

**PLEASE NOTE:**

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**REGULAR**

**NUMBER: 38.822**

**TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 10 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE PERMITTING TRANSITIONAL AND SUPPORTIVE HOUSING IN MIXED USE ZONING DISTRICT AND MANUFACTURED HOMES IN RESIDENTIAL ZONING DISTRICT**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of \_\_\_\_\_, upon motion by \_\_\_\_\_ and was adopted (second reading) by the City Council at its meeting of \_\_\_\_\_, upon motion by \_\_\_\_\_. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

**RECITALS AND FINDINGS:**

**WHEREAS**, Title XI, Chapter 10, Section 4 entitled “Residential Zones and Standards” of the Milpitas Zoning Code sets forth the permitted, conditionally permitted, and prohibited uses in the Residential Zoning District; and

**WHEREAS**, California Government Code Section 65852.3 requires that manufactured housing be allowed on lots zoned for conventional single family dwellings; and

**WHEREAS**, Table XI-10-4.02-1 entitled “Residential Zone Uses” of the Milpitas Zoning Code currently permits single family dwellings in R1 and R2 Zoning Districts, but, permits manufactured housing only in R1 Zoning District; and

**WHEREAS**, Title XI, Chapter 10, Section 6 entitled “Mixed Use Zones and Standards” of the Milpitas Municipal Code sets forth the permitted, conditionally permitted, and prohibited uses in the Mixed Use Zoning District; and

**WHEREAS**, California Government Code Section 65583 requires transitional and supportive housing in all zoning districts that permit or conditionally permit residential uses; and

**WHEREAS**, Table XI-10-6.02-1 entitled “Mixed Use Zone Uses” currently permits multi-family housing in MXD, MXD2 and MXD3 Zoning Districts and does not permit transitional or supportive housing; and

**WHEREAS**, on February 25, 2015, the Planning Commission conducted a duly noticed public meeting and recommended the City Council adopt the 2015-2023 General Plan Housing Element Amendment; and

**WHEREAS**, the 2015-2023 Housing Element includes programs (Programs D.4.3 and D.5.3) which require that changes to the Milpitas Zoning Code be adopted in accordance with State law as described above. The changes will allow opportunities for transitional and supportive housing in the Mixed Use Zoning District in compliance with the provisions of California Government Code Section 65583 and allow manufactured homes in the R-2 Zoning District in compliance with California Government Code Section 65852.3.

**NOW, THEREFORE**, the City Council of the City of Milpitas does ordain as follows:

**SECTION 1. RECORD AND BASIS FOR ACTION**

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

**SECTION 2. FINDINGS**

Zoning Text Amendment (Section XI-10-57.02(G)(3)) - The City Council makes the following findings based on the evidence in the public record in support of Zoning Text Amendment No. ZA15-0015:

1. *The proposed amendment is consistent with the General Plan.*

The General Plan land use designation for both the MXD and R2 zoning district allow for residential uses. The proposed zone amendments clarify additional residential uses that are allowed in the zone districts in accordance with Stat law. Allowing supportive/transitional housing and manufactured housing in the MXD and R2 zone districts, respectively, is consistent with the Residential General Plan land use designation.

2. *The proposed amendment will not adversely affect the public health, safety and welfare of the residents of Milpitas.*

The proposed zoning amendment is required under State law and will result in a more efficient use of land by allowing additional uses and housing types. The land use regulations will not affect the range of uses permitted or conditionally permitted. Residential uses are already allowed in both MXD and R2 zone districts and will continue to be allowed. Therefore, the general well-being of Milpitas residents will be maintained since the changes will still facilitate a broad range of land uses, but will encourage more a more diverse mix of housing opportunities for the City and residents.

**SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10**

Table XI-10-4.02-1 entitled “Residential Zone Uses” of the Milpitas Municipal Code is amended to read as follows:

Table XI-10-4.02-1  
Residential Zone Uses

Use	R1	R2	R3	R4	R5
1. Commercial					
Commercial services <sup>1,2</sup>	NP	NP	C	C	C
2. Professional Offices and related uses					
Offices <sup>1,2</sup>	NP	NP	C	C	C
3. Public/Quasi-Public and Institutional Uses					
Child care center	C	C	C	C	P
Nursing home <sup>3</sup>	NP	C	C	C	C
Park, playground or community center (non-profit)	C	C	C	C	C
Parking lots	C	C	C	C	C
Public service structure	C	C	C	C	C
School (not trade or vocational)	C	C	C	C	C
Social hall, lodge, fraternal organization, club and religious assembly (non-profit)	C	C	C	C	C
4. Residential Uses					

