the State Health and Safety Code, shall not contain less than one hundred fifty (150) square feet.
- b. The second family unit shall not have more than one (1) bedroom or more than one (1) kitchen.
- c. Local building codes shall apply to additions to existing single-family dwellings, as well as to detached second family units, as appropriate.
- d. A permanent foundation shall be required for all second family units.
- e. Any construction shall conform to site and architectural plan review, fees, charges and other zoning requirements applicable to residential construction in the zone in which the property is located.
- f. Aesthetics. The second family unit shall be designed to be architecturally compatible and visually integrated with the main dwelling. It shall employ design, materials and colors matching those of the main dwelling.
- g. Second family units shall not be allowed where roadways, public utilities and services are inadequate, as determined by City staff, based on the City's adopted sewer and water master plans. If City staff believe that an additional residential unit will impact traffic flow along the residential street on which the unit is proposed, the applicant shall provide a traffic impact analysis for staff review. The applicant shall comply with the recommendations contained in the traffic impact analysis.

A second family unit which conforms to the requirements of this section shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use which is consistent with the existing general plan and zoning designations for the lot. The second family units shall not be considered in the application of

any local ordinance, policy, or program to limit residential growth. (Ord. 38.762 §§ 2, 3, 8/5/03; Ord. 38.761 (part), 5/20/03)

10-13.09 Wireless Communications Facilities

A. Purpose and Intent. It is the purpose to regulate the placement and design of antennas and wireless communication facilities. The installation of antennas and wireless communication facilities may affect the public health, safety and welfare, as well as the aesthetic quality of life by creating unattractive appurtenances to buildings and open areas, by blocking and degrading views, and by creating visual clutter. Therefore, conditional use permit review and the standards that follow are intended to protect and promote public health, safety, community welfare and the aesthetic quality of life by encouraging the orderly development of wireless communication facilities. In addition, they are intended to regulate the placement of certain antennas due to their size and commensurate visual and aesthetic impact in order to promote public safety and protect the aesthetic quality of the community. The standards that follow are the minimum necessary to obtain the community objectives of promoting public health, safety and aesthetics while providing for reasonable signal access.

B. Review Requirements.

1. Unless identified as exempt below, wireless communications facilities shall require the approval of a Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits, of this Chapter.
2. Any facility exempt from local regulation per the FCC and those wireless communications facilities listed below shall be exempt from obtaining a Conditional Use Permit and shall be permitted provided that the following standards are met:
 - a. Receive-only radio and television antennas, including satellite dishes one meter or less in diameter in residential zones or on residential buildings, or two meters or less in diameter in commercial and industrial zones, provided that:
 - i. The antenna meets all lot coverage, height, setback and other requirements on accessory structures as per Subsection 54.08, Accessory Buildings and Structures, of this Chapter; and
 - ii. All required building permits are obtained.
 - b. Amateur radio facilities, provided that all antennas and supporting structures meet the following requirements:
 - i. All fixed radio equipment, antennas and antenna support structures shall comply with all lot coverage, height, setback and requirements on accessory structures as per Subsection 54.08, Accessory Buildings and Structures, of this Chapter; and
 - ii. All required building permits shall be obtained.
 - c. Temporary wireless communication facilities providing public information coverage of a news event. Mobile facilities providing public information coverage of news events may be set up on public or private property for a duration of seventy-two (72) hours or less.
 - d. Stealth wireless communications facilities. The Planning Division shall review a stealth antenna installation if the project meets the definition of a stealth wireless communications facility within Subsection 2.03, Definitions, of this Chapter.

C. Development Standards for Exempt Facilities

Wireless Communication Facilities exempt from obtaining a Conditional Use Permit in accordance with Subsection 57.04, Conditional Use Permits, of this Chapter, shall meet the following:

1. No vertical structure associated with an Antenna (hereinafter "Tower or Mast") shall exceed the maximum height of a structure permitted in the zoning district in which the structure is located by more than twenty-five (25) feet (hereinafter "Maximum Height") except as provided in this Section. The Maximum Height shall be measured to the highest point of the Tower or Mast or Antenna(s) mounted thereon.
2. All Towers or Masts must be attached to the main structure or to a foundation. In any event, the design of the attachment must meet or exceed the Tower or Mast manufacturer's recommended design for such structural attachment or foundation. Guy wires may only be used as a means of support for Towers or Masts only if such Tower or Mast does not exceed 20 feet in height. Wire antennas suspended from Towers or Masts shall not be considered guy wires. Such manufacturer's recommended design shall be submitted with the building permit application and shall form the basis for permitting and subsequent inspection.
3. The sum of equivalent flat plate wind load(s) in square feet of all equipment needed for the communication facility to function and that are mounted on the Tower or Mast shall not exceed 100% of the Tower or Mast manufacturer's maximum wind loading specification for a minimum 70 mph wind if located on the valley floor and 80 mph wind if located within the hillside area.
4. No part of any Antenna mounted on a Tower or Mast may extend closer than 3 feet to a property line whether fixed or movable, or forward of the front of the building. However, in no case shall any such antenna encroach into a utility easement within which overhead power lines are located. If such antenna serves a multi-family unit that is within a multi-family building where the unit does not adjoin a side or rear yard of the building, such antenna attached to the unit or attached to a structure attached to the unit may extend forward of the front of the building by no more than 3 feet. However, in no case shall any such encroachment forward of the front of the building extend into a public right-of-way or private accessway.
5. All Towers and Masts attached to a foundation must be located within the side or rear yard and no closer than 10 feet from a property line. However, in no case shall a Tower and/or Mast encroach into a utility easement.
6. Receive-only radio and television antennas, citizens band facilities and data communications facilities and satellite dishes one meter or less in diameter in residential zones, or two meters or less in diameter in commercial and industrial zones shall not be installed between a public right-of-way and a structure. Any of the aforementioned wireless communication facilities that are preempted by federal law that are proposed to be located in the area between a public right-of-way and a structure, shall be allowed without a use permit if such facility is attached to said structure and if such location provides the only unobstructed view required for the facility to function.
7. There shall be no more than two antenna support structures that exceed 20 feet in height per parcel.
8. A Tower or Mast may exceed the Maximum Height referenced in subsection a) above only by an extendable Tower or Mast provided that (a) the collapsed height of the Tower or Mast and Antenna(s) does not exceed the Maximum Height and (b) the extendable Tower or Mast shall be permitted to exceed the Maximum Height only during communications operations and shall be lowered to the Maximum Height upon termination of each operating session.

9. Masts, Towers and Antennas shall not be painted and shall be limited to gray, black, white, brown, tan, silver, gold, pale blue, dark green or any other color compatible with surrounding structures or vegetation.
10. If an Antenna, Tower or Mast is no longer used for its intended purpose, it shall be removed.
11. All operations of Tower or Mast mounted Antenna(s) must meet applicable FAA and FCC rules and regulations and any emissions must meet applicable FCC and ANSI radiation safety guidelines.

10-13.10 Farmers' Markets

A. Purpose and Intent. The purpose of this Subsection is to establish reasonable and uniform regulations for the operations 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. Review Requirements.

1. Scaled or fully dimension site plan that shows location, buildings, parking facilities, and site improvements.
2. Traffic Handling Plan.
3. Market Layout plan that shows location of booths, stalls, and trash receptacles. The layout plan shall demonstrate compliance with Fire and Building requirements for access and accessibility requirements.
4. Description of Market Operations and standard procedures.

