REGULAR

NUMBER: **65.136**

TITLE: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS ENACTED AS AN AMENDMENT TO CHAPTER 1, TITLE II OF THE MILPITAS MUNICIPAL CODE AMENDING AND REVISING PROVISIONS FOR ADMINISTRATION OF THE TECHNICAL BUILDING CODES**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of November 27, 2007 upon motion by Vice Mayor Livengood and was adopted (second reading) by the City Council at its meeting of _____, 2007 upon motion by Councilmember _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

THIS IS AN ORDINANCE OF THE CITY OF MILPITAS ENACTED AS AN AMENDMENT TO CHAPTER 1, TITLE II OF THE MILPITAS MUNICIPAL CODE AMENDING AND REVISING PROVISIONS FOR ADMINISTRATION OF THE TECHNICAL BUILDING CODES AN ORDINANCE OF THE CITY OF MILPITAS ENACTED AS AN AMENDMENT TO CHAPTER 1, TITLE II OF THE MILPITAS MUNICIPAL CODE AMENDING AND REVISING PROVISIONS FOR ADMINISTRATION OF THE TECHNICAL BUILDING CODES, CHAPTER 3, TITLE II OF THE MILPITAS MUNICIPAL CODE TO ADOPT BY REFERENCE THE 2007 EDITION OF THE CALIFORNIA BUILDING CODE, VOLUMES 1 AND 2, WITH AMENDMENTS AS IDENTIFIED HEREIN, CHAPTER 5, TITLE II OF THE MILPITAS MUNICIPAL CODE TO ADOPT BY REFERENCE THE 2007 EDITION OF THE CALIFORNIA MECHANICAL CODE WITH AMENDMENTS AS IDENTIFIED HEREIN, CHAPTER 6, TITLE II OF THE MILPITAS MUNICIPAL CODE TO ADOPT BY REFERENCE THE 2007 EDITION OF THE CALIFORNIA ELECTRICAL CODE WITH AMENDMENTS AS IDENTIFIED HEREIN, CHAPTER 7, TITLE II OF THE MILPITAS MUNICIPAL CODE TO ADOPT BY REFERENCE THE 2007 EDITION OF THE CALIFORNIA PLUMBING CODE WITH AMENDMENTS AS IDENTIFIED HEREIN, AMENDMENT TO CHAPTER 13, TITLE II OF THE MILPITAS MUNICIPAL CODE AMENDING AND REVISING PROVISIONS FOR GRADING, EXCAVATION, PAVING, AND EROSION CONTROL, CHAPTER 14, TITLE II OF THE MILPITAS MUNICIPAL CODE TO ADOPT BY REFERENCE THE 2007 EDITION OF CALIFORNIA EXISTING BUILDING CODE AND 2006 EDITION OF INTERNATIONAL EXISTING BUILDING CODE INCLUDING APPENDIXES A2, A3, A4 AND A5 PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, CHAPTER 150, TITLE II OF THE MILPITAS MUNICIPAL CODE TO ADOPT BY REFERENCE THE 2007 EDITION OF THE CALIFORNIA HISTORICAL BUILDING CODE; AMENDED AS REPEAL TO THE FOLLOWING CHAPTERS: CHAPTER 4, HOUSING CODE, OF TITLE II OF THE MILPITAS MUNICIPAL CODE, CHAPTER 9, POOL FENCING, OF TITLE II OF THE MILPITAS MUNICIPAL CODE AND CHAPTER 10, SWIMMING POOL, SPA AND HOT TUB CODE, OF TITLE II OF THE MILPITAS MUNICIPAL CODE DUE TO INCLUSION OF THE ABOVE NOTED PROVISIONS IN THE NEWLY ADOPTED CHAPTERS LISTED ABOVE.

The Municipal Code of the City of Milpitas shall be amended and enacted as follows:

Building Administration Code

II-1-1.01

The Milpitas Building Administration Code is hereby adopted. There is one copy of said code in the office of the Chief Building Official for use and examination by the public.

II-1-1.02

These regulations shall be known as the “Milpitas Building Administration Code," may be cited as such and will be referred to herein as “this Chapter.”

Section 2 Purpose

II-1-2.01

The purpose of this Chapter is to provide for the administration and enforcement of building codes (also referred to as the Technical Codes) and municipal ordinances within the Milpitas Municipal Code, Title II, adopted by this jurisdiction.

Technical Code	Adopted by Milpitas Municipal Code, Title II, Technical Code Chapter (as follows)
California Building Code	3
California Mechanical Code	5
California Electrical Code	6
California Plumbing Code	7
Abatement of Dangerous Building Code	12
California Existing Building Code	14
California Historical Building Code	150
All Supplements and Appendices and Standards Adopted for each of said Codes by said Title II and Chapters Thereof (which shall be known as the "technical codes") except as the specific provisions of any of said technical codes shall expressly declare this Chapter or any part thereof to be inapplicable.	

Section 3 Application to Existing Buildings and Building Service Equipment

II-1-3.01 General

Buildings, structures and their building service equipment to which additions, alterations or repairs are made shall comply with all the requirements of the technical codes for new facilities, except as specifically provided in this section.

II-1-3.02 Additions, Alterations or Repairs

Additions, alterations or repairs may be made to any building or its building service equipment without requiring the existing building or its building service equipment to comply with all the requirements of the technical codes, provided the addition, alteration or repair conforms to that required for a new building or building service equipment.

Additions or alterations shall not be made to an existing building or building service equipment which will cause the existing building or building service equipment to be in violation of any of the provisions of the technical

codes nor shall such additions or alterations cause the existing building or building service equipment to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or building service equipment to become structurally unsafe or overloaded; will not provide adequate egress in compliance with the provisions of the Building Code or will obstruct existing exits; will create a fire hazard; will reduce required fire resistance; will cause building service equipment to become overloaded or exceed their rated capacities; will create a health hazard or will otherwise create conditions dangerous to human life. Any building so altered, which involves a change in use or occupancy, shall not exceed the height, number of stories and area permitted by the Building Code for new buildings. Any building plus new additions shall not exceed the height, number of stories and area specified by the Building Code for new buildings.

Additions or alterations shall not be made to an existing building or structure when such existing building or structure is not in full compliance with the provisions of the Building Code except when such addition or alteration will result in the existing building or structure being no more hazardous based on life safety, fire safety and sanitation, than before such additions or alterations are undertaken.

EXCEPTION: Alterations of existing structural elements, or additions of new structural elements, which are not required by Section II-1-3.03 and section II-1-3.04 and which are initiated for the purpose of increasing the lateral-force-resisting strength or stiffness of an existing structure need not be designed for forces conforming to these regulations provided that an engineering analysis is submitted to show that:

1. The capacity of existing structural elements required to resist forces is not reduced;
2. The lateral loading to required existing structural elements is not increased beyond their capacity;
3. New structural elements are detailed and connected to the existing structural elements as required by these regulations;
4. New or relocated nonstructural elements are detailed and connected to existing or new structural elements as required by these regulations;
5. An unsafe condition as defined in Section II-1-3.02 is not created by such alterations or additions.

Alterations or repairs to an existing building or structure which are non structural and do not adversely affect any structural member or any part of the building or structure having required fire resistance may be made with the same materials of which the building or structure is constructed, subject to approval by the Chief Building Official. The installation or replacement of glass shall be as required for new installations.

Minor additions, alterations and repairs to existing building service equipment installations may be made in accordance with the technical code in effect at the time the original installation was made, subject to approval of the Chief Building Official, and provided such additions, alterations and repairs will not cause the existing building service equipment to become unsafe, unsanitary or overloaded.

II-1-3.03 Existing Installations

Building service equipment lawfully in existence at the time of the adoption of the technical codes may have their use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and a hazard to life, health or property has not been created by such building service equipment.

II-1-3.04 Existing Occupancy

Buildings in existence at the time of the adoption of the Building Code may have their existing use or occupancy continued if the use or occupancy was legal at the time of the adoption of the Building Code, and provided continued use is not dangerous to life, health and safety.

Any change in the use or occupancy of any existing building or structure shall comply with the provisions of Section II-1-25.02 of this Chapter and Section 3406 of the Building Code.

II-1-3.05 Maintenance

All buildings, structures and building service equipment, existing and new, and all parts thereof shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the technical codes shall be maintained in conformance with the technical code under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and their building service equipment. To determine compliance with this subsection, the Chief Building Official may cause any structure to be re-inspected.

II-1-3.06 Moved Buildings

Buildings, structures and their building service equipment moved into or within this jurisdiction shall comply with the provisions of the technical codes for new buildings or structures and their building service equipment.

II-1-3.07 Temporary Structures

Temporary structures such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public around and in conjunction with construction work may be erected by special permit from the Chief Building Official for a limited period of time. Such buildings or structures erected under a special permit need not comply with the type of construction or fire-resistive time periods required by the Building Code. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

II-1-3.08 Historic Buildings

Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building structure, or its building service equipment may be made without conforming to the requirements of the technical codes when authorized by the Chief Building Official, provided:

1. The building or structure has been designated by official action of the legally constituted authority of this jurisdiction as having special historical or architectural significance.

2. Any unsafe conditions as described in this Title are corrected.

3. The restored building or structure and its building service equipment will be no more hazardous based on life safety, fire safety and sanitation than the existing building.

4. The restored or altered building conforms to minimum requirements of the California Historical Building Code.

Section 4 Definitions

II-1-4.01 General

For the purpose of this Chapter, certain terms, phrases, words and their derivatives shall be construed as specified in this section.

1. ADDITION is an extension or increase in floor area or height of a building or structure.

2. ALTER or ALTERATION is any change or modification in construction or building service equipment.

3. APPROVED, as to materials, types of construction, equipment and system, refers to approval by the Chief Building Official as the result of investigation and tests conducted by him, or by reason of accepted principles or tests by recognized authorities, technical or scientific organizations.

4. APPROVED AGENCY is an established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved by the Chief Building Official.

5. BUILDING is any structure used or intended for supporting or sheltering any use or occupancy.

6. BUILDING CODE is the California Building Code promulgated by the International Code Council and the State of California Building Standards Commission, as adopted by this jurisdiction.

7. BUILDING, EXISTING is a building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

8. CHIEF BUILDING OFFICIAL is the officer or other designated authority charged with the administration and enforcement of this code, or his duly authorized representative.

9. BUILDING SERVICE EQUIPMENT refers to the plumbing, mechanical, electrical and elevator equipment including piping, wiring, fixtures and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, fire-fighting and transportation facilities essential to the occupancy of the building or structure for its intended and designated use.

10. ABATEMENT OF DANGEROUS BUILDINGS CODE is the Uniform Code for the Abatement of Dangerous Buildings promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

11. ELECTRICAL CODE is the California Electrical Code promulgated by the National Fire Protection Association and the State of California Building Standards Commission, as adopted by this jurisdiction.

12. JURISDICTION, as used in this Chapter, is the City of Milpitas.

13. LISTED and LISTING are terms referring to equipment, materials or services, included in a list published by an approved testing agency, inspection agency, or other organization concerned with evaluation of products or services that maintains periodic inspection of current productions of listed equipment or materials or periodic evaluation of services. The published list shall state that the material, equipment or services complies with approved national recognized codes, standards or tests and has been tested or evaluated and found suitable for use in a specified manner.

14. MECHANICAL CODE is the California Mechanical Code promulgated by the International Code Council and the State of California Building Standards Commission, as adopted by this jurisdiction.

15. OCCUPANCY is the purpose for which a building, or part thereof, is used or intended to be used.

16. OWNER is any person, agent, firm or corporation having a legal or equitable interest in the property.

17. PERMIT is an official document or certificate issued by the Chief Building Official authorizing performance of a specified activity.

18. PERSON is an individual, heirs, trustee, 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.

19. PLUMBING CODE is the California Plumbing Code promulgated by the International Association of Plumbing and Mechanical Officials and the State of California Building Standards Commission, as adopted by this jurisdiction.

20. REPAIR is the reconstruction or renewal of any part of an existing building, structure or building service equipment for the purpose of its maintenance.

21. SHALL, as used in this code, means mandatory.

22. STRUCTURAL OBSERVATION means the visual observation of the structural system by a registered design professional, including but not limited to, the elements and connections at significant construction stages, and the completed structure for general conformance to the approved plans and specifications at significant construction stages and at completion of the structural system. Structural observation does not include or waive the responsibility for the inspections required by Sections II-1-21 and II-1-22.

23. STRUCTURE is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

24. TECHNICAL CODES refer to those codes adopted by this jurisdiction containing the provisions for design, construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all

buildings and structures and building service equipment as herein defined. The term refers to the following codes as adopted and amended by the City of Milpitas:

Technical Code	Adopted by Milpitas Municipal Code, Title II, Technical Code Chapter (as follows)
California Building Code	3
California Mechanical Code	5
California Electrical Code	6
California Plumbing Code	7
Abatement of Dangerous Building Code	12
California Existing Building Code	14
California Historical Building Code	150
All Supplements and Appendices and Standards Adopted for each of said Codes by said Title II and Chapters Thereof (which shall be known as the "technical codes") except as the specific provisions of any of said technical codes shall expressly declare this Chapter or any part thereof to be inapplicable.	