Condominiums and condo conversions	NP	SFR: C Duplex: C	C	C	C
Duplex (Two dwellings)	NP	P	NP	NP	NP
Group dwelling	NP	NP	NP	C	C
Guest house	C	NP	NP	NP	NP
Manufactured home <sup>4</sup>	P	<b>P</b>	NP	NP	NP
Multi-family dwellings (Three or more units)	NP	NP	P	P	P
Planned unit development <sup>5</sup>	P	P	P	P	P
Second residential dwelling unit <sup>6</sup>	P	SFR: P Duplex: NP	NP	NP	NP
Single family dwelling	P	P	NP	NP	NP
Single-room occupancy residences <sup>7</sup>	NP	NP	C	C	C
Transitional and supportive housing	P <sup>8</sup>	P <sup>8</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>
5. Restaurants					
Restaurants <sup>1,2</sup>	NP	NP	C	P/C	P/C
6. Unclassified Uses					
Agriculture <sup>10</sup>	P	P	P	NP	NP
Boarding house (three or more persons)	NP	C	C	C	C
Golf course <sup>11</sup>	C	C	C	NP	NP
Live work units <sup>12</sup>	NP	NP	C	C	C
Model home complex <sup>13</sup>	P	P	P	P	P

<sup>1</sup> Refer to Subsection XI-10-4.03(A), Residential Zone Special Uses, of this Chapter, for standards.

<sup>2</sup> Refer to Subsection XI-10-4.03(B), Residential Zone Special Uses, of this Chapter, for standards.

<sup>3</sup> Licensed nursing home serving more than six persons, except when used primarily for contagious sickness, mental or drug alcohol addict cases.

<sup>4</sup> Refer to Subsection XI-10-13.07, Manufactured Homes, of this Chapter, for standards.

<sup>5</sup> Refer to Subsection XI-10-54.07, Planned Unit Developments, of this Title, for standards.

<sup>6</sup> In conjunction with an existing legal single-family dwelling. Refer to Subsection XI-10-13.08, Second Family Unit, of this Chapter, for standards.

<sup>7</sup> Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences, of this Chapter

<sup>8</sup> Permitted only in single family dwellings

<sup>9</sup> Permitted only in multi-family dwellings

<sup>10</sup> Except for the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises.

<sup>11</sup> Except for driving tee or range, miniature course and similar uses operated for commercial purposes.

<sup>12</sup> Allowed commercial uses to be specified through the Conditional Use Permit process.

<sup>13</sup> Refer to Subsection XI-10-13.11(E), Model Home Complexes and Sales Offices, of this Chapter for temporary tract offices.

Table XI-10-6.02- entitled “Mixed Use Zone Uses” of the Milpitas Municipal Code is amended to read as follows:

Table XI-10-6.02-1  
Mixed Use Zone Uses

Use	MXD	MXD2		MXD3
		Ground Level (Facing Retail street)	Upper Floor	
<b>1. Commercial Uses</b>				
Alcohol beverage sales	C	C	C	C
Commercial services <sup>1</sup>	MCS	MCS	MCS	MCS
Grocery stores (supermarkets)	C	C	C	C
Pawnshops <sup>2</sup>	C	C	C	C
Pet shops	C	NP	NP	NP
Retail stores, general merchandise <sup>3</sup>	MCS	MCS	MCS	MCS
Tanning salons	P	P	P	P
Thrift shops (used merchandise)				
Retail	P	P	P	P
With collections	C	C	C	C
<b>2. Entertainment and Recreation</b>				
Commercial athletic facilities	P	P	P	P
Motion picture theater (see 6 below)				
Recreation or entertainment facility	C	C	C	C
<b>3. Health and Veterinarian Uses</b>				
Animal grooming (no boarding)	P	P	NP	P
Hospitals or sanitariums <sup>4</sup>	C	C	C	C
Massage establishment	C	C	C	C
Medical or dental offices and clinics	P	NP	P	P