C. Minimum Performance Standards

1. No music, performances or special event activities (i.e., cooking show, recipe contests, face painter) will be allowed within 200 feet of any residentially zoned property unless specifically approved by the Planning Director.
2. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved use permit.
3. The Market operator is responsible for leaving the parking lot area clean and litter-free after each event.
4. The Market operator shall be responsible for providing recycling bins and trash receptacles and disposal of such trash as required by the County Environmental Health Services and the City.
5. All foods must be produced, prepared, packaged, stored, transported, and marketed in compliance with County Environmental Health Standards. The Market shall maintain in good standing all necessary health permits for the operations of the Market and shall be responsible for requiring all vendors be in possession of necessary health permits for all products sold.
6. The Market operator shall be responsible for all traffic controls during the event, including set up and tear down of equipment needed for the execution of traffic handling plan.
7. The Market operator shall obtain a master business license with the City of Milpitas for participating farmers and other vendors.

8. 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 its approval of the conditional use permit, or environmental determination rendered in connection with the permit approval, or arising from or as a result of any actions by the Market operator pursuant to the conditional use permit.

13.11 Temporary Uses and Structures

- A. Purpose and Intent.** The purpose of this Section is to control and regulate land use activities of a temporary nature which may adversely affect the public health, safety and welfare. The intent is to ensure that temporary uses will be compatible with surrounding land uses, to protect the rights of adjacent residences, businesses, and land owners, and to minimize any adverse effects on surrounding properties and the environment.
- B. Applicability.** This Section shall apply to the temporary uses and structures on private property and certain public right-of-way described in Subsections D through I of this Section. All other temporary uses shall be prohibited on private property.
- C. Review Requirements.** The review procedures for the temporary uses and structures allowed by this Section are specified for each use in Subsections D through I of this Section. Subsection J of this Section includes a list of potential conditions that may be imposed on a temporary use or structure project.
- D. Temporary Seasonal Sales.** Temporary seasonal sales such as Christmas tree or pumpkin sales lots may be permitted, subject to the following regulations:
 1. 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.
 2. Location. Temporary seasonal sales may be located pursuant to Table XI-10-5.02-1, Commercial Zone Uses, Table XI-10-6.02-1, Mixed Use Zones, Table XI-10-10.02-1, Institutional Zone Uses, and on all church/religious sites and school sites.

For temporary seasonal sales located on church/religious sites and school sites within residential (R) zoning districts, the Planning Commission Subcommittee may approve the request through a Minor Site Development Permit.
 3. 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.
 4. Other Requirements. 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, pursuant to the provisions of this Zoning Ordinance.
 5. Review Requirements. Temporary seasonal sales shall require the approval by staff, provided the standards of this Section are met.
 6. Signs. Refer to Title XI, Chapter 30, for Temporary Promotional Signs. No prohibited signs, as defined in Title XI, Chapter 30, shall be allowed.

7. Time Limits. Temporary seasonal sales shall be limited to forty-five (45) days of operation per calendar year.

E. Model Home Complexes and Sales Offices. Model home complexes and sales offices may be conditionally allowed by the Planning Division solely for the first sale of homes within a recorded tract or condominium subdivision, subject to the following regulations:

1. Location. The model home complex and/or sales office shall be located on the same or adjacent premises as the subdivision or building project.
2. Duration. The model home complex and/or sales office shall be removed within three months of closing the sale of the final unit in the project.
3. Review Requirements. Model home complexes and/or sales offices for the sale of homes in any subdivision containing five (5) or more units shall require the approval of staff, provided the standards of this Section are met.
4. Use. The sales office shall be used only for transactions involving the sale, rent or lease of lots or units within the tract or condominium subdivision.
5. Other Issues for Consideration. The Planning Division shall consider the hours of operation, lighting, landscaping, signage, and any other factors that may affect the model home complexes maintenance and impacts on the surrounding area and shall condition the project accordingly. In addition, the following shall apply:
 - a. Model home sales personnel shall prominently post a copy of the Milpitas General Plan and Land Use Map and to refer each purchaser of a home to said Plan and refer said purchaser to the Planning Division to answer any questions regarding interpretation of the Plan.
6. Other Requirements. 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 pursuant to the provisions of this Zoning Ordinance.

F. Parking Lot or Sidewalk Sales. Temporary parking lot or sidewalk sales may be conditionally permitted, subject to the following regulations:

1. Authorization. Written authorization for the sale shall be obtained from the property owner.
2. Location. The activity may be located in a parking lot or on a sidewalk provided that the displays and structures associated with the activity are not located in required parking/loading spaces or on public property or right-of-way.
3. Hazards. The activity shall not present a hazard to pedestrians or encroach on a required building exit. No item shall be displayed in a manner that: causes a safety hazard; obstructs the entrance to any building; interferes with, or impedes the flow of, pedestrian or vehicle traffic; is unsightly or creates any other condition that is detrimental to the appearance of the premises or any surrounding property; or in any other manner is detrimental to the public health, safety or welfare or causes a public nuisance.
4. Review Requirements. Parking lot or sidewalk sales shall require the approval by staff, provided the standards of this Section are met.

5. Number of Occurrences. Parking lot or sidewalk sales shall be limited to four (4) occurrences during a calendar year. Each parking lot or sidewalk sales activity shall not exceed three (3) days. A minimum thirty (30) days shall lapse between occurrences.
6. Other Requirements.
 - a. The site shall be maintained free of debris, litter, and upon completion or removal of the temporary use shall thereafter be used pursuant to the provisions of this Zoning Ordinance.
 - b. No amplified or acoustic sound or live entertainment is allowed in conjunction with parking lot or sidewalk sales.

G. Special Events and Activities.

1. Special events and activities may be permitted, subject to the following regulations:
 - a. Authorization. Written authorization for the special event and activity shall be obtained from the property owner.
 - b. Location. Special events and activities may be located on non-residential private property, and public-rights-of-way.
 - c. Review Requirements. Special Events and Activities shall require the approval of a Minor Site Development Permit, in accordance with Table XI-10-13.11-2, Review Requirements for Special Events and Activities, and Section 57.03, Site Development Permits and Minor Site Development Permits, of this Chapter.

**Table XI-10-13.11-2
Review Requirements for Special Events and Activities**

Threshold for review—Number of days the activity will occur during a calendar year	Planning Staff	Planning Commission Subcommittee
One - three days	X	
With amplified or acoustical sound or live entertainment		X
Four to seven days		X
With amplified or acoustical sound or live entertainment		X

- d. Number of Occurrences. Special events and activities shall be limited to four (4) occurrences and up to twenty eight (28) cumulative days during a calendar year. A minimum thirty (30) days shall lapse between occurrences.

A single annual review is acceptable for multiple requests of up to four (4) occurrences and may be approved by the Planning Commission Subcommittee, so long as the dates for the occurrences are provided and adhered to by the applicant.

- e. Exceptions: Exceptions may be granted through the approval of a Conditional Use Permit by the Planning Commission in the following instances:
 - i. Waiver of the minimum lapse period.
 - ii. Waiver of limit on number of occurrences.
- f. Other Requirements.
 - i. 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 pursuant to the provisions of this Zoning Ordinance.
 - ii. Parking. Adequate parking shall be provided and maintained during the course of the activity. Public parking shall not be negatively impacted.
 - iii. Depending on the scope of the special event or activity, the special event and activity may require additional permits issued by other departments.
 - iv. When a Conditional Use Permit for a Special Event and Activity has been revoked, no other Conditional Use Permit for a Special Event and Activity shall be issued under this Section to the same location within one (1) calendar year of the date of revocation.