25. VALUATION or VALUE, as applied to a building and its building service equipment, shall be the estimated cost to replace the building and its building service equipment in kind, based on current replacement costs.

Section 5 Conflicting Provisions

II-1-5.01

When conflicting provisions or requirements occur between this code, the technical codes and other codes or laws, the most restrictive shall govern.

When conflicts occur between the technical codes, those provisions providing the greater safety to life shall govern. In other conflicts where sanitation, life safety or fire safety are not involved, the most restrictive provisions shall govern.

Where in any specific case different sections of the technical codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

When conflicts occur between specific provisions of this Chapter and any administrative provisions in the technical code which is then applicable within this jurisdiction, those provisions of this Chapter shall govern, unless the technical code (or the ordinance adopting the same) shall expressly declare that this Chapter or any part thereof is inapplicable.

Section 6 Alternate Materials, Method of Design and Methods of Construction

II-1-6.01

The provisions of the technical codes are not intended to prevent the use of any material, method of design or method of construction not specifically prescribed by the technical codes, provided an alternate has been approved and its use authorized by the Chief Building Official.

The Chief Building Official may approve any alternate, provided that the Chief Building Official finds the proposed design is satisfactory and complies with the provisions of the technical codes and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical

codes in suitability, strength, effectiveness, fire resistance, durability, safety, sanitation and provides access to the disabled in accordance with state standards.

The Chief Building Official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of an action granting approval of an alternate shall be recorded and entered in the files of the code enforcement agency.

The Chief Building Official may require the applicant to arrange for the proposed alternate materials, methods of design and methods of construction be reviewed and evaluated by an outside agency designated by the Chief Building Official at the applicants' expense.

Section 7 Modifications

II-1-7.01

Whenever there are practical difficulties involved in carrying out the provisions of the technical codes, the Chief Building Official may grant modifications for individual cases, provided he shall first find that a special individual reason makes the strict letter of the technical codes impractical and the modification is in conformity with the intent and purpose of the technical codes, and that such modification does not lessen health, life safety, fire safety requirements, any degree of structural integrity or access for the disabled. The details of actions granting modifications shall be recorded and entered in the files of the code enforcement agency.

The Chief Building Official may require the applicant to arrange for the proposed modification be reviewed by an outside agency designated by the Chief Building Official at the applicant's expense.

Section 8 Tests

II-1-8.01

Whenever there is insufficient evidence of compliance with the provisions of the technical codes or evidence that materials or construction do not conform to the requirements of the technical codes, the Chief Building Official may require tests as evidence of compliance to be made at no expense to this jurisdiction.

Test methods shall be as specified by the technical codes or by other recognized test standards. In the absence of recognized and accepted test methods, the Chief Building Official shall determine test procedures.

Tests shall be made by an agency approved by the Chief Building Official. Reports of such tests shall be retained by the Chief Building Official for the period required for the retention of public records.

Section 9 Establishment of the Division

II-1-9.01

There is hereby established in the City of Milpitas the "Building and Safety" which shall be under the jurisdiction of the City Manager.

Section 10 Authority

II-1-10.01 Creation of Enforcement Agency

There is hereby established in this jurisdiction a code enforcement agency which shall be under the administrative and operational control of the Chief Building Official.

II-1-10.02 General

Whenever the term of title "administrative authority," "responsible official", "building official", "chief inspector", "code enforcement officer", or other similar designation is used herein or in any of the technical codes, it shall be construed to mean the Chief Building Official designated by the appointing authority of this jurisdiction.

Section 11 Powers and Duties of Chief Building Official

II-1-11.01 General

The Chief Building Official is hereby authorized and directed to enforce all the provisions of this Title, and the referenced technical codes. For such purposes, the Chief Building Official shall have the powers of a law enforcement officer.

The Chief Building Official shall have the power to render interpretations of this Title and the referenced technical codes, and to adopt and enforce rules and regulations supplemental to this code in order to clarify the application of the provisions of this Title. Such interpretations, policies, procedures, rules and regulations shall be in conformity with the intent and purpose of this Title.

II-1-11.02 Deputies

In accordance with prescribed procedures and with the approval of the appointing authority, the Chief Building Official may appoint related technical officers and inspectors and other employees as shall be authorized. The Chief Building Official may deputize such inspectors or employees as may be necessary to carry out the functions of the code enforcement agency.

II-1-11.03 Right of Entry

Whenever necessary to make an inspection to enforce any of the provisions of this Title, and the technical codes or whenever the Chief Building Official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Chief Building Official or his authorized representative may enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the Chief Building Official by this Title, provided that, except in cases of imminent danger to life or property, if such building or premises be occupied, he shall first present property credentials and request and receive permission for entry; and if such building or premises be unoccupied, the Chief Building Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request and receive permission for entry. If such entry is refused, the Chief Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Chief Building Official or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Chief Building Official or his authorized representative for the purpose of inspection and examination pursuant to this code.

II-1-11.04 Stop Orders

Whenever any work is being done contrary to the provisions of this Title, the technical codes or other pertinent laws or ordinances implemented through the enforcement of this title, the Chief Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, or by posting said notice at main entry or other conspicuous location of the structure, and any such persons shall forthwith stop such work until authorized by the Chief Building Official to proceed with the work.

II-1-11.05 Occupancy Violations

Whenever any building or structure or building service equipment therein regulated by this Title and the technical codes is being used contrary to the provisions of this Title, the Chief Building Official may order such use discontinued and the structure, or portion thereof, vacated by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Chief Building Official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this Title.

Section 12 Unsafe Buildings, Structures or Building Service Equipment

II-1-12.01

All building or structures regulated by this Title and the technical codes, which are structurally inadequate or have inadequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe buildings.

Building service equipment regulated by such codes, which constitute a fire, electrical or health hazard, or an unsanitary condition, or is otherwise dangerous to human life is, for the purpose of this section, unsafe. Any use of buildings, structures or building service equipment constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use.

Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the Building Code are hereby designated as unsafe building appendages.

Unsafe buildings, structures or appendages and building service equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Uniform Code for the Abatement of Dangerous Buildings or such alternate procedures as may be adopted by this jurisdiction. As an alternative, the Chief Building Official or other employee or official of this jurisdiction as designated by the governing body may institute any other appropriate action to prevent, restrain, correct or abate the violation.

II-1-12.02 Notice of Correction or Abatement of Unsafe Structures

If an inspection shows a building or structure or portion thereof to be "Unsafe" as defined herein, the Chief Building Official shall give the owner of said building or structure written notice stating the defects thereof. Said notice may order the correction or abatement thereof by demolition, closing or repair within ninety days of the date said notice is given or such additional time as the Chief Building Official may allow. If, in the opinion of the Chief Building Official, such conditions can be corrected or abated by repair, the notice shall state the repair required. Notice hereunder may also be given to any mortgagee or beneficiary under any deed or trust of record.

II-1-12.03 Posting Notice of Hazardous Building

Every building which the Chief Building Official causes to be vacated because of an immediate danger or hazard may be posted at each entrance with a notice which states: "Do Not Enter: Unsafe to Occupy: Building and Safety Department, City of Milpitas". Such notice may remain posted until the required repairs, improvements, demolition or removal are completed. Such notice shall not be removed without written permission of the Chief Building Official, and all persons shall forthwith vacate said building and no person shall enter the building except for the purpose of making the required repairs, improvements, demolition or removal of the building.

II-1-12.04 Authority to Disconnect Utilities

The Chief Building Official or his authorized representative shall have the authority to disconnect any utility service or energy supplied to the building, structure or building service equipment therein regulated by this Title or the technical codes in case of emergency where necessary to eliminate an immediate hazard to life or property. The Chief Building Official shall whenever possible notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or building service equipment, in writing, of such disconnection immediately thereafter.

This Title shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the City of Milpitas be held to have assumed any such liability by reason of the inspections authorized by this Title or any certificates of inspection issued under this Title.

II-1-12.05 Authority to Condemn Building Service Equipment

Whenever the Chief Building Official ascertains that any building service equipment regulated in the technical codes has become hazardous to life, health, or property, or has become unsanitary, he shall order in writing that such equipment either be removed or restored to a safe or sanitary condition, as appropriate. The written notice itself shall fix a time limit for compliance with such order. Defective building service equipment shall not be maintained after receiving such notice.

When such equipment or installation is to be disconnected, a written notice of such disconnection and causes therefore will be given within 24 hours to the serving utility, the owner and occupant of such building, structure or premises.

When any building service equipment is maintained in violation of the technical codes and in violation of any notice issued pursuant to the provisions of this section, the Chief Building Official shall institute any appropriate action to prevent, restrain, correct or abate the violation.

II-1-12.06 Connection After Order to Disconnect

No person shall make connections from any energy, fuel or power supply nor supply energy or fuel to any building service equipment which has been disconnected or ordered to be disconnected by the Chief Building Official or the use of which has been ordered to be discontinued by the Chief Building Official until the Chief Building Official authorizes the reconnection and use of such equipment.

II-1-12.07 Withholding Permit

No Building or Occupancy Permit shall be issued for any building or structure unless and until:

1. All conditions imposed thereon or in connection with any development or subdivision of which it is a part (and which affect said building or structure) by the Milpitas Planning Commission or Milpitas City Council have been complied with;

2. Said building or structure and any development or subdivision of which it is a part shall be in compliance with all ordinances and statutes affecting said building or structure, development or subdivision.

II-1-12.08 Liability

Without limitation to the generality of any provision of the Milpitas Municipal Code, the duties imposed by this Title upon the Chief Building Official, or his authorized representatives are discretionary and not mandatory. Neither said Official or his representatives shall render himself personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of his duties.

The City of Milpitas, its officers or employees shall not be held to have assumed any liability by reason of the inspections authorized by such codes or approvals issued under such codes.

This Title shall not be construed to relieve or lessen the responsibility of any person owning, operating or controlling any building or structure to any damages to persons or property caused by defects, nor shall the City of Milpitas be held as assuming any liability by reasons of the inspections authorized by this Chapter or any certificates of inspections issued under this Chapter.

II-1-12.09 Hearing

Any aggrieved person may request an informal hearing before the Chief Building Official, or his designee, with respect to any action taken or to be taken under the provisions of Section 12 of this Chapter. Said request shall be in writing and said hearing shall be held within 2 working days of receipt of the request provided a request for a hearing shall not stay the operation of the Chief Building Official's order unless the Chief Building Official shall so order.

Section 13 Appeals

II-1-13.01

Appeals may be had under this Chapter, pursuant to the provisions of Section 5 of the Standard Procedures Chapter of the Milpitas Municipal Code. An appeal shall stay all proceedings in furtherance of the act or decision appealed unless the Chief Building Official whose act is appealed shall certify in writing that a stay would in his opinion cause peril to life or property. Said certificate shall contain a detailed statement of the facts out of which said peril arises and of the reasons for said opinion.

Section 14 Violations

II-1-14.01

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building structure, building service equipment, or cause or permit the same to be done in violation of this Title and the technical codes.

Section 15 Nuisance

II-1-15.01

The erection, construction, enlarging, equipping, use, height, altering, repairing, moving, removing, conversing, demolishing, improving, occupying or maintaining of buildings or structures or the installation, alteration or repair of electrical wiring, devices, appliances, equipment, systems, or facilities, or the installation, alteration or repair of plumbing or drainage lines, equipment, systems or facilities, or the use, design, installation, alteration, repair and replacement of heating and comfort cooling equipment contrary to the provisions of this Title is unlawful and shall be and the same is hereby declared to be a public nuisance.

Section 16 Remedies

II-1-16.01

The remedies and penalties provided for by this Chapter shall be cumulative, and not exclusive, and shall be in addition to such other remedies or penalties as are provided.

Section 17 Permits

II-1-17.01 Permits Required

Except as specified in Subsection (.03) of this section, no building, structure or building service equipment regulated by this Title and the technical code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the Chief Building Official.

II-1-17.02 Exempted Work

A permit shall not be required for the types of work in each of the separate classes of permits as listed below. Exemption from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in violation of the provisions of the technical codes or any other laws or ordinances of this jurisdiction.

II-1-17.03 Building Permits

A Building Permit shall not be required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.

2. Wood fences not over 6 feet high or masonry and concrete fences not over 4 feet high.

3. Non-fixed and moveable fixtures, cases, racks, counters, storage shelves and partitions not over 5 feet 9 inches high.

4. Retaining walls, which are not over 4 feet in height, measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III A. liquids.

5. Water tanks supported directly upon grade if the capacity does not exceed 5000 gallons and the ratio of height to diameter or width does not exceed two to one.

6. Platforms, walks and driveways, not more than 30 inches above grade and not over any basement or story below and are not part of an accessible route.