Medical support laboratories	P	P	P	P
Optician and optometrist shop	P	P	P	P
Pharmacy or drug store	P	P	P	P
Veterinarian clinic	P	P	P	P
4. Lodging				
Bed and breakfast	P	P	NP	NP
Boarding houses (3 or more persons)	C	C	C	C
Group dwellings	C	C	C	C
Hotels	C	P	P	P
Motels	C	C	C	C
5. Professional Offices, Financial Institutions and Related Uses <sup>4</sup>				
Financial institutions (banks, savings and loans, etc.)	MCS	NP	MCS	P
Offices <sup>3</sup>	MCS	NP	MCS	P
6. Public/Quasi Public and Assembly Uses				
Child care				
Child care center	C	P	C	P
Day care school	C	C	C	
Large family child care home	P	P	C	P
Small family child care home	P	P	P	P
Instruction				
Group <sup>13</sup>	P	NP	NP	NP
Private	P	P	P	P
Park, playground or community center <sup>5</sup>	O	O	O	O
Places of assembly <sup>4</sup>	C	C	C	C
Public utilities	C	C	C	C
Schools, private (elementary, middle and high) <sup>4</sup>	C	C	C	C
Theaters (Indoor)	C	C	C	C
Trade and vocational schools <sup>4</sup>	C	C	C	C
Transportation facilities <sup>2</sup>	C	C	C	C
7. Residential Uses				
Multi-family housing <sup>7</sup>	P	NP	P	P
<u>Transitional and Supportive Housing<sup>7</sup></u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>P</u>
8. Restaurants or Food Service				
Bar or nightclub	C	C	C	C

Brewery/Eateries <sup>10</sup>	MCS	MCS	NP	MCS
Catering establishments	C	C	C	C
Restaurants <sup>2</sup>	P/C	P/C	NP	P/C
With dancing and entertainment	C	C	C	C
With ancillary on-premise beer & wine with no separate bar	P	P	P	P
9. Unclassified Uses				
Artisan Studios & Live-work units, woodworking or glassworking, plumbing or metalworking and sign shops <sup>2</sup>	MCS	MCS	MCS	MCS
Lobbies and entries for upper floor uses	P	P	NP	P
Model home complex <sup>11</sup>	P	P	P	P
Mixed use developments <sup>12</sup>	P	P	P	P
Planned Unit Development <sup>13</sup>	P	P	P	P
Temporary seasonal sales <sup>14</sup>	P	P	P	P
10. Vehicle-Related Repair, Sales and Services				
Auto sales and rental <sup>15</sup>	C	C	C	C
Auto broker (wholesale, no vehicles on site) <sup>2</sup>	MCS	MCS	MCS	MCS
Vehicle service uses <sup>16</sup>	C	NP	NP	C

<sup>1</sup> Refer to Subsection XI-10-6.02-1(B), Performance standards for certain uses, of this Chapter, for standards.

<sup>2</sup> Refer to Subsection XI-10-6.02-1, Special Uses, of this Chapter, for standards.

<sup>3</sup> Refer to Subsection XI-10-6.02-1(B) Performance standards for certain uses, of this Chapter.

<sup>4</sup> Refer to Subsection XI-10-6.02-2, Quasi-Public Uses, of this Chapter, for standards.

<sup>5</sup> For parks, playgrounds or community center owned and operated by a government agency or a nonprofit community organization.

<sup>6</sup> Refer to XI-10-13.14, Special Uses, Emergency Shelters, of this Chapter

<sup>7</sup> Ground level residential is prohibited in the Ground Level Commercial Area as shown on the Midtown Specific Plan Land Use Map, Figure 3.1.

<sup>8</sup> Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences, of this Chapter

<sup>9</sup> Uses serving upper-floor residential uses, such as common gathering space, lobby, and resident services, may be allowed as ground floor uses where residential uses would otherwise not be permitted.

<sup>10</sup> Reserved

<sup>11</sup> Refer to Subsection XI-10-13.11(E), Model Home Complexes and Sales Offices, of this Chapter for temporary tract offices.

<sup>12</sup> Which include only permitted uses.

<sup>13</sup> Refer to Section XI-10-54.07, Planned Unit Developments, of this Chapter, for standards.

<sup>14</sup> Refer to Section XI-10-13.11(D), Temporary Seasonal Sales, of this Chapter.

<sup>15</sup> New and used auto, recreational vehicle and boat sales, excluding commercial vehicles, trucks, buses, vans, and farm equipment, with accessory repairs and services, only allowed if fully enclosed within a building. Bicycle and auto rental agency, excluding commercial vehicles, trucks, buses, vans, boats and RV rentals, only if fully enclosed within a building.

<sup>16</sup> 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.

#### **SECTION 4. SEVERABILITY**

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 5. EFFECTIVE DATE AND POSTING**

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.