H. Temporary Buildings or Structures. Temporary buildings or structures may be permitted, subject to the following provisions:

- 1. Authorization. Written authorization for the sale shall be obtained from the property owner.
- 2. Location. The temporary building or structure shall not be visible from adjacent streets or right-of-ways.
- 3. Review Requirements. Temporary buildings or structures shall require the approval of a Conditional Use Permit, in accordance with Section XI-10-57.04, Conditional Use Permits, of this Chapter.
- 4. Only temporary buildings and structures serving permitted uses or uses that received a Conditional Use Permit pursuant to the underlying zoning are allowed.
- 5. Time limits. Temporary buildings shall not exceed two (2) years in undeveloped sections of the City, and for periods not to exceed six (6) months in developed sections. Exceptions may be granted if required by County, State or Federal agency.

I. Temporary Contractor's Office. Temporary contractor's office trailers and construction-related storage trailers in undeveloped and developed sections of the City shall comply with the following:

- 1. Location. Trailers shall not obstruct driveways or traffic access aisles.
- 2. Other Standards.
 - a. The applicant shall demonstrate that parking will not be negatively impacted.

- b. The colors and materials shall complement the main building, if one exists.
- c. Any exterior noise-generating equipment associated with trailers shall not be within 300 feet of a residential or mobile home park overlay district or use.
- d. Trailers shall be removed upon cessation of permitted construction activity.

Exceptions. Any deviation from standards 1 and 2 above shall only be allowed through the approval of a Minor Site Development Permit.

J. Conditions. When considering approval of a temporary use or structure, the review authority may impose conditions deemed necessary to ensure that the permit or approval will be in accordance with the standards prescribed in this Section and the findings required for the approval. These conditions may include, but are not limited to:

1. Regulation of operating hours and days;
2. Provision for temporary parking facilities, including vehicular ingress and egress;
3. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination on adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases and heat;
4. Regulation of temporary structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
5. Provision for sanitary and medical facilities;
6. Provision for solid, hazardous and toxic waste collection and disposal;
7. Provision for security and safety measures;
8. Regulation of signs;
9. Submission of a performance bond or other surety devices, satisfactory to the review authority, to ensure that any temporary facilities or structures used will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition;
10. Provision for visual screening, not limited to landscaping;
11. Any other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accordance with the intent and purpose of this Section.

13.12 Live-Work Units

A. Purpose and Intent. The purpose of this Section is to control and regulate land use activities for the live-work unit. The intent of a live-work unit is to allow for small-scale business activities in residential uses which meet certain standards. No portion of the live-work unit may be separately occupied or sold. Live-work uses are allowed one non-residential employee, and a broader range of uses, than permitted in Home Occupations, and therefore are subject to granting of a conditional use permit to ensure compatibility.

B. Applicability. This Section shall apply to existing and new residential development that includes live-work units.

C. Review Requirements. Live-work units shall require the approval of a Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits, of this Chapter.

C. Minimum Performance Standards

1. A business license and certificate of occupancy shall be obtained for every commercial space within the live-work units.
2. Only one live-work business is allowed per residential unit.
3. Living space shall occupy a minimum of 60% of the total gross floor area of the unit.
4. The commercial component as designated on the floor plan approved through the conditional use permit shall remain commercial and cannot be converted to a residential use.
5. The residential component as designated on the floor plan approved through the conditional use permit shall remain residential and cannot be converted to commercial use.
6. 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 residential unit shall have direct interior access to the commercial unit.
7. The residential unit shall provide additional exterior access to the main residential unit that is not through the commercial component.
8. Exterior Appearance: The commercial component of the live-work unit shall have a commercial, store front appearance located on the 1st floor of the home.
9. 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 use not permitted.
10. Shall demonstrate compliance with parking per Section 53 for required parking spaces.
11. Sign size, location, illumination and materials, shall be consistent with the architectural building design and approved through a master sign program.
12. Business shall not involve the use of hazardous materials or produce medical or hazardous waste, except that de minimis amounts of essential hazardous materials will be subject to the review and approval of the Milpitas Fire Department. Specific conditions, as well as permitting, disclosure, and periodic inspection requirements, will be a part of any approval granted. Classes of materials that are prohibited include: 1-A flammable liquids, pyrophoric, unstable, reactive, toxic, highly toxic, or explosive materials including fireworks and small arms ammunition; flammable combustible, corrosive or oxidizing solids, liquids and gasses; organic peroxides and cryogenes.
13. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved use permit
14. All foods must be produced, prepared, packaged, stored, transported, and marketed in compliance with County Environmental Health Standards.

15. The commercial use shall not create external noise, odor, glare, vibration or electrical interference detectable to the normal sensory perception by adjacent neighbors.

C. Prohibited Uses

1. Any use not permitted within the underlying zoning district along with the following:
 - a. Adult-oriented businesses;
 - b. Astrology;
 - c. Palmistry;
 - d. Massage;
 - e. Sauna or Spa;
 - f. Pharmacy or drug store;
 - g. Head/smoke/tobacco shop;
 - h. Tattoo and Piercing;
 - i. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale;
 - j. All vehicle related uses such as auto sales, repair, or maintenance of vehicles including boats, motorcycles, or recreational vehicles;
 - k. Places of Assembly;
 - l. Group Instruction;
 - m. Club or Social Organization;
 - n. Religious Assembly;
 - o. Educational Institutions;
 - p. Motion picture theaters; and
 - q. Sit Down Restaurants

SECTION 53 OFF-STREET PARKING REGULATIONS

- 10-53.01 Purpose and Intent
- 10-53.03 Applicability
- 10-53.05 Maintenance of Off-street Parking
- 10-53.07 Types of Parking Allowed
- 10-53.09 Off-Street Parking Required by Land Use
- 10-53.11 Shared Parking
- 10-53.13 Design Standards for Off-Street Parking Facilities

53.01 Purpose and Intent

The following off-street parking requirements are regulations which are established in order to achieve, among others, the following purposes:

1. To establish minimum requirements for the off-street parking of motor vehicles in accordance with the use established on the property;
2. To relieve congestion on streets, and to provide more fully for movement of traffic, maneuvering of emergency vehicles or street maintenance equipment;
3. To protect neighborhoods from vehicular traffic congestion generated by the adjacent nonresidential uses of land; and
4. To promote the general welfare and convenience and prosperity of residential, commercial and manufacturing developments which depend upon the availability of off-street parking facilities.

53.03 Applicability

Off-street parking spaces shall be provided in accordance with the schedule in Table 53.09-1, Number of Parking Spaces Required, of this Section and improved as per Section 54.03 as a condition precedent to the occupancy of an institutional, commercial or manufacturing use and in conformance with other provisions of this Chapter:

1. Whenever a building is constructed; or
2. Whenever an existing building or use is altered, resulting in an increase in floor area, seating capacity or other units of measurement specified herein for required parking or loading facilities; or
3. Whenever the use of an existing building is changed to a use requiring fifty (50%) percent or more off-street parking spaces, as determined by the provisions of Table 53.09-1, Number of Parking Spaces Required, of this Section.