7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

8. Temporary motion picture, television and theatre stage sets and scenery.

9. Window awnings supported by an exterior wall of Group R, Division 3, and Group U Occupancies when projecting not more than 54 inches from exterior wall and do not require additional support of Group R-3 or U Occupancies.

10. Oil Derricks

11. Swings and other playground equipment accessory to detached one and two-family dwellings.

12. Prefabricated swimming pools which do not exceed 24 inches in height accessory to a Group R, Division 3 Occupancy in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed 5000 gallons.

Unless otherwise exempted by this Title, separate plumbing, electrical and mechanical permits are required for the above exempted work.

II-1-17.04 Plumbing Permits

A plumbing permit shall not be required for the following:

1. The stopping of leaks in drains, soil, waste or vent pipes, provided, however, that should any concealed trap, drainpipe, soil, waste or vent pipe become defective and it becomes necessary to remove and replace the same with new material, the same shall be considered as new work and a permit shall be procured and inspection made as provided in this Title.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, nor for the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

II-1-17.05 Electrical Permits

An Electrical Permit shall not be required for the following:

1. Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when that cord or cable is permitted by the Electrical Code.

2. Repair or replacement of motors, transformers and controls within fixed approved appliances of the same type and rating in the same location.

3. Temporary decorative lighting.

4. Repair or replacement of current-carrying parts of any switch, contactor or control device.

5. Reinstallation of attachment plug receptacles, but not the outlets therefore.

6. Replacement of any overcurrent device less than 1200 amps of the same capacity in the same location.

7. Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube systems.

8. Taping joints.

9. Removal of electrical wiring.

10. Temporary wiring for experimental purposes in suitable experimental laboratories.

11. The wiring for temporary theatre, motion picture or television stage sets.

12. Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.

13. Low-energy power, control and signal circuits of Classes II and III as defined in the Electrical Code.

14. A permit shall not be required for the installation, alteration or repair of electrical wiring, apparatus or equipment or the generation, transmission, distribution or metering of electrical energy or in the operation of signals or the transmission of intelligence by a public or private utility in the exercise of its function as a serving utility.

II-1-17.06 Mechanical Permits

A Mechanical Permit shall not be required for the following excepting that a permit is required for vertical and structural support and anchoring of permanent equipment and overhead pipes:

1. Any portable heating appliance.
2. Any portable ventilating equipment.
3. Any portable cooling unit.
4. Any portable evaporative cooler.
5. Any closed system of steam, hot or chilled water piping within any heating or cooling equipment regulated by the Mechanical Code.
6. Replacement of any component part of assembly of an appliance, which does not alter its original approval and complies with other applicable requirements of the technical codes.
7. Any refrigerating equipment, which is part of the equipment for which a permit has been issued pursuant to the requirements of the technical codes.
8. Any unit refrigerating system as defined in the Mechanical Code.

Section 18 Application for Permit

II-1-18.01 Application

To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the code enforcement agency for that purpose. Every such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use or occupancy for which the proposed work is intended.
4. Be accompanied by plans, diagrams, computations and specifications and other data as required in Subsection (.02) of this section.
5. State the valuation of any new building or structure or any addition, remodeling or alteration to an existing building.

6. Be signed by the permittee, or the applicant's authorized agent.
7. Give such other data and information as may be required by the Chief Building Official.

II-1-18.02 Submittal Documents

Plans, specifications, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs and other data shall constitute the submittal documents and shall be submitted for each application in one or more sets as determined by the Chief Building Official. When such plans are not prepared by an architect or engineer, the Chief Building Official may require the applicant submitting such plans or other data to demonstrate that state law does not require that the plans be prepared by a licensed architect or engineer. The building official may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such even if not required by state law.

EXCEPTION:

The Chief Building Official may waive the submission of plans, calculations, construction inspection requirements, and other data, if it found that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this Title.

II-1-18.03 Information on Plans and Specifications

Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of the technical codes and all relevant laws, ordinances, rules and regulations.

Plans for buildings of other than Groups R, Division 3 and Group U Occupancies shall indicate how required structural and fire-resistive integrity will be maintained where penetrations will be made for electrical, mechanical, plumbing and communication conduits, pipes and similar systems.

II-1-18.04 Architect or Engineer of Record—General

When it is required that documents be prepared by an architect or engineer, the Chief Building Official may require the owner to engage and designate on the building permit application an architect or engineer who shall act as the architect or engineer of record. If the circumstances require, the owner may designate a substitute architect or engineer of record who shall perform all of the duties required of the original architect or engineer of record. The building official shall be notified in writing by the owner if the architect or engineer of record is changed or is unable to continue to perform the duties.

The architect or engineer of record shall be responsible for reviewing and coordinating all submittal documents prepared by others, including deferred submittal items, for compatibility with the design of the building.

II-1-18.05 Deferred Submittals

For the purposes of this section, deferred submittals are defined as those portions of the design which are not submitted at the time of the application and which are to be submitted to the building official within a specified period.

Deferral of any submittal items shall have prior approval of the Chief Building Official. The architect or engineer of record shall list the deferred submittals on the plans and shall submit the deferred submittal documents for review by the Chief Building Official.

Submittal documents for deferred submittal items shall be submitted to the architect or engineer of record who shall review them and forward them to the Chief Building Official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The deferred submittal items shall not be installed until their design and submittal documents have been approved by the Chief Building Official.

II-1-18.06 Inspection and Observation Program

When special inspection is required by Section II-1-22, the architect or engineer of record shall prepare an inspection program which shall be submitted to the Chief Building Official for approval prior to issuance of the building permit. The inspection program shall designate the portions of the work to have special inspection, the name or names of the individuals or firms who are to perform the special inspections and indicate the duties of the special inspectors.

The special inspector shall be employed by the owner, the engineer or architect of record, or an agent of the owner, but not the contractor or any other person responsible for the work. When structural observation is required by Section II-1-23, the inspection program shall name the individuals or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur. The inspection program shall include samples of inspection reports and provide time limits for submission of reports.

Section 19 Permit Issuance

II-1-19.01 Issuance

The application, plans, specifications, computations and other data, filed by an applicant for permit shall be reviewed by the Chief Building Official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the Chief Building Official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this Title and the technical codes and other pertinent laws and ordinances, and that the fees specified have been paid, the Chief Building Official shall issue a permit therefore to the applicant.

The Chief Building Official shall endorse in writing or stamp the required plans and specifications. Such approved plans and specifications shall not be changed, modified or altered without authorizations from the Chief Building Official, and all work regulated by this Title shall be done in accordance with approved plans.

The Chief Building Official may issue a permit for the construction of part of a building, structure or building service equipment before the entire plans and specifications for the whole building, structure or building service equipment have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of the technical codes. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building, structure or building service will be granted.

II-1-19.02 Retention of Plans

One set of approved plans and computations shall be retained by the Chief Building Official for a period of not less than 90 days from the date of completion of work covered therein; and one set of approved plans shall be returned to the applicant and shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

II-1-19.03 Validity of Permit

The issuance of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Title, or the technical codes, or any other ordinance of the jurisdiction. Permit presuming to give authority to violate or cancel the provisions of the technical codes shall not be valid.

The issuance of a permit based upon plans, specifications and other data shall not prevent the Chief Building Official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this Title or of any other ordinances of this jurisdiction.

II-1-19.04 Expiration

Every permit issued by the Chief Building Official under the provisions of this Title and the technical codes shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced or an inspection made within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced a new permit shall be first obtained so to do, and the fee therefore

shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded 360 days. If the suspension or abandonment exceeds 360 days, the permittee shall pay a new full permit fee for the issuance of a permit.

Any permittee holding an unexpired permit may apply for an extension of the time within which he may commence work under that permit when he is unable to commence work within the time required by this section for good and satisfactory reasons. The Chief Building Official may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

II-1-19.05 Suspension or Revocation

The Chief Building Official may, in writing, suspend or revoke a permit issued under the provisions of this Title whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this Title.

II-1-19.06 Refusal to Issue Permits Due to Deficiency

Failure on the part of any permittee to correct any defect, error or deficiency in any work within ten (10) days after notification thereof, or within such further reasonable time as may, upon request, be prescribed, shall be sufficient cause for refusal to issue any further permits to such permittee until such corrections have been made, inspected and approved.

Section 20 Fees

II-1-20.01 Permit Fees

The fee for each permit shall be as set forth by resolution of the City Council.

II-1-20.02 Plan Review Fees

When a plan or other data is required to be submitted by Section II-1-18.02, a plan review fee shall be paid at the time of submitting plans and specifications for review. Said plan review fee shall be as set forth by resolution of the City Council.

When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section II-1-18.05, an additional plan review fee may be charged at the rate set by resolution of the City Council.

II-1-20.03 Expiration of Plan Review

Applications for which no permit is issued within 180 days following the date of application shall expire by limitation and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Chief Building Official.

The Chief Building Official may extend the time for action by the applicant for a period not exceeding 180 days on written request by the applicant prior to expiration date of the plan check submittal showing that circumstances beyond the control of the applicant have prevented action from being taken. An application shall not be extended more than once. An application shall not be extended if this title or any other pertinent laws or ordinances have been amended subsequent to the date of application. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

II-1-20.04 Investigation Fees--Work Without a Permit

Whenever any work for which a permit is required by this Title has been commenced without first obtaining said permit, a special investigation will be made before a permit may be issued for such work.

An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Title.

The minimum investigation fee shall be the same as the minimum fee. The payment of such investigation fee shall not exempt any applicant from compliance with all other provisions of this title or the technical codes nor from any penalty prescribed by law.

II-1-20.05 Fee Refunds

The Chief Building Official may authorize the refunding of any fee paid hereunder when there are two permits for the same work (double permitting).

The Chief Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this title.

The Chief Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan reviewing is done.

The Chief Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 1 year after the date of fee payment.

Section 21 Inspections

II-1-21.01 General

All construction work for which a permit is required shall be subject to inspection by the Chief Building Official and all such construction or work shall remain accessible and exposed for inspection purposes until approved by the Chief Building Official. In addition, certain types of construction shall have continuous inspection as specified in Section II-1-22.

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this Title or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this Title or of other ordinances of the jurisdiction shall not be valid.

It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Chief Building Official nor this jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

A survey of the lot may be required by the Chief Building Official to verify that the structure is located in accordance with the approved plans.

II-1-21.02 Inspection Record Card

Work requiring a permit shall not be commenced until the permit holder or his agent shall have posted or otherwise made available an inspection record card such as to allow the Chief Building Official conveniently to make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permit holder until final approval has been granted by the Chief Building Official.

II-1-21.03 Inspection Requests

It shall be the duty of the person doing the work authorized by a permit to notify the Chief Building Official that such work is ready for inspection. The Chief Building Official may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing, on line or by telephone at the option of the Chief Building Official.

It shall be the duty of the person requesting any inspections required either by this code or the technical codes to provide access to and means for inspection of the work.

II-1-21.04 Approval Required

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Chief Building Official. The Chief Building Official, upon notification, shall make the requested

inspections and shall either indicate that portion of the construction is satisfactory as completed or shall notify the permit holder or his agent wherein the same fails to comply with any of the technical codes or any other ordinances of the City of Milpitas. Any portions which do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Chief Building Official.

There shall be a final inspection and approval of all buildings and structures when completed and ready for occupancy and use.

Reinforcing steel or structural framework of any part of any building or structure shall not be covered or concealed without first obtaining the approval of the Chief Building Official. Protection of joints and penetrations in fire-resistive assemblies shall not be concealed from view until inspected and approved.

II-1-21.05 Required Building Inspections

The Chief Building Official, upon notification, shall make the following inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his agent wherein the same fails to comply with this title.

1. Foundation Inspection. Inspection to be made after excavation for footings are complete and required reinforcing steel and inserts are in place. For concrete foundations, any required forms shall be in place prior to inspection. All materials for the foundation shall be on the job, except concrete ready-mixed in accordance with nationally recognized standards need not be on the job. Where the foundation is to be constructed of approved treated wood, additional inspections may be required by the Chief Building Official.

2. Concrete Slab or Under-Floor Inspection. Inspection to be made after all in-slab or under-floor building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including sub-floor.

3. Frame Inspection. Inspection to be made after the roof, all framing, fire blocking and bracing are in place and all pipes, chimneys and vents are complete and the rough electrical, plumbing, and heating wires, pipes, and ducts are approved.

4. Lath and/or Wallboard Inspection. Inspection to be made after all lath and wallboard, interior and exterior, is in place, but before any plastering is applied or before wallboard joints and fasteners are taped and finished.

5. Final Inspection. Inspection will be made after finish grading and the building is completed and ready for occupancy.

II-1-21.06 Required Building Service Equipment Inspections

All building service equipment for which a permit is required by this Title code shall be inspected by the Chief Building Official. No portion of any building service equipment intended to be concealed by any permanent portion of the building shall be concealed until inspected and approved. When the installation of any building service equipment is complete, an additional and final inspection shall be made. Building service equipment regulated by the technical codes shall not be connected to the water, fuel or power supply or sewer system until authorized by the Chief Building Official.