53.05 Maintenance of Off-Street Parking

- A. Continuation of Off-Street Parking.** All off-street parking spaces shall continue 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. This does not apply to those parking

spaces which are established on a voluntary basis which are in excess of the requirements of this Chapter.

- B. Temporary Sales, Storage and Advertising.** The sale or storage of merchandise in permissive parking areas may be allowed by the Planning Commission Subcommittee through the approval of a Minor Site Development Permit and subject to such reasonable conditions as may be deemed necessary by the Planning Commission to insure adequate parking, access and circulation.

In no event shall any off-street parking space (permissive or otherwise) or lot be used for the stopping, standing or parking of any vehicle(s) for either the purpose of selling such vehicle (excluding an approved car sales lot), or advertising any other property, services or products on said vehicle.

- C. Maintenance.** 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.
- D. Acknowledgment of Parking Spaces in Residential Projects.** For new residential tract, multi-family or condominium projects, the amount and type of parking available to each dwelling unit shall be clearly stated within the CC&Rs in large font and bold lettering to the approval of the City Attorney or designee.

53.07 Types of Parking Allowed

- A. Standard Parking Spaces.** The number of parking spaces required for various land uses shall be as required in Table 53.09-1, Number of Parking Spaces Required. Parking spaces shall be designed as required in Subsection 53.13, Design Standards for Off-Street Parking Facilities, of this chapter.

- B. Compact Parking Spaces.** For parking areas and garages containing ten (10) or more stalls serving the following uses in Subsection 53.07(B)(1), up to forty (40%) percent of the required and non-required stalls may be designed as compact stalls to accommodate compact cars.

1. Applicable uses.

- a. Commercial uses (CO, C1, C2, HS, TC zones).

i. Standards. Compact stalls shall be dispersed throughout the parking lot.

- b. Industrial uses.

i. Research and Development (R and D) facilities.

ii. Manufacturing facilities.

iii. Warehouse/distribution facilities.

iv. Other industrial uses deemed appropriate by the Planning Commission.

- c. Multi-Family Residential uses.

i. Projects within R3, R4, and R5 zones.

2. Design Standards. See Subsection 53.13, Design Standards for Off-Street Parking Facilities, of this Section.

C. Disabled Accessible Parking Spaces. 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.

D. Tandem Parking Spaces.

1. Applicability. Tandem parking may be allowed with the approval of a Conditional Use Permit, in accordance with Section 57.04, Conditional Use Permits, of this Chapter.
2. Standards.
 - a. Maximum allowed.
 - i. A maximum of seventy-five percent (75%) of parking required for residential uses may be tandem parking in projects with open structured parking facilities (e.g. single level or multi-level parking structures).
 - ii. A maximum of fifty percent (50%) of parking required for residential uses may be tandem parking in projects with private individual garages.
 - b. Tandem parking spaces shall be a maximum of two (2) parking spaces deep.
 - c. When tandem parking spaces are used in private garages or other parking facilities with more than two (2) parking spaces, they shall be assigned and marked for resident use.

E. Bicycle or Motorcycle Parking Spaces. The number of parking spaces required for various land uses shall be as required in Table 53.09-1, Number of Parking Spaces Required. Parking spaces shall be designed as required in Subsection 53.13, Design Standards for Off-Street Parking Facilities, of this Chapter.

53.09 Off-Street Parking Required by Land Use

A. Enforcement and Interpretation of Parking Requirements.

1. Number of Off-Street Parking Spaces Required. The number of off-street parking spaces required for the land uses identified in the Permitted and Conditional Use Tables of this Chapter are listed in Table 53.09-1, Number of Parking Spaces Required, except where parking requirements are established in Section 13, Special Uses, of this Chapter, or exceptions to these requirements are granted in accordance with this Section.
2. Uses not specified. In the case of a use not specifically mentioned in Table 53.09-1, Number of Parking Spaces Required, or elsewhere in this Chapter, the requirements for off-street parking facilities shall be determined by the Planning Commission through the Interpretation process, in accordance with Section 61, Interpretation, of this Chapter, based on uses which create similar demands for off-street parking spaces. The Planning Commission may draw upon the experience of other local cities to make their decision.

3. **New Buildings Without Tenants.** If the type of tenants 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 uses will be determined through the discretionary review process.
4. **Mixed occupancies and uses.** When two or more uses are located in the same lot or parcel of land or within the same building, the number of off-street parking spaces required shall be the sum total of the requirements of the various individual uses computed separately in accordance with the provisions of this Section and Section 13, Special Uses, when applicable.

Exception: For alternative parking computation in accordance with Subsection 53.11, Shared Parking, of this Chapter.

5. **Measurement Standards and Definitions**

For the purpose of determining off-street parking requirements, the following definitions and standards shall apply:

- a. **Gross Floor Area:** The total of all the floors measured from the interior faces of the building, and outdoor areas used for retail purposes.
 - b. **Net Floor Area (NFA):** Net Floor Area shall mean the Gross Floor Areas less twenty (20%) percent.
 - c. **Seat:** The number of seating units installed or indicated, or each twenty-four (24) lineal inches of benches, pews, or space for loose chairs. For places of meeting or assembly that do not include fixed seating, seven (7) square feet shall equal one (1) seat.
 - d. **Employees/students:** The maximum number of employees/students on the principal shift or period.
 - e. **Fractional Measurements:** When units or measurements determining the number of required off-street parking spaces result in a requirement of fractional space, any fraction up to and including (.49) shall be rounded down to the nearest whole number and fractions including and over (.50) shall be rounded up to the nearest whole number. For example, 7.41 would be rounded to 7 and 7.61 would be rounded to 8.
6. **More than One Parking Ratio.** Where more than one (1) parking ratio is shown for a particular use, the required number of spaces shall be the total of all ratios shown. For example, the parking requirement for hotel is “1 per unit, 2 for the manager’s unit.” The total parking requirement for a hotel is the sum of the required parking for the units and two (2) spaces for the manager’s unit.

B. Permissive Parking Facilities. Nothing in this Section shall prevent the voluntary establishment of off-street parking facilities in excess of the requirements of this Section to serve any existing use of land or buildings, provided that all regulations herein governing the location, size and access design, improvement and operation of such facilities are adhered to.

Exception: The Transit Area Specific Plan has a standard for the maximum number of parking allowed.

C. Number of Parking Spaces Required. The number of off-street parking spaces required for various land uses shall be as listed in Table 53.09-1, Number of Parking Spaces Required , except for those listed specifically elsewhere in this Chapter. Unless otherwise indicated, the parking requirements are for square feet of gross floor area occupied by the use and, in the case of nonresidential uses, include the parking required for customers and employees.

Exception: Where a portion of a structure is used for automobile parking, that portion shall not be counted in calculating the required parking for the structure. If parking is eliminated and the space is occupied by another use, parking shall be required for the use as indicated for the use in this Chapter.