II-1-21.07 Operation of Building Service Equipment

The requirements of this section shall not be considered to prohibit the operation of any building service equipment installed to replace existing building service equipment serving an occupied portion of the building in the event a request for inspection of such building service equipment has been filed with the Chief Building Official not more than 48 hours after such replacement work is completed, and before any portions of such building service equipment is concealed by any permanent portion of the building.

II-1-21.08 Other Inspections

In addition to the called inspections specified above, the Chief Building Official may make or require other inspections of any construction work to ascertain compliance with the provisions of this Title or technical codes and other laws which are enforced by the code enforcement agency.

II-1-21.09 Re-inspections

A re-inspection fee may be assessed as set by resolution of the City Council for each inspection or re-inspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This subsection is not to be interpreted as requiring re-inspection fees the first time a job is rejected for failure to comply with the requirements of the technical codes, but as controlling the practice of calling for inspections before the job is ready for such inspection or re-inspection.

Re-inspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Chief Building Official.

To obtain a re-inspection, the applicant shall file an application therefore in writing upon a form furnished for that purpose, and pay the re-inspection fee in accordance with the fee schedule adopted by this jurisdiction.

In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

Section 22 Special Inspections

II-1-22.01 Special Inspections

Special inspection shall be provided in accordance with Section 1704 & 1707 of the California Building Code. Additional special inspections may be required when deemed necessary by the Chief Building Official.

Section 23 Structural Observation

II-1-23.01 Structural Observation

Structural observation shall be provided in accordance with Section 1709 for the California Building Code. Additional structural observation may be required when deemed necessary by the Chief Building Official.

Section 24 Connection to Utilities

II-1-24.01 Energy Connections

No person shall make connections from a source of energy, fuel or power to any building service equipment which is regulated by the technical codes and for which a permit is required by this Title, until approved by the Chief Building Official.

II-1-24.02 Temporary Connections

The Chief Building Official may authorize the temporary connection of the building service equipment to the source of energy, fuel or power for the purpose of testing building service equipment, or for use under a temporary Certificate of Occupancy.

Section 25 Certificate of Occupancy

II-1-25.01 Use or Occupancy

Buildings or structures shall not be used or occupied nor shall a change in the existing occupancy classification of a building or structure or portion thereof be made until the Chief Building Official has issued a Certificate of Occupancy therefore as provided herein.

EXCEPTION: Group R, Division 3, and U Occupancies.

Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this Title or of other ordinances of the jurisdiction shall not be valid.

If a portion of any building does not conform to the requirements of this Code for a proposed occupancy, that portion shall be made to conform. The Chief Building Official may issue a new Certificate of Occupancy without stating therein that all of the requirements of the Code have been made and without requiring compliance with all such requirements if he finds that the change in occupancy will result in no increased hazard to life or limb, health, property or public welfare.

When application is made for such Certificate of Occupancy, the Chief Building Official shall cause an inspection of the building to be made. The Chief Building Official shall advise the applicant of any alterations necessary. Before any application for such Certificate of Occupancy is accepted, a fee as set forth in the fee schedule shall be paid by the applicant to cover the cost to the City of the inspection of the building. Such fee shall be in addition to the business licensee fee required by Chapter I, Title III of the Milpitas Municipal Code.

II-1-25.02 Change in Use

Changes in the character or use of a building shall not be made except as specified in the California Building Code.

II-1-25.03 Certificate Issued

After the Chief Building Official inspects the building or structure and finds no violations of the provisions of this code or other laws which are enforced by the code enforcement agency, the Chief Building Official shall issue a Certificate of Occupancy which shall contain the following:

1. The building permit number.
2. The address of the building.
3. The name and address of the owner.
4. A description of that portion of the building for which the certificate is issued.
5. A statement that the described portion of the building has been inspected for compliance with the requirements of this code for the group and division of occupancy and the use for which the proposed occupancy is classified
6. The use and occupancy.
7. Type of construction
8. The name of the Chief Building Official and Fire Marshall.
9. Any special conditions of the Building Permit.

II-1-25.04 Temporary Certificate

If the Chief Building Official finds that no substantial hazard will result from occupancy of any building or portion thereof before the same is completed, he may issue a temporary Certificate of Occupancy for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure. Temporary Certificate of Occupancy is valid for 2 weeks.

II-1-25.05 Posting

The Certificate of Occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Chief Building Official.

II-1-25.06 Revocation

The Chief Building Official may, in writing, suspend or revoke a Certificate of Occupancy issued under the provisions of this code whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Title.

Section 26 Notice of Code Violations

II-1-26.01 Notice of Code Violation

Whenever the Chief Building Official has knowledge of a violation of the provisions of any Chapter of Title II of the Milpitas Municipal Code or any of the California Codes or appendices incorporated in any of the Chapters of said Title (including but not limited to the California Building Code, the California Building Code Standards, the California Electrical Code, the California Mechanical Code, the California Plumbing Code or the provisions of Chapter 300, Title V of the Milpitas Municipal Code, or of the California Fire Code, California Fire Code Appendices and California Fire Code Standards adopted therein, or of any of the provisions of Chapter 302, Title V of the Milpitas Municipal Code (regulating hazardous materials), the Chief Building Official may give a Notice of Intent to record a Notice of Code Violation to the owner of the land upon which the violation is located. Notice shall be given by posting on the property itself and by personal service or by certified mail, postage prepaid and return receipt requested to the owner at the address shown on the latest equalized assessment roll of the County of Santa Clara, California, or as is known to the City Manager of the City of Milpitas.

Notice by mail may also be given (but shall not be required to be given) to any other owner of any interest in said land as may be known to the Chief Building Official. The notice shall state that within twenty (20) days of the date of notice, the owner may request a hearing with the Chief Building Official to present evidence that a violation does not exist.

II-1-26.02 Recordation of Violation

Following a hearing and after consideration of the evidence presented, if the Chief Building Official determines that a code violation in fact exists, the Chief Building Official shall give notice either by personal service or by certified mail, postage prepaid and return receipt requested, to the owner at the address shown on the latest equalized assessment roll of the County of Santa Clara, California, or as is known to the City Manager of the City of Milpitas that if the violation is not corrected within 45 days of the date of personal service or mailing or within such time as deemed appropriate by the Chief Building Official, the Chief Building Official shall record a Notice of Code Violation in the Office of the County Recorder of Santa Clara County, California. Unless an appeal from the Chief Building Official's decision is filed with the City Manager, as hereafter provided, the Chief Building Official shall record said notice of code violation after 45 days.

If no hearing was requested under Section II-1-26.01 and the violation continues, the Chief Building Official shall inform the owner by personal service or certified mail that a notice of code violation shall be recorded with the County Recorder or Santa Clara County in 45 days. Unless presented with proof of complete correction, the Chief Building Official shall record said notice of code violation after 45 days.

II-1-26.03 Appeal to City Manager

If the owner requested a hearing and is dissatisfied with the result, the owner may file a written appeal to the City Manager within 15 days of the date of mailing of the letter from the Chief Building Official referred to in Section II-1-26.02. The appeal shall be made in accordance with Section I-20-5.00 of the Milpitas Municipal Code and shall be heard by the City Manager as hearing officer in accordance with the procedures set forth in Section I-20-3.00 of the Milpitas Municipal Code. In any case involving the interpretation of technical provisions of any of the codes, the City Manager may seek a written report of an expert of the Manager's selection, but shall not be bound by said report. The decision of the City Manager following the close of said hearing may be appealed to the City Council in accordance with Section I-20-5.01. The owner shall be given written notice by mail of the City Manager's decision within sixty (60) days of the hearing. No Notice of Code Violation shall be recorded until thirty (30) days from date of mailing of said decision to give the owner an additional opportunity to correct the violations.

Section 27 Repeal of Conflicting Ordinances

II-1-27.01

Upon adoption of each new Administrative Code, as amended, the previously adopted Administrative Code is superseded in its entirety.

Section 28 Severability

II-1-28.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said chapter hereby adopted shall remain in full force and effect.

Section 29 Effective Date

II-1-29.01

This chapter shall become effective on January 1, 2008.

Chapter 3 Building Code

Section 1 Adoption of the Building Code

II-3-1.01

The 2007 Edition of the California Building Code, Volumes 1 and 2, California Building Standards Code, known as the California Code of Regulations, Title 24, incorporating the International Building Code, 2006 Edition, including Appendix C & I published by the International Code Council, with the amendments set forth in Section II-3-2.00 is hereby adopted. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 2007 California Building Code

II-3-2.01

The California Building Code, 2007 Edition is amended or changed in the following respects:

II-3-2.02

Chapter 1 of the California Building Code, 2007 Edition, is adopted as amended. Delete section 108.4, 108.5, 108.7 and 108.8.

II-3-2.03

Section 402.8 of the California Building Code, 2007 Edition is amended as follows:

Delete exception

Section 403.2 of the California Building Code, 2007 Edition is amended as follows:

Delete all exceptions

Section 404.3 of the California Building Code, 2007 Edition is amended as follows:

Delete all exceptions

Add Section 406.1.5 of the California Building Code, 2007 Edition to read as follows:

406.1.5 Flammable Vapor Ventilation. In enclosed private garages attached to R occupancies, provide 1 sq. ft. of ventilation area located at the lower 12" of garage wall. Said ventilation areas shall be directly communicable with the exterior, but shall not be installed where protection of openings is required.

Section 410.6 of the California Building Code, 2007 Edition is amended as follows:

Delete exceptions 1 and 2

II-3-2.04

Amend Section 716.2.2 of the California Building Code to read as follows:

716.2.2 Hazardous Exhaust Ducts. Hazardous exhaust ducts penetrations of structural elements by hazardous exhaust duct system shall conform to sections 716.2.2.1 through 716.2.2.4.

716.2.2.1 **Fire Dampers**

Fire Dampers are prohibited in hazardous exhaust ducts.

716.2.2.2 **Floors**

Hazardous exhaust duct systems that penetrate a floor/ceiling assembly shall be enclosed in a fire-resistance-rated shaft constructed in accordance with Section 707.

716.2.2.3 **Wall Assemblies**

Hazardous exhaust duct systems that penetrate fire-resistance-rated construction shall be enclosed in a fire-resistance-rated shaft from the point of penetration to the outlet terminal, except where the interior of the duct is equipped with an approved automatic fire suppression system. Ducts shall be enclosed in accordance with the requirements of Section 707 for shaft construction and such enclosure shall have a minimum fire-resistance-rating of not less than the highest fire-resistance-rated wall assembly penetrated.

716.2.2.4 **Fire Walls**

Ducts shall not penetrate a fire wall.

II-3.2.05

Amend Chapter 9 of the 2007 California Building Code as follows:

In addition to Milpitas Municipal Code Title II for local amendments to Fire Protection Systems requirements refer to Milpitas Municipal Code Title V Chapter 300.

II-3.2.06

Amend Section 907.2.10.5.2 item (a) of the California Building Code, 2007 Edition by adding the following:

When the valuation of an addition, alteration or repair to Group R Occupancy exceeds $1,000 and a permit is required, or when one or more sleeping rooms are added or created in existing Group R Occupancies, chimney spark arresters shall be installed. Spark arresters shall be constructed in conformance with Section 2802.1.

II-3-2.07

Section 1505.1.5 is added to the California Building Code, 2007 Edition, to read as follows:

1505.1.5 Roofing. Class A or Class B roof covering shall be required for all Hillside Construction**.**

II-3-2.08

Chapter 16 of California Building Code, 2007 edition is adopted with amendments as follows:

II-3-2.9

Section 1609.1 of the California Building Code, 2007 Edition is amended by adding the following at the end of the first paragraph:

Hillside construction – construction in hillside areas shall be designed for a 3-second gust minimum wind speed (V_{3s}) 95mph and exposure C.

All structures located in the hillside shall conform to minimum requirements of section 2308.10.1.

II-3-2.10

Section 1613.6.1 of the California Building Code, 2007 Edition is amended by adding the following at the end of this section:

EXCEPTION: For buildings with relatively flexible structural systems, the Chief Building Official may require consideration of P△effects and drift in accordance with ASCE 7-05, sections 12.8.6 and 12.8.7 and 12.12.

II-3-2.11

Add Section 1614.1 of California Building Code, 2007 Edition to read as follows:

Modification to ASCE 7-05, Section 12.8.1.1
Equation 12.8.5-5 in section 12.8.1.1 of **ASCE 7.05 to be modified as follows:**
$C_s = 0.044\ S_{DS}\ I \geq 0.01$.