**Table 53.09-1
Number of Parking Spaces Required**

Use	Minimum Parking Spaces Required
A. Commercial Uses	
Commercial Services ¹ (floral shops, barber shops, dry cleaners, Laundromats, photocopy shops)	1 per 200 sq. ft.
Furniture and appliance stores and other bulky item retail	1 per 350 sq. ft.
General Retail and Convenience Stores	1 per 200 sq. ft.
Mortuary, funeral parlor	1 per 4 seats and 1 per employee
Plant nursery	1 per 200 sq. ft.
B. Entertainment and Recreation	
Arcade and amusement	1 per 200 sq. ft.
Billiards	1 per 200 sq. ft.
Bowling Alleys including incidental accessory uses (eating and drinking, billiards, etc.)	6 per alley or lane
Clubs and Lodges	1 per 200 sq. ft.
Commercial Athletic Facility(indoor) With outdoor or indoor sports courts Small courts (tennis, badminton) Large courts (basketball, volleyball)	1 per 150 sq. ft. 2 per court plus required parking for other uses on site. 5 per court plus required parking for other uses on site.
Golf Course	6 per hole plus parking for ancillary uses
Miniature Golf	1.25 per tee, plus 1 per employee
Motion Picture Theater (indoor)	1 per 3.5 seats
Nightclub	1 per 30 sq. ft.
C. Health and Veterinarian Uses	
Convalescent Homes	1 per 2 beds or 1 per 1,000 sq. ft, whichever is greater
Hospital	1 per bed or 1 per 220 sq. ft., whichever is greater
Kennel, indoor	1 per 1,000
Medical and dental Clinic and Office	1 per 225 sq. ft.
Veterinary Clinic and Animal Grooming	1 per 250 sq. ft.
D. Industrial Uses	
Distribution Manufacturing Warehousing	1 per 1,500 sq. ft.
Mini Storage	1 per 5,000 sq. ft., plus 1 per resident manager

Use	Minimum Parking Spaces Required
Wholesale	1 per 500 sq. ft.
Research and Development Medical Laboratories High employee demand uses	1 per 300 sq. ft.
Office space within an industrial building (to be combined with categories above)	1 per 350 sq. ft.
E. Lodging	
Hotels and motels	1 per guest room or unit, plus 2 per manager's unit
F. Professional Offices, Financial Institutions and Related Uses	
Automated Teller Machine (Free standing)	2 per machine
Financial institutions (banks, savings and loans, etc.)	1 per 180 sq. ft.
Offices, administrative and business services	1 per 240 sq. ft.
G. Public, Quasi-Public and Assembly Uses	
Adult Day Care	1 per 500 sq. ft.
Auditoriums and theaters and places of meeting and assembly	1 per 4 seats
<i>Child Care Uses^{2,3}:</i>	
Day Care School	1 per classroom or 1 per 500 sq. ft., whichever is greater.
Small family child care home	Same as required for underlying residential use
Large Family Child Care Home and Child Care Centers	1 per 1.5 employees
2. For loading and unloading: One (1) parking space per six (6) children up to five (5) spaces and thereafter one (1) space per ten (10) children. Driveways, garage aprons and street frontage may be counted if appropriate permits are first received when calculating spaces for child care homes. Tandem spaces are prohibited.	
3. Exceptions for Child Care Requirements: The parking and loading/unloading requirements for child care facilities may in the Planning Commission's discretion be reduced, based on an empirical study (provided by the applicant) which establishes no adverse effects will occur as a result. The required number of loading/unloading spaces may be reduced without a study by one (1) space for each employee permanently assigned to load and unload children from vehicles.	
Community Center	1 per 4 fixed seats, or 1 per 6 linear feet of seating, plus 1 per 200 square feet of area without seating but designed for meeting or assembly by guests, plus 1 per 500 sq. ft. of outdoor area developed for recreational purposes
Museums	1 per 400 sq. ft.

Use	Minimum Parking Spaces Required
Public Utilities	1 per 400 sq. ft.
Religious Institutions	1 per 5 seats in the main area of assembly plus parking for classrooms and offices in this table. Where there are no seats, then 1 seat equals 7 sq. ft.
<i>Educational Institutions:</i>	
School-elementary (K-8 Private) School-secondary (9-12 Private)	1 per classroom, plus 1 per 240 sq. ft. of office 1 per classroom, plus 1 per 240 sq. ft. of office, plus 1 per 5 students
Vocational School, including business, professional, technical and trade	1 per 200 sq. ft.
Instructional Studios (Dance, Yoga)	1 per 150 sq. ft.
Private instruction, personal enrichment (tutoring)	1 per instructional area or classroom, whichever is greater. No fewer than 3 spaces.
Stadiums and arenas	1 per 4 seats
H. Restaurants or Food Service	
Banquet facilities	See restaurants below
Bars, Drinking Establishments	1 per 30 sq. ft.
Drive thru	See "Vehicle Related Uses" section.
<i>Restaurants:</i>	
Sit down: Indoor and outdoor:	1 per 39 square feet of dining area.
Take out:	1 per 2.5 seats (indoor/outdoor) plus 1 per 60 sq. ft. GFA for the ordering or take out area.
I. Residential Uses	
<u><i>Live-Work Units</i></u>	<u><i>Single family and Duplexes parking requirements shall apply, plus 1.5 for the commercial component</i></u>
<i>Single Family and Duplexes:</i> 3 bedrooms or fewer 4 or more bedrooms	2 per unit ⁴ 3 per unit, plus 1 per each additional bedroom ⁴
<i>Multi-Family (R3-R5 zones):</i> Studio 1 bedroom 1 or more 2 - 3 bedrooms 4 or more bedrooms	1 covered per unit 1.5 covered per unit 2 covered per unit 3 per unit, plus 1 additional space for each additional bedroom (at least two covered). ⁴
Guest parking Projects with Parking structures Projects with Private garages	15% of the total required, may be uncovered 20% of the total required, may be uncovered
Bicycle parking	5% of the total required
Boarding houses, dormitories, sororities and fraternities	1 per each room rented
<i>Mixed Use buildings or sites</i>	

Use	Minimum Parking Spaces Required
Residential use Studio 1 bedroom 2 - 3 bedrooms 4 or more bedrooms Guest parking Projects with Parking structures Projects with Private garages Bicycle parking Commercial use Ground Floor Retail Office Other uses Bicycle parking	1 covered per unit 1.5 covered per unit 2 covered per unit 3 per unit, plus 1 additional space for each additional bedroom (at least two covered). ⁴ 15% of the total required, may be uncovered 20% of the total required, may be uncovered 5% of total required 1 per 250 sq. ft. If building is 1,000 sq. ft. or smaller: 1 per 250 sq. ft. If building is larger than 1,000 sq. ft.: 3.3 per 1,000 sq. ft. Refer to specific uses within this table 5% of total required
Mobile Homes	Refer to Section 13.07, Mobile Homes
Senior Housing	1 per unit plus 2 per manager's unit
Single Room Occupancy (SRO)	1 per unit
J. Vehicle Related Uses	
Auto rental agency	1 per 400 sq. ft. plus 1 per rental vehicle
Auto repair (tire, oil change, smog check, etc.)	3 per service bay
Car Wash	1 per 200 sq. ft. of building area and reservoir space outside of building equal to two (2) times the maximum capacity of facility
<i>Gas & Service Stations:</i>	
With Retail	1 per 200 sq. ft.
With Auto Repair	3 per service bay
<i>Auto dealerships:</i>	
Sale or lease of vehicle	1 per 200 sq. ft. of showroom
Office	1 per 200 sq. ft.
With Service Bays	3 per service bay
Window service or drive-thru in conjunction with any other use	The required parking for primary use (restaurant, or other use providing window service) plus queuing of 5 vehicles which do not interfere with any on-site parking spaces

1. Refer to Subsection 2.03, Definitions, of this Chapter for a full description of "Commercial Services".
4. Applicable to new and existing projects being remodeled resulting in additional bedrooms submitted for approval after April 7, 2009. Existing projects or projects either entitled or submitted active planning applications prior to April 7, 2009 shall use the parking regulations in effect at the time of entitlement or application submittal. For R4, R5, MXD/MXD2/MXD3 zones, 15% guest parking is legal and conforming for projects entitled or active planning applications submitted prior to April 7, 2009.