Modification to ASCE 7-05, Table 12.8-2

Modify ASCE 7-05 Table 12.8-2 by adding the following:

TABLE 12.8-2 VALUES OF APPROXIMATE PERIOD PARAMETERS C_t AND x

Structure Type	C_t	x
Moment-resisting frame systems in which the frames resist 100% of the required seismic force and are not enclosed or adjoined by components that are more rigid and will prevent frames from deflecting where subjected to seismic forces:		
Steel moment-resisting frame	0.028 (0.0724)[a]	0.8
Concrete moment-resisting frames	0.016 (0.0466)[a]	0.9
Eccentrically braced steel frames <u>and buckling-restrained braced frames</u>	0.03 (0.0731)[a]	0.75
All other structural systems	0.02 (0.0488)[a]	

a.Metric equivalents are shown in parenthesis

Modification to ASCE 7-05, Section 12.8.7

Modify ASCE 7-05 Section 12.8.7 by amending Equation 12.8-16 as follows:

$\theta = (P_x \Delta \underline{I}) / (V_x h_{sx} C_d)$ (12.8-16)

Modification to ASCE 7-05, Section 12.12.3

Replace ASCE 7-05, Section 12.12.3 as follows:

12.12.3 Minimum Building Separation. All structures shall be separated from adjoining structures. Separations shall allow for the maximum inelastic response displacement (Δ_M). Δ_M shall be determined at critical locations with consideration for both translational and torsional displacements of the structure as follows:

$\Delta_M = C_d \delta_{max}$ (Equation 16-45)

where δ_{max} is the calculated maximum displacement at Level x as defined in ASCE 7

Section 12.8.4.3.

Adjacent buildings on the same property shall be separated by at least a distance Δ_{MT},

where

$\Delta_{MT} = [(\Delta_{M1})^2 + (\Delta_{M2})^2]^{1/2}$ (Equation 16-46)

and Δ_{M1} and Δ_{M2} are the maximum inelastic response displacements of the adjacent buildings.

Where a structure adjoins a property line not common to a public way, the structure shall also be set back from the property line by at least the displacement, Δ_M, of that structure.

Exception: Smaller separations or property line setbacks may be permitted when justified by rational analysis.

Add Section 1614.2 of California Building Code to read as follows:

Modification to ACI 318 Section 14.8.3 and 14.8.4

Delete and replace ACI 318 Section 14.8.3 and 14.8.4 as following:

14.8.3 – The design moment strength ϕFM_n for combined flexure and axial loads at the mid-height cross section shall be

$\phi FM_n \geq M_u$ (14-3)

Where:

$$M_u = M_{ua} + P_U \Delta_u \qquad (14\text{-}4)$$

M_{ua} is the moment at the mid-height section of the wall due to factored lateral and eccentric vertical loads, <u>not</u> including PΔ effects, and Δ_u is:

$$\Delta_u = \frac{5M_u l_c^{\,2}}{(0.75)48E_c I_{cr}} \qquad (14\text{-}5)$$

Mu shall be obtained by iteration of deflections, or by direct calculation using Eq. (14-6).

$$M_u = \frac{M_{ua}}{1 - \dfrac{5P_u l_c^2}{(0.75)48E_c I_{cr}}} \qquad (14\text{-}6)$$

I_{cr} shall be calculated by Equation (14-7), and M_a shall be obtained by iteration of deflections.

$$I_{cr} = \frac{E_s}{E_c}\left(A_s + \frac{P_u}{f_y}\frac{h}{2d}\right)(d-c)^2 + \frac{l_w c^3}{3} \qquad (14\text{-}7)$$

and the value E_s/E_c shall not be taken less than 6.

14.8.4 – Maximum out-of-plane deflection, Δ_s, due to service loads, including PΔ effects, shall not exceed $l_c/150$**.** If M_a, maximum moment at mid-height of wall due to service lateral and eccentric loads, including PΔ effects, exceed (2/3) M_{cr}, Δ_s shall be calculated by Equation (14-8):

$$\Delta s = \frac{2}{3}\Delta_{cr} + \frac{M_a - \frac{2}{3}M_{cr}}{M_n - \frac{2}{3}M_{cr}}\left(\Delta_n - \frac{2}{3}\Delta_{cr}\right) \qquad (14\text{-}8)$$

If M_a does not exceed (2/3) M_{cr}, Δ_s shall be calculated by Equation (14-9):

$$\Delta_s = \left(\frac{M_a}{M_{cr}}\right)\Delta_{cr} \qquad (14\text{-}9)$$

<u>where:</u>

$$\Delta cr = \frac{5M_{cr} l_c^{\,2}}{48E_c I_g}$$

II-3-2.12

Section 1704.4 of the California Building Code,2007 Edition is amended as follows:
1704.4 Concrete Construction. The special inspections and verifications for concrete construction shall be as required by this section and Table 1704.4.

EXCEPTIONS: Special inspection shall not be required for:

1. Isolated spread concrete footings of buildings three stories or less in height that are fully supported on earth or rock, where the structural design of the footing is based on a specified compressive strength, f'c, no greater than 2,500 pounds per square inch (psi) (17.2 Mpa).

2. Continuous concrete footings supporting walls of buildings three stories or less in height that are fully supported on earth or rock where:

   2.1. The footings support walls of light-frame construction;
   2.2. The footings are designed in accordance with Table 1805.4.2; or
   2.3. The structural design of the footing is based on a specified compressive strength, f'c, no greater than 2,500 pounds per square inch (psi) (17.2 Mpa), regardless of the compressive strength specified in the construction documents or used in the footing construction.

3. Nonstructural concrete slabs supported directly on the ground, including prestressed slabs on grade, where the effective prestress in the concrete is less than 150 psi (1.03 Mpa).

4. Concrete foundation walls constructed in accordance with Table 1805.5(5).

5. Concrete patios, driveways and sidewalks, on grade.

II-3-2.13

Section 1805.4 of the California Building Code, 2007 Edition is amended as follows:

1805.4.2.7 Foundations

All new foundations required due to building additions to existing occupancies shall be of the same type of foundation system as the existing structure. Additions to R3 occupancies without an available soils report and where the existing foundation system is a standard "T" type or a pier and grade beam type, may be constructed as follows at the option of the property owner.

EXCEPTION: A soil report is required for both new residences and additions to residences in Hillside Areas.

1805.4.2.8 General

Footings shall be designed in accordance with the structural provisions of the California Building Code including, where applicable, Table 1805.4.2 and this Chapter.

1805.4.2.9a Concrete Foundation Piers

Unless the new foundation has been designed by the architect or a registered Civil or Structural Engineer, the building addition must be constructed on a pier and beam type foundation. The concrete piers shall be at least 12 inches in diameter, extend at least 6 feet below pad grade, and have a horizontal center-to-center spacing of no greater than 6 feet.

Interior floor supports for a building addition constructed with a raised floor (4-inch by 4-inch post on a nailer plate or equal) shall be supported on concrete piers extended at least 8" above pad grade. The piers can be extended using a short section of a sonotube.

1805.4.2.9b Grade Beams

The connecting grade beams for a building addition constructed with either a raised floor on a concrete slab-on-grade shall be at least 10 inches wide by 16 inches deep. A 1 ½ inch void space shall be created at the bottom of the beam between pier locations.

1805.4.2.9c Reinforcement

The minimum reinforcement for grade beams shall be two #4 bars at top and two #4 bars at bottom, with #4 ties at 18-inch centers or #3 ties at 12-inch centers. All bars shall have a minimum 3-inch clear cover of concrete. Splices in reinforcement shall be as follows:

1. Top steel shall be spliced at mid span between piers.
2. Bottom steel shall be spliced over the pier centerline.
3. All splices shall have a minimum length of 40 bar diameters and shall be staggered.
   Pier reinforcement shall consist of at least three #4 vertical bars with #3 ties at 4" o.c. for upper 18" of pier and 8" o.c. for remaining pier depth vertical bar. This reinforcement shall extend to within 6 inches of the bottom of the pier holes, shall have a minimum 3-inch cover of concrete between each bar and the sides of the pier hole, and shall be aligned with the centerline of the connecting beam. The vertical bar(s) of each pier shall extend into the grade beam and have a minimum 12-inch standard hook with the top bar of the connecting footing.

Reinforcement is required in concrete floor slabs constructed on grade. The slab shall be reinforced with not less than six inches by six inches by ten-gauge wire mesh or an approved alternate installed at mid height of the slab.

1805.4.2.9d Concrete

All concrete used to construct foundations or concrete slab-on-grade for building additions shall comply with the requirements of the California Building Code and shall have a minimum specified 28-day compressive strength (fc) of 2500 psi.

1805.4.2.9e Concrete Slab-on-Grade

Interior concrete slab-on-grade shall be at least 4" inches thick and be constructed on a capillary break that has been placed on a stabilized subgrade and is capped with a vapor barrier. The capillary break should be at least 4 inches thick and consist of a free-draining material, such as 3/8" pea gravel or a permeable aggregate complying with CALTRANS Standard Specifications, Section 68, Class 1, Type A or Type B. The membrane vapor barrier should be a high quality membrane such as 6 mil polyethylene. A minimum 2-inch-thick protective cushion of sand or capillary break material should be placed over the membrane. The slab shall be reinforced with not less than 6x6 ten gauge wire mesh or an approved alternative installed at mid height of the slab.

Where interior wall loads are to be carried by the floor slab, the slab section shall be thickened to 12 inches and founded directly on the undisturbed sub-grade.

The soil sub-grade should be brought to moisture equilibrium by covering it with an impervious membrane for a minimum period of two weeks before placement of the concrete floor slab. The covering should be equivalent to at least a 6 mil polyethylene. Rock to be used as capillary break may be used to keep the basal membrane in place.

II-3-2.14

Section 1910 of the California Building Code, 2007 Edition, is amended as follows:

Section 1910 Minimum Slab Provisions.

1910.1 General. The thickness of concrete floor slabs supported directly on the ground shall not be less <u>than 4 inches</u>. A 6-mil (0.0006 inch;0.15 mm) polyethylene vapor retarder with joints lapped not less than 6 inches (152 mm) shall be placed between the base course or subgrade and the concrete floor slab, or other approved equivalent methods or materials shall be used to retard vapor transmission through the floor slab.

Exception: A vapor retarder is not required:

1. For detached structures accessory to occupancies in Group R-3 , such as garages, utility buildings or other unheated facilities.
2. For unheated storage rooms having an area of less than 70 square feet (6.5 m2) and carports attached to occupancies Group R-3.

3. For buildings of other occupancies where migration of moisture through the slab from below will not be detrimental to the intended occupancy of the building.
4. For driveways, walks, patios and other flatwork which will not be enclosed at a later date.
5. Where approved based on local site conditions.
6. The slab shall be reinforced with not less than 6x6x10 gauge wire mesh or an approved alternate installed at mid-height of the slab.

II- 3-2.15

Section 2301.2, method 3 of California Building Code, 2007 Edition is revised as follows:
Delete Exception

II-3.31

Table 2305.3.4 of the California Building Code,2007 Edition is amended as follows:

Delete the last row and footnote "b" of Table 2305.3.4

II-3-32

Section 2305.3.9 of the California Building Code,2007 Edition is amended as follows:

2305.3.9 Summing shear capacities. The shear values for shear panels of different capacities applied to the same side of the wall are not cumulative except as allowed in Table 2306.4.1. The shear values for material of the same type and capacity to both faces of the same wall are cumulative. Where the material capacities are not equal, the allowable shear shall be either two times the smaller shear capacity or the capacity of the stronger side, whichever is greater. Summing shear capacities of dissimilar materials applied to opposite faces or to the same wall line is not allowed.

II-3-33

Section 2306.4.5: of the California Building Code,2007 Edition is deleted in its entirety.

Table 2306.4.5 of the California Building Code,2007 Edition is amended as follows:

Delete Table, except item 1 for conventional light-frame construction as per MMC section II-3-34.

II-3-34

Section 2308.1 of The California Building Code, 2007 Edition is adopted with amendments as follows:

Section 2308.1 General. The requirements of this section are intended for conventional light-frame construction. Other methods are permitted to be used, provided a satisfactory design is submitted showing compliance with other provisions of this code. Interior-bearing partitions, ceilings and curtain walls of conventional light-frame construction are not subject to the limitations of this section.

Section 2308.3.4 of The California Building Code, 2007 Edition is adopted with amended as follows:

Section 2308.3.4 Braced wall line support. Braced wall lines shall be supported by continuous foundations.

Exceptions:

1. One-story buildings with maximum plan dimension not exceeding 50 feet (15240 mm), may have continuous foundations located at exterior braced wall lines only.
2. Two-story buildings with a maximum plan dimension not exceeding 50 feet (15240 mm) may have braced wall lines supported on continuous foundations at the exterior walls only, provided:

    1. Cripple walls do not exceed 4 feet (1219 mm) in height.
    2. Where the first story is supported on a raised wood framed floor, the interior braced wall panels are directly supported by either doubled joists, continuous 4x blocking or minimum 4x floor beams.

The text of section 2308.9.3 is deleted and replaced with the following:

Bracing.