53.11 Shared Parking

- A. Purpose and Intent.** Dedicated parking areas for individual uses, especially when provided in new developments, can result in less efficient land usage, lower floor area ratios, and more environmental/water quality impacts.

Shared parking is typically applied when land uses have different parking demand patterns and are able to use the same parking spaces/areas throughout the day. Shared parking is most effective when these land uses have significantly different peak parking characteristics that vary by time of day, day of week, and/or season of the year. In these situations, shared parking strategies will result in fewer total parking spaces needed when compared to the total number of spaces needed for each land use or business separately.

- B. Applicability.** Shared parking may be applied in the following situations:

1. In mixed-use developments, which include one or more businesses that are complementary, ancillary, or support other activities. A typical mix of uses includes, but is not limited to: residential, office, restaurants, retail, colleges, churches, cinemas, and special event situations if they can demonstrate that demand patterns vary among uses.
2. In shopping centers, when more than twenty (20%) percent of gross leasable area is occupied by dining and entertainment uses, (not including pad restaurants, unless they are located within 300 feet of the main shopping center building) shared parking may be applied.

- C. Required Review.** Shared parking proposals may be allowed with the approval of a Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits, of this Chapter.

- D. Calculation of Parking Spaces Required with Shared Parking.** The minimum number of parking spaces for a mixed use development or where shared parking strategies are proposed shall be determined by a study prepared following the procedures of the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved procedures. A formal study may be waived for small developments where there is established experience with the land use mix and its impact is expected to be minimal. The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the ULI or ITE reports. If standard rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates. If the shared parking plan assumes use of an existing parking facility, then field surveys may be conducted to determine actual parking accumulation. If possible, these surveys should consider the seasonal peak period for the combination of land uses involved.

- E. Location of Shared Parking Spaces.** Shared spaces shall be located within three hundred (300) feet of the use entrances they serve. Up to fifty (50%) percent of nonresidential spaces may be provided at greater distances if dedicated shuttle bus or van service is provided. Clear, safe pedestrian connections must be provided.

- F. Captive Market Parking Requirements.** For uses that are considered ancillary to a larger business, no additional parking may be required. Examples of this case include a coffee or snack shop within an office or hotel development, a copy/package store within a business park or redevelopment of small retail uses in a large business district. Parking requirements for similar ancillary uses may be reduced to account for the likely cross patronage among the adjacent uses located within a maximum walking distance of 300 feet. Parking requirements may be reduced up to ninety (90%) percent as appropriate.

G. Agreement Between Sharing Property Owners. If a parking facility is to serve two or more separate properties, a legal agreement between property owners guaranteeing access to, use of, and management of designated spaces shall be executed to the satisfaction of the City.

H. Shared Parking Plan. A shared parking plan shall be submitted to the Planning Division with the following information:

1. Site plan and required parking calculations of parking spaces intended for shared parking and their proximity to land uses that they will serve.
2. A signage plan that directs drivers to the most convenient parking areas for each particular use or group of uses (if such distinctions can be made).
3. A pedestrian circulation plan that shows connections and walkways between parking areas and land uses. These paths should be as direct and short as possible.

53.13 Design Standards

A. Location of Parking.

1. Location of Parking in Relationship to a Use. Parking required for all residential uses shall be located within the same site as the use; in no case shall parking for a residential use be more than three hundred (300) feet away from the residential use it serves. All other required parking shall be located within three hundred (300) feet of the use for which the parking is required, as provided for in Table 14.09-1, Number of Parking Spaces Required or Section 13, Special Uses, if applicable, of this Chapter.

Exception: Greater distance may be allowed through the approval of a Conditional Use Permit.

2. Location of Residential Parking, Permitted. Vehicles on private property used for residential purposes shall be parked only in paved parking spaces or in driveways which comply with the following standards:
 - a. The driveway provides access to required parking spaces; and
 - b. The vehicle is not blocking access to parking for other residential units.
3. 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 an "R2" or more restrictive zone containing not more than two (2) dwelling units.
4. Parking Location for R5, MXD2 and MXD3 projects.
 - a. No parking spaces area allowed within the front or street side setback areas.
 - b. Parking must be located behind buildings to minimize visibility from public streets.
 - c. At least seventy percent (70%) of the street facing perimeter of above-ground parking shall be wrapped with habitable space.

Exception: Exceptions may be allowed through the approval of a Conditional Use Permit, if the design quality of the structure is equivalent to habitable space.

- d. Parking may be partially above ground along the street, provided that no more than four (4) feet of the structure is above grade. The above grade area must be wrapped with continuous landscaping that screens parking garage openings.
5. Parking Structure access for R5, MXD2 and MXD3 projects.
 - a. No more than one curb cut per street frontage is allowed.
 - b. Parking structure entrances shall be no greater than twenty-two (22) feet wide.
 - c. Parking structure access points shall be set back from the curb so that a car can pull up to the entry gate or ticket machine without blocking the sidewalk.

B. Parking Space Size.

1. Individual garage.
 - a. Each parking space with a minimum width of ten (10) feet and a minimum length of twenty (20) feet shall be required in residential garages meeting both of the following criteria:
 - i. The individual garage contains four (4) or fewer parking spaces;
 - ii. The individual garage does not include circulation elements such as driveway aisles, but consists primarily of parking spaces.
2. Compact Spaces
 - a. Each stall shall be legibly marked “compact stall” or “small car” on the stall surface. Compact stalls may be used only for the above listed buildings and uses and only within the Industrial zoning district.
 - b. Parking stall shall be dispersed throughout the parking lot and not concentrated to discourage oversized vehicles from using the stalls.
3. Tandem Spaces
 - a. Each residential garage tandem (two parking spaces) shall have a minimum width of ten (10) feet and a minimum length of thirty-eight (38) feet.
4. Bicycle or Motorcycle Spaces

Any existing or proposed parking facility may utilize, on a substitution basis, on-site parking spaces for bicycle or motorcycle spaces.

- a. Said bicycle spaces shall be raised a minimum of six (6) inches from grade of the adjacent parking facility.

- b. One parking space may be omitted for each eight (8) bicycle spaces provided.
- c. One parking space may be omitted for each two (2) motorcycle spaces provided.
- d. Bicycle spaces shall measure at least two (2) feet by seven (7) feet and shall be located in groups of four (4) and shall be of the following three types:
 - i. A rack which secures the frame, or
 - ii. An enclosed bike locker, or
 - iii. A fenced, covered, locked or guarded bike storage area.
- e. Motorcycle spaces shall measure four (4) feet by eight (8) feet and shall be provided with adequate unobstructed maneuvering areas to permit easy access to the space.
- f. In no instance shall credit for motorcycle or bicycle parking or combination thereof exceed five (5%) percent of the total required parking spaces.

C. Required Improvements. 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.

Also refer to Section 54.03 of this Chapter for Improvement of Parking Areas.

D. Screening and Landscaping. 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 (extruded curbing not permitted). Installation of an irrigation system shall be provided for in each planter area.

E. Lighting. All lights used to illuminate a parking area shall be designed, located and arranged so as to reflect the light away from any street and any adjacent premises.