A. Braced wall lines shall consist of braced wall panels which meet the requirement for location, type and amount of bracing as shown in Figure 2308.9.3, specified in Table 2308.9.3 (1) and are in line of offset from each other by not more than 4 feet (1219mm). Braced wall panels shall start not more than 12.5 feet (3810 mm) from each end of a braced wall line. Braced wall panels shall be clearly indicated on the plans. Construction of braced wall panels shall be by one of the following methods:

1. Wood boards of 5/8" (16 mm) net minimum thickness applied diagonally on studs spaced not over 24 inches (610 mm) on center.
2. Wood structural panel sheathing with a thickness not less than 5/16" (7.9 mm) for 16 inch (406 mm) stud spacing and not less than 3/8" (9.5 mm) for 24 inch (610mm) stud spacing in accordance with Tables 2308.9.3 (3).
3. Fiberboard sheathing 4-foot by 8-foot (1219mm by 2438 mm) panels not less than 1/2 inch (13mm) thick applied vertically on studs spaced not over 16-inches (406 mm) on center when installed in accordance with Section 2306.4.4 and Table 2306.4.4
4. Particleboard wall sheathing panels where installed in accordance with 2308.9.3 (4).
5. Portland cement plaster on studs spaced 16-inches (406 mm) on center installed in accordance with Table 2306.4.5. Limited to one story structures of R-3 and U occupancies.
6. Hardboard panel siding when installed in accordance with Section 2303.1.6 and Table 2309.9.3 (5).

For cripple wall bracing see Section 2308.9.4:For methods 1, 2, 3, 4, 5, and 6 each braces wall panel must be at least 48-inches (1219 mm) in length, covering three stud spaces where studs are 16-inches (406 mm) apart and covering two stud spaces where studs are spaced 24-inches (610 mm) apart.

B. All vertical joints of panel sheathing shall occur over studs. Horizontal joints shall occur over blocking equal in size to the studding except where waived by the installation requirements for the specific sheathing materials.

C. Braced wall panel sole plates shall be nailed to the floor framing and top plates shall be connected to the framing above in accordance with Table 2304.9.1 Sills shall be bolted to the foundation or slab in accordance with Section 1805.6. Where joists are perpendicular to braced wall lines above, blocking shall be provided under and in line with the braced wall panels.

Section 2308.12.4 of The California Building Code, 2007 Edition is adopted with amended as follows:

Braced wall line sheathing. Braced wall lines shall be braced by one of the types of sheathing prescribed by Table 2308.12.4 as shown in Figure 2308.9.3. The sum of lengths of braced wall panels at each braced wall line shall conform to Table 2308.12.4. Braced wall panels shall be distributed along the length of the braced wall line and start at not more than 8 feet (2438 mm) from each end of the braced wall line. Sheathing shall be fastened to studs, top and bottom plates and at panel edges occurring over blocking. Wall framing to which sheathing used for bracing is applied shall be nominal 2 inch wide [actual 1.5 inch (38 mm)] or larger members, spaced a maximum of 16 inches on center. Nailing shall be minimum 8d common placed 3/8 inches from panel edges and spaced not more than 6 inches on center, and 12 inches on center along intermediate framing members.

Table 2308.12.4 is amended as follows:

- In footnotes 'b' and 'c' of Table 2308.12.4, delete all references to "gypsum board", "gypsum lath", "Portland cement plaster", and "gypsum sheathing boards".

Section 2308.12.5 of The California Building Code, 2007 Edition is adopted with amended as follows:

Attachment of sheathing. Fastening of braced wall panel sheathing shall not be less than that prescribed in Table 2308.12.4 or 2304.9.1. Wall sheathing shall not be attached to framing members by adhesives. All braced wall panels shall extend to the roof sheathing and shall be attached to parallel roof rafters or blocking above with framing

clips (18 gauge minimum) spaced at maximum 24 inches (6096 mm) on center with four 8d nails per leg (total eight 8d nails per clip). Braced wall panels shall be laterally braced at each top corner and at maximum 24 inch (6096 mm) intervals along the top plate of discontinuous vertical framing.

II-3.2.35

Section 2505 of the California Building Code, 2007 Edition, is amended as follows:

Deleted in its entirety

II-3.2.36

Section 2901.2 is added to the California Building Code, 2007 Edition, to read as follows**:**

Food Consumed on the Premises

Not withstanding anything to the contrary contained in or inferable from the applicable California Building Code, or in this Chapter, every establishing selling food for consumption on the premises of said establishment (at tables or counters or otherwise) shall have at least one (1) toilet room (with toilet and wash basin) for the use of employees and customers. The provisions of this Section shall not apply to an establishment which sells food exclusively for take-out (i.e. consumption off the premises) and which does not have tables, counters or other places or facilities for customers to consume food on the premises excepting that employees of all food facilities shall have access to toilet and hand-washing facilities as required by this code and as required by the Health Department.

II-3-2.37

Section 3310.1 of California Building Code, 2007 Edition, is amended as follows:

Stairways Required. All floor levels above the first story in new multi-story buildings that require 2 exit stairs shall be provided with at least two usable exit stairways (temporary or permanent) after the floor decking is installed. The stairways shall be continuous and discharge to grade level. Stairways serving more than two floor levels shall be enclosed (with openings adequately protected) after exterior walls/windows are in place. Exit stairs in new and in existing, occupied buildings shall be lighted and maintained clear of debris and construction materials at all times.

Exception: For new multi-story buildings, one of the required exit stairs may be obstructed on not more than two contiguous floor levels for the purposes of stairway construction (i.e., installation of gypsum board, painting, flooring, etc.).

II-3-2.38

Section 3402.1 of the California Building Code, 2007 Edition, is amended as follows:

The following definitions to be added:

Substantial Structural Damage. A Condition where:

1. In any story, the vertical elements of the lateral-force-resisting system, have suffered damage such that the lateral load-carrying capacity of the structure in any direction has been reduced by more than 20 percent from its pre-damaged condition, or

2. The capacity of any vertical gravity load-carrying component, or any group of such components, that supports more than 30 percent of the total area of the structure's floor (s) and roof (s) has been reduced more than 20 percent from its pre-damaged condition, and the remaining capacity of such affected elements with respect to all dead and alive loads is less than 75 percent of that required by the building code for new buildings of similar structure, purpose, and location.

II-3-2.32

Section 3403 of the California Building Code, 2007 Edition, is amended as follows:

Add Section 3403.5 to read as follows:

3403.5. Repairs

3403.5.1 Scope. Repairs of structural elements shall comply with this section.

3403.5.1.1. Seismic evaluation and design. Seismic evaluation and design of an existing building and its components shall be based on the following criteria:

3403.5.1.1.1. Evaluation and design procedures. The seismic evaluation and design shall be based on the following procedures:

1. As specified in the building code (Chapter 16)
2. ASCE 31 Seismic Evaluation of Existing Buildings (for evaluation only)
3. ASCE 41 Seismic Rehabilitation of Existing Buildings
4. The procedures contained in Appendix Chapter A2 , A3, A4 and A5 of the International Existing Building Code (IEBC) and Appendix Chapter A1 of California Existing Building Code (CEBC) shall be permitted to be used as specified in Section 3403.1.1.3 (MMC Chapter 14)

3403.5.1.1.2. CBC level seismic forces. When seismic forces are required to meet the building code level, they shall be one of the following:

1. 100 percent of the values in the building code. The R factor used for analysis in accordance with Chapter 16 of the building code shall be the R factor specified for structural systems classified as "Ordinary" unless it can be demonstrated that the structural system satisfies the proportioning and detailing requirements for systems classified as "Intermediate" or "Special".

2. Forces corresponding to BSE-1 and BSE-2 Earthquake Hazard Levels defined in ASCE 41. Where ASCE 41 is used, the corresponding performance levels shall be those shown in Table 3403.5.1.1.2.

TABLE 3403.5.1.1.2
ASCE 41 and ASCE 31 PERFORMANCE LEVELS

OCCUPANCY CATEGORY (BASED ON CBC TABLE 1604.5)	PERFORMANCE LEVEL FOR USE WITH ASCE 31 AND WITH ASCE 41 BSE-1 EARTHQUAKE HAZARD LEVEL	PERFORMANCE LEVEL FOR USE WITH ASCE 41 BSE-2 EARTHQUAKE HAZARD LEVEL
I	Life Safety (LS)	Collapse Prevention (CP)
II	Life Safety (LS)	Collapse Prevention (CP)
III	Note (a)	Note (a)
IV	Immediate Occupancy (IO)	Life Safety (LS)

a. Performance Levels for Occupancy Category III shall be taken as halfway between the performance levels specified for Occupancy Category II and Occupancy Category IV.

3403.5.1.1.3 Reduced CBC level seismic forces When seismic forces are permitted to meet reduced building code levels, they shall be one of the following:

1. 75 percent of the forces prescribed in the building code. The R factor used for analysis in accordance with Chapter 16 of the building code shall be the R factor as specified in Section 3403.5.1.1.2.

2. In accordance with the applicable chapters in Appendix A of the International Existing Building Code and California Existing Building Code, as specified in Items 2.1 through 2.5 below. Structures or portions of structures that comply with the requirements of the applicable chapter in Appendix A shall be deemed to comply with the requirement for reduced Building Code force levels.

   2.1 The seismic evaluation and design of unreinforced masonry bearing wall buildings in Occupancy Category I or II are permitted to be based on the procedures specified in part 10 of 2007 CBC.

   2.2 Seismic evaluation and design of the wall anchorage system in reinforced concrete and reinforcements for reduced building code force levels. Masonry wall buildings with flexible diaphragms in Occupancy Category I or II are permitted to be based on the procedures specified in Appendix Chapter A2 of IEBC.

   2.3 Seismic evaluation and design of cripple walls and sill plate anchorage in residential buildings of light-frame wood construction in Occupancy Category I or II are permitted to be based on the procedures specified in Appendix Chapter A3 of IEBC.

   2.4 Seismic evaluation and design of soft, weak, or open-front wall conditions in multiunit residential buildings of wood construction in Occupancy Category I or II are permitted to be based on the procedures specified in Appendix Chapter A4 of the IEBC.

   2.5 Seismic evaluation and design of concrete buildings and concrete with masonry infill buildings in all Occupancy Categories are permitted to be based on the procedures specified in Appendix Chapter A5 of the IEBC.

3. In accordance with ASCE 31 based on the applicable performance level as shown in Table 3403.5.1.1.2.

4. Those associated with the BSE-1 Earthquake Hazard Level defined in ASCE 41 and the performance level as shown in Table 3403.5.1.1.2. Where ASCE 41 is used, the design spectral response acceleration parameters S_{xs} and S_{x1} shall not be taken less than 75 percent of the respective design spectral response acceleration parameters S_{DS} and S_{D1} defined by the California Building Code and its reference standards.

3403.5.1.2. Wind Design. Wind design of existing buildings shall be based on the procedures specified in the building code.

3403.5.2. Repairs to damaged buildings. Repairs to damaged buildings shall comply with this section.

3403.5.2.1. Unsafe conditions. Regardless of the extent of structural damage, unsafe conditions shall be eliminated.

3403.5.2.2 Substantial structural damage to vertical elements of the lateral–force-resisting system. A building that has sustained substantial structural damage to the vertical elements of its lateral-force-resisting system shall be evaluated and repaired in accordance with the applicable provisions of Section 3403.5.2.2.1 through 3403.5.2.2.3.

3403.5.2.2.1. Evaluation. The building shall be evaluated by a registered design professional, and the evaluation findings shall be submitted to the code official. The evaluation shall establish whether the damaged building, if repaired to its pre-damage state, would comply with the provisions of the building code.

Wind forces for this evaluation shall be those prescribed in the building code.

Seismic forces for this evaluation are permitted to be the reduced level seismic forces specified in Code Section 3403.5.1.1.3.

3403.5.2.2.2. Extent of repair for compliant buildings. If the evaluation establishes compliance of the pre-damage building in accordance with Section 3403.5.2.2.1, then repairs shall be permitted that restore the building to its pre-damage state, using materials and strengths that existed prior to the damage.

3403.5.2.2.3. Extent of repair for non-compliant buildings. If the evaluation does not establish compliance of the pre-damage building in accordance with Section 3403.5.2.2.1, then the building shall be rehabilitated to comply with applicable provisions of the building code for load combinations including wind or seismic forces.

Wind

The wind design level for the repair shall be as required by the building code in effect at the time of original construction unless the damage was caused by wind, in which case the design level shall be as required by the code in effect at the time of original construction or as required by the building code, whichever is greater.

Seismic

Seismic forces for this rehabilitation design shall be those required for the design of the predamaged building, but not less than the reduced level seismic forces specified in Section 3403.5.1.1.3. New structural members and connections required by this rehabilitation design shall comply with the detailing provisions of the building code for new buildings of similar structure, purpose, and location.