F. Signs. Directional signs are permitted in parking areas in accordance with the adopted Sign Ordinance.

G. Fencing. A solid masonry wall a minimum height of six (6) feet shall be required on all common property lines when any parking area is established abutting residentially zoned property or property shown on the adopted General Plan as being Residential. The architectural design of said wall shall be to the approval of the Planning Commission through the Site Development Permit process in accordance with Subsection 57.03, Site Development Permits and Minor Site Development Permits, of this Chapter.

H. Angles and Dimensions

- 1. **Vehicle Overhang.** 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.

2. Stall and drive aisle dimensions. The stall and drive aisle dimensions shall be as follows:

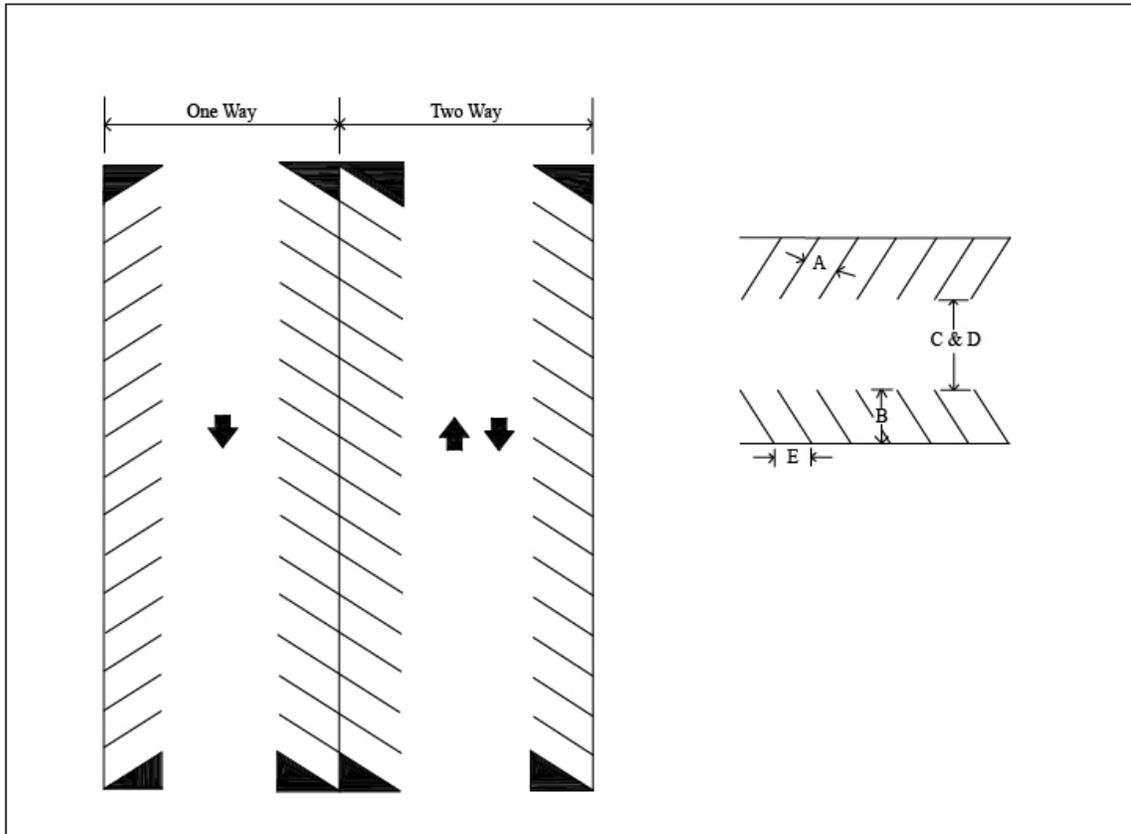
**Table 53.13-1
Parking Stall and Drive Aisle Dimensions**

Angle	A¹ Stall Width	B¹ Stall Depth	C¹ Aisle Width 1 Way	D¹ Aisle Width 2 Way	E¹ Curb Length per Car
Standard size:					
0°	9'	9'	12'	16'	22'
45°	9'	19.5'	12'	22'	12'
60°	9'	21'	18'	22'	10.5'
90°	9'	18'	25'	25'	9'
Compact size: [See Subsection 53.07(B)]					
0°	7.5'	7.5'	12'	15'	17'
45°	7.5'	16'	13'	20'	8.5'
60°	7.5'	17'	15'	20'	8.5'
90°	7.5'	15'	20'	20'	7.5'

1 Reference to Figure 53.13-1, Parking Stall and Drive Aisle Dimensions

(Ord. 38.785, (part) 4/07/09)

Figure 53.13-1
Parking Stall and Drive Aisle Dimensions



3. Backing space in residential projects. A minimum unobstructed vehicular maneuvering distance of twenty-five (25) feet measured from the opening of the garage or carport shall be provided, except as otherwise permitted in this section.

Live-Work Regulations in other Santa Clara County Cities

	Sunnyvale	San Jose	Campbell	Palo Alto
Definition/ intent	A live/work unit is defined as a single unit (e.g., studio, loft, or one bedroom) consisting of both a commercial/office and a residential component that is occupied by the same resident. The live/work unit shall be the primary dwelling of the occupant.	"Live/work" means a residential occupancy, by a single housekeeping unit, of one or more rooms or floors in a building which includes: <ul style="list-style-type: none"> • Cooking space and sanitary facilities in conformance with city building standards; and • Adequate working space accessible from the living area, reserved for, and regularly used by, one or more persons residing therein. 	Live/work units are intended to be occupied by business operators who live in the same structure that contains the business activity. A live/work unit is intended to function predominantly as workspace with incidental residential accommodations that meet basic habitability requirements.	A live/work unit is defined as a rental or ownership unit comprised of both living space and work area, with the living space occupying a minimum of 60% of the total gross floor area of the unit, and such that the resident of the living space is the owner/operator of the work area.
Permitted work uses	Accountants; Architects; Artists and Artisans; Attorneys, Computer software and multimedia related professionals; Consultants; Engineers; Fashion, Graphic, Interior and other designers; Hair stylists; Home-based office workers, Insurance, real estate and travel agents; One-on-one instructors; Photographers, and similar occupations;	Offices and financial services (excluding check cashing); Retail sales- goods and merchandise; day care; Personal enrichment- instructional art; Maintenance and repair of household appliances; Personal services; Printing and publishing;	Consulting services whose function is one of rendering a service and does not involve the dispensation of goods or products; Drafting, designing, and similar services, using only normal drafting equipment; The home office of a salesperson when all sales are made by mail or internet order, or similar means, with no commodities or displays on the premises; and Secondary business offices where the business has its principal office, staff, and equipment located elsewhere.	Office, retail, personal services, or handcrafted goods
Prohibited work uses	<ul style="list-style-type: none"> • The retail sale of food and/or beverages with customers arriving on-site. This does not include online (internet) sales, mail order, or off-site catering preparation; • Entertainment, drinking, and 	<ul style="list-style-type: none"> • Any use not permitted within the Downtown Zoning Districts or under Section 20.80.720 for home occupation uses. • Entertainment, Drinking 	<ul style="list-style-type: none"> • Vehicle maintenance or repair (e.g., body or mechanical work, including boats and recreational vehicles), vehicle detailing and painting, upholstery, etc.); • Storage of flammable liquids or hazardous materials beyond that normally associated with a residential 	<ul style="list-style-type: none"> • Restaurants or cafes • Any business involving the storage or use of hazardous materials

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	<ul style="list-style-type: none"> public eating establishments; Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale; Businesses that involves the use of prescription drugs; Adult-oriented businesses, astrology palmistry, massage, head shops, and similar uses; Sales, repair or maintenance of vehicles, including automobiles, boats, motorcycles, aircraft, trucks, or recreational vehicles; Trade or Private Schools. This excludes private instruction of up to two students at any one time (e.g., music lessons, tutoring). 	<ul style="list-style-type: none"> and Public Eating Establishments. The sale of food and/or beverages. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale. Storage or recycling, except as incidental to and in support of a permitted use in the Downtown Zoning Districts. Activities involving biological or chemical substances that require a controlled environment or may pose a health hazard. Work activities that involve hazardous material or generate odors, vibration, glare, fumes, dust, electrical interference outside the dwelling or through vertical separation between living units, greater than those generated by routine household activities. 	<ul style="list-style-type: none"> use; Other activities or uses, not compatible with residential activities and/or that have the possibility of affecting the health or safety of live/work unit residents, because of dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or would be hazardous because of materials, processes, products, or wastes. 	
Performance standards	<ul style="list-style-type: none"> The residential and the commercial space must be occupied by the same tenant, and no portion of 	<ul style="list-style-type: none"> All work activities and storage shall take place in fully enclosed areas. Only occupants of the 	<ul style="list-style-type: none"> A live/work unit shall be occupied and used only by a business operator, or a household of which at least one member shall be the business operator. 	<ul style="list-style-type: none"> The maximum number of employees who do not reside within the unit is two.

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	<p>the live/work unit may be rented or sold separately;</p> <ul style="list-style-type: none"> • The commercial component as designated on the floor plan approved through the special development permit shall remain commercial and cannot be converted to residential use; • The residential component as designated on the floor plan approved through the special development permit shall remain residential and cannot be converted to commercial use; • The commercial component shall be restricted to the unit and shall not be conducted in the yard, garage or any accessory structure; • The commercial component shall not detract from, or otherwise be a nuisance to, the residential character or appearance of the dwelling units; • The total number of occupations at one address is not limited, except the cumulative impact of all such commercial uses shall not exceed the limits set forth in this section for a live/work unit; • The commercial use shall not generate vehicular traffic, in excess of normal residential traffic, which will interfere 	<p>dwelling may be employees or unpaid volunteers of the business or commercial activity.</p>	<ul style="list-style-type: none"> • No portion of a live/work unit may be separately rented or sold. • The owner or developer of any structure 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 dust, fumes, noise, or other impacts associated with commercial and industrial uses at higher levels than would be expected in more typical residential areas. Noise and other standards shall be those applicable to commercial or industrial properties in the applicable zoning district. • On-premises sales of goods is limited to those produced within the live/work unit; provided, the retail sales activity shall be incidental to the primary production work within the unit. These provisions shall allow open-studio programs and gallery shows. • Up to two persons who do not reside in the live/work unit may work in the unit, unless this employment is prohibited or limited by the decision making body. The employment of any persons who do not reside in the live/work unit shall comply with all applicable Uniform Building Code (UBC) requirements. • After approval, a live/work unit shall not be converted to either entirely residential use or entirely business use unless authorized through conditional use permit approval. 	<ul style="list-style-type: none"> • A live/work unit may be converted to an entirely residential unit where residential use on the ground floor is not otherwise prohibited.

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	<p>with residential traffic circulation or shall not cause more than three vehicles including vehicles used by customers, vendors, or delivery services to visit the premises per day;</p> <ul style="list-style-type: none"> • No more than one employee (excluding residents of the dwelling unit) shall work or report to work on the premises, and the employment of any persons who do not reside in the live/work unit shall comply with all applicable building code requirements; • The commercial use shall not generate external noise, odor, glare, vibration or electrical interference detectable to the normal sensory perception by adjacent neighbors; • No explosive, toxic, combustible or flammable materials in excess of what would be allowed incidental to normal residential use shall be stored or used on the premises. 			
Development standards	<ul style="list-style-type: none"> • Residential areas are permitted above the commercial component, to the side or in back of the business component, provided that there is internal access between the residential and 	<ul style="list-style-type: none"> • All live/work units must fully comply with any and all Uniform Building Code requirements applicable to the collocation of uses at the particular site 	<ul style="list-style-type: none"> • The minimum floor area of a live/work space shall be 1,000 square feet. All floor area other than that reserved for living space shall be reserved and regularly used for working and display space. • Each live/work unit fronting a public 	<ul style="list-style-type: none"> • The work area shall be located on the ground level, oriented to the street and provide for at least one external entrance/exit separate from the living space.

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	<p>commercial space;</p> <ul style="list-style-type: none"> The external access for the commercial component shall be oriented to the street and should have at least one external entrance/exit separate from the living space. The entrance to the business component shall be located on the ground level. Access to the commercial component of each live/work unit shall be clearly separate from the common walkways or entrances to the other residential units within the development, or other residential units in adjacent developments; 		<p>street at the ground floor level shall have a pedestrian-oriented frontage that publicly displays the interior of the nonresidential areas of the structure. The first 50 feet of the floor area depth at the street-level frontage shall be limited to display and sales activity.</p> <ul style="list-style-type: none"> Where more than one live/work unit is proposed within a single structure, each live/work unit shall be separated from other live/work units and other uses in the structure. Access to each unit shall be clearly identified to provide for emergency services. The living space within the live/work unit shall be contiguous with, and an integral part of the working/business space, with direct access between the two areas, and not as a separate stand-alone dwelling unit. The residential component shall not have a separate street address from the business component. 	<ul style="list-style-type: none"> The live/work units are subject to the development standards of the PTOD zone for a 100% residential development, except that the maximum non-residential FAR is limited to 0.40. The maximum size of a live/work unit shall be limited to 2,500 square feet. The design of street frontage of a live/work unit shall be consistent with the context-based criteria outlined for street frontage in Section 18.34.050.
Parking	No special regulations	1 parking space per unit	3 parking spaces per unit	A maximum total of two spaces for the residential unit, plus one space per 200 square feet for the gross square footage of the work area, less one space from the total (to reflect the overlap of the resident and one employee).
Signage	<ul style="list-style-type: none"> Signage intended to promote on-site commercial uses shall be restricted to two square foot signs permanently affixed to 	No special regulations	No special regulations	The signage shall not exceed the requirements of the City of Palo Alto Municipal Code and shall

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	<p>door or wall of the business component;</p> <ul style="list-style-type: none"> • Signage shall be developed in accordance with a master sign plan for the overall development site; • All advertising for on-site commercial uses shall clearly state "by appointment only" if the live/work address is used; 			<p>require approval and recommendation by the architectural review process prior to approval by the director.</p>
Special findings for approval	No special findings	No special findings	<ul style="list-style-type: none"> • The establishment of live/work units will not conflict with nor inhibit commercial or industrial uses in the area where the project is proposed; • The structure containing live/work units and each live/work unit within the structure has been designed to ensure that they will function predominantly as work spaces with incidental residential accommodations meeting basic habitability requirements in compliance with applicable regulations; and • Any changes proposed to the exterior appearance of an existing structure will be compatible with adjacent commercial or industrial uses where all adjacent land is zoned for commercial or industrial uses. 	No special findings