3403.5.2.3. Substantial structural damage to vertical load-carrying components. Vertical load-carrying components that have sustained substantial structural damage shall be rehabilitated to comply with the applicable provisions for dead and live loads in the building code. Undamaged vertical load-carrying components that receive dead or live loads from rehabilitated components shall also be rehabilitated to carry the design loads of the rehabilitation design. New structural members and connections required by this rehabilitation design shall comply with the detailing provisions of the building code for new buildings of similar structure, purpose, and location.

3403.5.2.3.1. Lateral force-resisting elements. Regardless of the level of damage to vertical elements of the lateral force-resisting system, if substantial structural damage to vertical load-carrying components was caused primarily by wind or seismic effects, then the building shall be evaluated in accordance with Section 3403.5.2.2.1 and, if non-compliant, rehabilitated in accordance with Section 3403.5.2.2.3.

3403.5.2.4. Less than substantial structural damage. For damage less than substantial structural damage, repairs shall be allowed that restore the building to its pre-damage state, using materials and strengths that existed prior to the damage. New structural members and connections used for this repair shall comply with the detailing provisions of the building code for new buildings of similar structure, purpose, and location.

3403.5.3 Referenced Standards

Standard Referenced Number	TITLE	Reference In Code Section Number
ASCE 31-03	Seismic Evaluation of Existing Buildings	3403.5.1.1.1, TABLE 3403.5.1.1.2, 3403.5.1.1.3
ASCE 41-06	Seismic Rehabilitation of Existing Buildings	3403.5.1.1.1, 3403.5.1.1.2, TABLE 403.5.1.1.2, 3403.5.1.1.3

II-3-2.33

Section 3406 of the California Building Code, 2007 Edition, is amended as follows:

3406.4 Change of Occupancy. When a building or portion thereof is subject to a change of occupancy such that a change in the nature of the occupancy results in a higher seismic occupancy factor based on Table 1604.5; or where such change of occupancy results in a reclassification of a building to a higher hazard category as shown in Table 3406.4; or where a change of a Group M occupancy to a Group A, E, I-1, R-1, R-2, or R-4 occupancy with two-thirds or more of the floors involved in alteration work and total accumulated work area exceeds 50% of the aggregate area of the building, the building shall conform to the seismic requirements of the Building Code for a new structure.

Exceptions:

1. Specific detailing provisions required for a new structure are not required to be met where it can be shown that an acceptable level of performance and seismic safety is obtained for the applicable occupancy category using reduced CBC level seismic forces as prescribed in Section 3403.5.1.1.3. The rehabilitation procedures shall be approved by the code official and shall consider the regularity, overstrength, redundancy and ductility of the lateral-load-resisting system within the context of the existing detailing of the system.
2. When a change of use results in a structure being reclassified from Occupancy Category I or II to Occupancy Category III and the structure is located in a seismic map area where $S_{DS} < 0.33$, compliance with the seismic requirements of this code and ASCE 7 are not required.
3. Where the area of the new occupancy with a higher hazard category is less than or equal to 10 percent of the total building floor area and the new occupancy is not classified as Occupancy Category IV. For the purposes of this exception, where a structure is occupied for two or more occupancies not included in the same occupancy category, the structure shall be assigned the classification of the highest occupancy category corresponding to the various occupancies. Where structures have two or more portions that are structurally separated, each portion shall be separately classified. Where a structurally separated portion of a structure provides required access to, required egress from or shares life safety components with another portion having a higher occupancy category, both portions shall be assigned the higher occupancy category. The cumulative effect of the area of occupancy changes shall be considered for the purposes of this exception.

TABLE 3406.4
OCCUPANCY HAZARD CATEGORIES

RELATIVE HAZARD	OCCUPANCY CLASSIFICATIONS
1 (Highest Hazard)	H
2	I-2, I-3, I-4
3	A, E, I-1, M, R-1, R-2, R-4
4	B, F-1, R-3, S-1
5 (Lowest Hazard)	F-2, S-2, U

Section 3 Repeal of Conflicting Ordinances

II-3-3.01

Upon adoption of each new California Building Code, as amended, the previous adopted California Building Code is superseded in its entirety.

Section 4 Severability

II-3-4

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

This Chapter shall become effective on January 1, 2008.

Section 1 Adoption of the Mechanical Code

II-5-1.01

The 2007 Edition of the California Mechanical Code, California Building Standards Code, known as the California Code of Regulations, Title 24, incorporating the Uniform Mechanical Code, 2006 Edition including Appendix A, Appendix B, Appendix C, Appendix D, published by the International Association of Plumbing and Mechanical Officials, with the amendments set forth in Section II-5-2.00 is hereby adopted. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 2007 California Mechanical Code

II-5-2.01

The California Mechanical Code, 2007 Edition, is amended or changed in the following respects.

II-5-2.02

Chapter 1 of the California Mechanical Code,-2007 Edition, consisting of administrative provisions is deleted in its entirety.

II-5-2.03

Section 309.1.1 shall be added to the California Mechanical Code, 2007 Edition, to read as follows:

309.1.1 Non-Essential Use of Domestic Water. City water used for cooling purposes is prohibited unless fifty (50) percent or more is recycled.

Section 3 Repeal of Conflicting Ordinances

II-5-3.01

Upon adoption of each new California Mechanical Code, the previously adopted California Mechanical Code is superseded in its entirety.

Section 4 Severability

II-5-4.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-5-5.01

This chapter shall become effective on January 1, 2008.

Section 1 Adoption of the Electrical Code

II-6-1.01

The 2007 Edition of the California Electrical Code, California Building Standards Code, known as the California Code of Regulations, Title 24, incorporating the National Electrical Code, 2005 Edition including Annex A, Annex B, Annex C, Annex D, Annex E and Annex F, published by the National Fire Protection Association with the amendments set forth in Section II-6-2.00 is hereby adopted. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 2007California Electrical Code

II-6-2.01

The California Electrical Code, 2007 Edition is amended or changed in the following respects.

II-6-2.02

Section 230.2(F) of the California Electrical Code, 2007 Edition, is added to read as follows:

230.2(F). Underground Service. All new electrical services shall be underground and installed per Section 230.30, Underground Service-Lateral Conductors.

II-6-2.03

Subsection 230.70(A).of the California Electrical Code, 2007 Edition, is amended to read as follows:

230.70(A) **Location.** The service disconnecting means shall be installed in accordance with Subsections 230.70(A), (1), (2), (3) and (4).

(1) **Readily Accessible Location** The service disconnecting means shall be installed at a readily accessible location either inside or outside of a building or structure or inside nearest the point of entrance of the service conductors.

(2) **Bathrooms.** Service disconnecting means shall not be installed in bathrooms.

(3) **Remote Control.** Where a remote control sensing device(s) is used to actuate the service disconnecting means, the service disconnecting means shall be located in accordance with Subsection 230.70(A)(1).

(4) **Disconnect Location.** The building main service disconnect and/or disconnects shall be installed on the first floor level of the building.

II-6-2.04

Section 250.50(A) of the California Electrical Code, 2007 Edition, is added to read as follows:

250.50(A). Grounding System in New Buildings. Grounding electrode systems in all new buildings shall be an electrode encased by at least 50 mm (two inches) of concrete located within and near the bottom of a concrete foundation or footing that is in direct contact with earth. The electrode shall consist of at least 6.0m (20 feet) of one or more steel reinforcing bars or rods, of not less than 13mm (1/2 inch) diameter. The connection side of this concrete-encased electrode shall be located remotely away from the main electrical service equipment.

II-6-2.05

Section 300.1 of the California Electrical Code, 2007 Edition, is amended by adding subsection (D) to read as follows:

300.1(D). Underground Raceways. All underground raceways shall be provided with an equipment grounding conductor unless indicated elsewhere in this code.

Section 3 Repeal of Conflicting Ordinances

II-6-3.01

Upon adoption of each new California Electrical Code, the previously adopted California Electrical Code is superseded in its entirety.

Section 4 Severability

II-6-4.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-6-5.01

This Chapter shall become effective on January 1, 2008.

Section 1 Adoption of the Plumbing Code

II-7-1.00

The 2007 Edition of the California Plumbing Code, California Building Standards Code, known as the California Code of Regulations, Title 24, incorporating the Uniform Plumbing Code, 2006 Edition, including Appendix A, Appendix B, Appendix C, Appendix D and Appendix I published by the International Association of Plumbing and Mechanical Officials, with the amendments set forth in Section III-7-2.00 is hereby adopted. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 2007 California Plumbing Code

II-7-2.01

The California Plumbing Code, 2007 Edition, is amended or changed in the following respects.

II-7-2.03

Section 602.5 is added to the California Plumbing Code, 2007 Edition, to read as follows:

602.5.Non Essential Use of Domestic Water. City water used for cooling purposes is prohibited unless fifty (50) percent or more is recycled.

II-7-2.05

Section 710.1 of the California Plumbing Code, 2007Edition, is amended as follows:

710.1 Drainage of Fixtures Located Below the Next Upstream Manhole or Below the Main Sewer Level. Where the elevation of the lowest floor containing gravity waste drainage plumbing of any structure connected, or to be connected is less than one foot above the surface elevation of the nearest upstream public sewer structure capable of overflow and relief of pressure (i.e., manhole, pressure relief, flushing inlet, or rodding inlet structure), there shall be installed and kept in operable condition at all times by the owner at his sole cost and expense, a sewage backflow protection device. Fixtures above such elevation shall not discharge through the backwater valve.

Section 3 Repeal of Conflicting Ordinances

II-7-3.01

Upon adoption of each new California Plumbing Code, as amended, the previous adopted California Plumbing Code is superseded in its entirety.

Section 4 Severability

II-7-4.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-7-5.01

This chapter shall become effective on January 1, 2008.

Chapter 13

II-13-1 TITLE

This Chapter shall be known as the City of Milpitas Grading, Excavation, Paving and Erosion Control Ordinance.

II-13-2 PURPOSE

The purpose of this Chapter is to set forth rules, regulations, and controls on grading, excavation, paving and earth work construction including cuts, fills, embankments, the cutting and clearing of vegetation, the revegetation of cleared areas, the management of drainage and measures to protect exposed soil surfaces in order to safeguard water ways, promote the public health, safety and welfare and to protect public and private property. And further to encourage the harmonious blend between the built environment and the natural environment, to implement the City of Milpitas adopted General Plan and to insure that the design, scope and location of grading and related activities cause minimum disturbance to terrain and natural features, to provide erosion control and to prevent sedimentation or damage to off-site property.

II-13-3 SCOPE

This Chapter sets forth rules and regulations to control excavation, grading, paving and earth work construction, including fills and embankments; and erosion control; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of grading construction.

II-13-4 PERMITS REQUIRED

01 No person shall do any grading, filling, excavation, or clearing of natural vegetation without first having obtained a grading permit from the Building and Safety except for the following:

.01 An excavation below finished grade for swimming pools, basements and footings of a building, retaining wall pier holes or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure.

.02 Cemetery graves.

.03 Refuse disposal sites controlled by other regulations.

.04 Excavations for wells or tunnels or utilities.

.05 Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in, or pressure upon any adjacent or contiguous property.

.06 Exploratory excavations under the direction of soil engineers or engineering geologists.

.07 An excavation which (a) is less than 2 feet in depth, and (b) which does not create a cut slope greater than 5 feet in height and steeper than two horizontal to one vertical, (c) and does not result in the movement of more than (50) cubic yards of material.

.08 A fill less than 1 foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical, and less than 2 feet in depth, not intended to support structures, and which does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course.

02 Fees shall be as set by Resolution of the City Council of Milpitas.

II-13-5 HAZARDS

Whenever the Chief Building Official determines that any existing excavating or embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, the Lessee thereof or other person or agent in control of said property, upon receipt of notice in writing

from the Chief Building Official, shall within the period specified therein, repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter.

II-13-6 DEFINITIONS

For the purposes of this chapter the definitions listed hereunder shall be construed as specified in this section.

.01 APPROVAL shall mean a written engineering or geological opinion concerning the progress and completion of the work.

.02 AS-GRADED is the surface conditions extant on completion of grading.

.03 BEDROCK is in-place solid rock.

.04 BENCH is a relatively level step excavated into earth material on which fill is to be placed.

.05 BORROW is earth material acquired from an off-site location for use in grading on a site.

.06 BUILDING PAD, the ground under the building.

.07 CIVIL ENGINEER shall mean a professional engineer registered in the state to practice in the field of civil works.

.08 CIVIL ENGINEERING shall mean the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil work for the beneficial uses of mankind.

.09 COMPACTION is the densification of a fill by mechanical means.

.10 CUT. See Excavation.

.11 DOWNDRAIN A device for collecting water from a swale or ditch located on or above a slope, and safely delivering it to an approved drainage facility

.12 EARTH MATERIAL is any rock, natural soil or fill and/or any combination thereof.

13 ENGINEERING GEOLOGIST shall mean a geologist experienced and knowledgeable in engineering geology.

.14 ENGINEERING GEOLOGY shall mean the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

.15 EROSION is the wearing away of the ground surface as a result of the movement of wind, water and/or ice.

.16 EXCAVATION is the mechanical removal of earth material. Also referred to as a CUT.

.17 FILL is a deposit of earth material placed by artificial means.

.18 GRADE shall mean the vertical location of the ground surface.

.19 EXISTING GRADE is the grade prior to grading.

.20 ROUGH GRADE is the stage at which the grade approximately conforms to the approved plan.

.21 FINISH GRADE is the final grade of the site which conforms to the approved plan.

.22 GRADING is any excavating or filling or combination thereof.

.23 KEY is a designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.

.24 SITE is any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.

.25 SLOPE is an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

.26 SOIL is naturally occurring superficial deposits overlying bedrock.

.27 SOIL ENGINEER shall mean a Civil Engineer experienced and knowledgeable in the practice of soil engineering.

.28 SOIL ENGINEERING shall mean the application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.

.29 TERRACE is a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

II-13-7 GRADING PERMIT REQUIREMENTS

.01 PERMITS REQUIRED. Except as exempted in Section 4 of this Chapter, no person shall do any grading without first obtaining a grading permit from the Building and Safety. A separate permit shall be required for each site, and may cover both excavations and fills.

.02 ISSUANCE. The provisions of Section 7 are applicable to grading permits. The Chief Building Official may require that grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time permit was issued.

.03 APPLICATION The application for a grading plan shall include:

1. A Site Map
2. A Grading Plan
3. An Erosion Control Plan
4. Any supplementary material as required by the Building and Safety
5. Work schedule
6. Application fees
7. Estimated quantities of material involved

.04 PLANS AND SPECIFICATIONS. Each application for a grading permit shall be accompanied by Five sets of plans and Two sets of specifications, they shall specify the amount of cut, fill export, and import, and supporting data consisting of a soil engineering report and engineering geology report. The plans and specifications shall be prepared and signed by a Civil Engineer when required by the Building and Safety.

.05 INFORMATION ON PLANS AND IN SPECIFICATIONS. Plans shall be drawn to scale upon substantial paper or cloth, minimum dimension 24"x36" sheet size, and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared.

II-13-8 SITE MAP AND GRADING PLAN

.01 A vicinity sketch indicating the location of the site relative to the entire property, adjacent properties, and the principal roads in the area.

.02 Existing and proposed topography of the site taken at not more than a two-foot contour interval over the entire site. Ninety percent (90%) of the contours shall be plotted within one contour interval of the true location.

.03 Two-foot contour intervals that extend a minimum of 200 feet off-site.

.04 The site's property lines shown in true location with respect to the plan's topographic information; and any proposed divisions of land.

.05 The location and graphic representation of all existing and proposed drainage facilities.

.06 The location of proposed excavations and fills, of on-site storage of soil and other earth materials, and of on-site and/or off-site disposal. In cases where the location is off-site, a written description of the location will suffice.

.07 The location of all existing vegetation, especially locations of tree with a trunk diameter of 6 inches or more measured at a point 1 foot above average natural ground level.

.08 The quantity of soil or earth materials in cubic yards, to be excavated, filled, stored or otherwise utilized on-site.

.09 The location of any existing and proposed roads, buildings, wells, pipelines and other structures, facilities, and features on the site and the location of any improvements on adjacent land within twenty-five (25) feet of the proposed work.

.10 The location of watercourses including the width, direction of flow, and approximate location of high banks of any water course, and approximate boundaries of any areas subject to inundation.

.11 Location of known soil or geologic hazard areas.

.12 Availability of public facilities, such as sanitary sewage, water and fire protection.

.13 Completion of an environmental questionnaire unless previously submitted as part of project.

.14 Detailed description of measures to be taken to prevent soil erosion.

.15 Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated runoff of the area served by any drains.

.16 Location of any buildings or structures on the property where the work is to be performed and the location of any building or structures on land of adjacent owners which are within 15 feet of the property of which may be affected by the proposed grading operations, or other information required to complete the application process.

II-13-9 SPECIFICATIONS COVERING CONSTRUCTION AND MATERIAL REQUIREMENTS

.01 SOIL ENGINEERING REPORT. The soil engineering report required by Section 7-Subsection .03 shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures when necessary, and opinions and recommendations covering adequacy of sites to be developed by the proposed grading.

.02 Recommendations included in the report and approved by the Building and Safety shall be incorporated in the grading plans or specifications.

.03 In-depth soils investigations shall be performed by the Soils Engineer if any of the following circumstances occur on the site:

1. More than 1,000 cubic yards of cut and fill material is moved.
2. Cuts and/or fills are more than 10 feet deep.
3. Grading or clearing will be done on slopes greater than 10%.
4. Other conditions as determined by the Chief Building Official.

.04 ENGINEERING GEOLOGY REPORT. The engineering geology report required by Section 7-Subsection .03 shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading.

Recommendations included in the report and approved by the Building and Safety shall be incorporated in the grading plans or specifications.

.05 In-depth geologic investigations, shall be performed by a Geological Engineer, if required by the Chief Building Official.

II-13-10 EROSION CONTROL

.01 EROSION CONTROL PLAN. The plan shall be signed by a registered Civil Engineer. When site stabilization measures are included these shall be prepared by a registered Civil Engineer, Registered Building Designer (with expertise in site stabilization), Landscape Architect, or Architect.

.02 The erosion control plan will fully indicate necessary land treatment, structural measures and timing requirements which will effectively minimize soil erosion and sedimentation. The erosion and sediment control

plan shall contain appropriate information according to this Section and as deemed necessary by the Chief Building Official. Following submittal of the application, the Chief Building Official shall determine the adequacy of the plan and may require the submission of further qualification or information when necessary to judge the adequacy of the planned erosion and sediment control measures.

.03 The erosion control plan shall contain a detailed description of the following:

1. Vegetative measures to stabilize the site, including steps to promote and protect native vegetation.

a) a description and delineation of the vegetative measures to stabilize the site, including, but not limited to, seed bed preparation, seeding methods, seeding time for new erosion control planting, the type, location and extent of pre-existing and undisturbed vegetation, and the steps for the promotion and protection of the native vegetation.

2. Drainage protection and control measures.

3. A description and delineation of non-vegetative surface runoff, erosion and sediment control measures, including, but not limited to, types of and methods of applying mulches, design and specification of berms sediment basins, retention basins, diverters and dikes.

4. Cut and fill construction.

5. Disposal of excess materials.

6. Stockpiling of materials.

7. Dust control measures.

8. A clear and definite delineation of the limits of work showing areas to remain undisturbed and showing areas to be disturbed.

9. Any additional information required by the–Building and Safety when necessary to judge the adequacy of the plan (i.e. mandatory soils and geologic investigations).

10. An estimate of the cost of implementing and maintaining all sediment control measures must be submitted in a form acceptable to the Chief Building Official.

11. The site assessment which shall identify the character of the site as it pertains to:

a) erosion and loss of sediments

b) slope stability

.04 SLOPES. The faces of cut and fill slopes shall be prepared and maintained to control against erosion. This control may consist of effective planting. The protection for the slopes shall be installed as soon as practicable and prior to calling for final approval. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted.

.05 OTHER DEVICES. Where necessary, check dams, cribbing, riprap and other devices or methods that shall be employed to control erosion and provide safety.

II-13-11 WORK SCHEDULE

.01 The applicant must submit a master work schedule showing the following information:

1. The proposed grading schedule.

2. The proposed schedule for installation of all interim erosion and sediment control measures including, but not limited to, the stage of completion of erosion and sediment control devices and vegetative measures.

3. The schedule for construction, if any.

4. The schedule for installation of permanent erosion and sediment control devices where required.

5. A detailed schedule of maintenance and upkeep for both erosion and sediment control facilities and plantings through the first rainy season, identified as November 1 to April 1.

6. Approval on a week to week basis during the period of November 1 to April 1 may be granted by the Chief Building-Official. This approval will require long range weather projection as a primary basis.

II-13-12 Not used

II-13-13 CUTS

.01 GENERAL. Unless otherwise recommended in the approved soil engineering and/or engineering geology report, cuts shall conform to the provisions of this section.

.02 SLOPE The slope of cut surfaces shall be no steeper than safe for the intended use. Cut slopes shall be no steeper than two horizontal to one vertical.

I-13-14 FILLS

.01 GENERAL. Unless otherwise recommended in the approved soil engineering report, fills shall conform to the provisions of this section.
Exception: In the absence of an approved soil engineering report these provisions may be waived for minor fills not intended to support structures.

.02 FILL LOCATION. Fill slopes shall not be constructed on natural slopes steeper than two to one.

.03 PREPARATION OF GROUND. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, top-soil and other unsuitable materials scarifying to provide a bond with the new fill, and, where slopes are steeper than five to one, and the height is greater than 5 feet, by benching into sound bedrock or other competent material as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than five to one shall be at least 10 feet wide and 2 feet deep in accordance with Fig. No.1. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. Where fill is to be placed over a cut, the bench under the toe of fill shall be at least 10 feet wide but the cut must be made before placing fill and approved by the Soils Engineer and Engineering Geologist as a suitable foundation for fill. Unsuitable soil is soil which, in the opinion of the Chief Building Official or the Civil Engineer or the Soils Engineer or the Geologist, is not competent to support other soil or fill, to support structures or to satisfactorily perform the other functions for which the soil is intended.

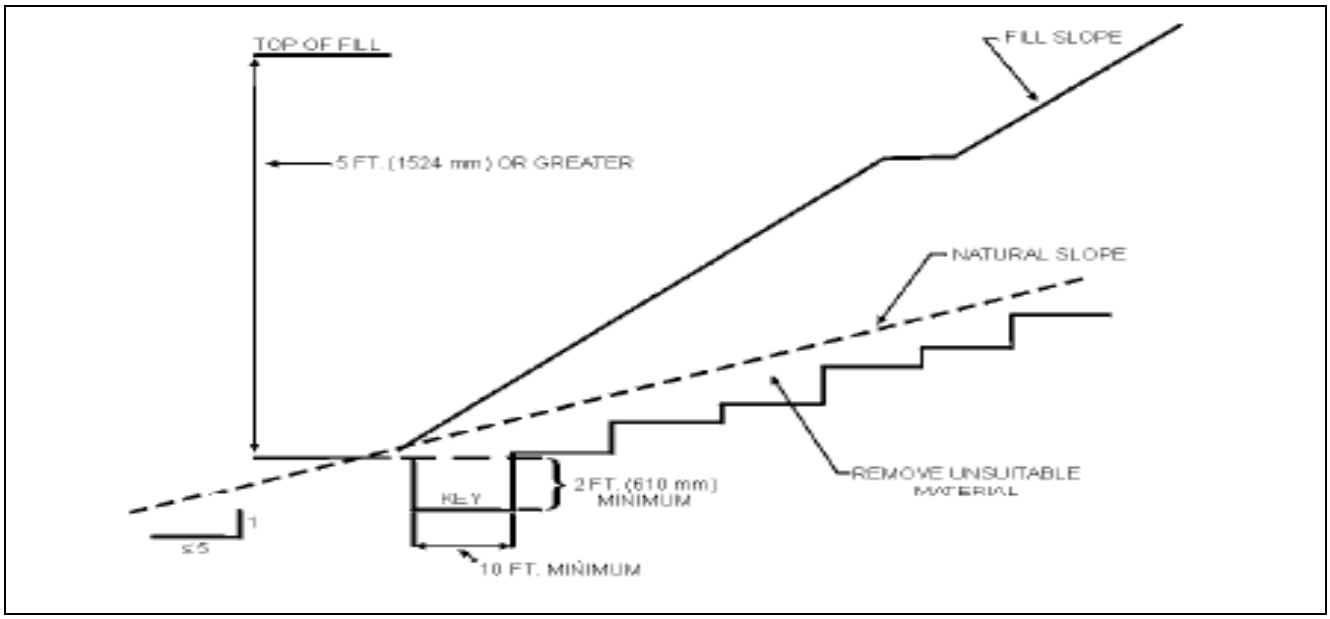

Figure No .1

.04 FILL MATERIAL. Detrimental amounts of organic material shall not be permitted in fills. Except as permitted by the Chief Building Inspector no rock or similar irreducible material with a maximum dimension greater than 12 inches shall be buried or placed in fills.

EXCEPTIONS: The Chief Building Official may permit placement of larger rock when the soils engineer properly devises a method of placement, continuously inspects its placement and approves the fill stability. The following conditions shall also apply:

A. Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan.

B. Rock sizes greater than 12 inches in maximum dimension shall be 10 feet or more below the grade, measured vertically.

C. Rocks shall be placed so as to assure filling of all voids with fines.

.05 COMPACTION. All fill material shall be compacted to 90 percent of maximum density as determined by ASTM D 1557,Modified Proctor, in lifts not exceeding 12 inches (305 mm) in depth or equivalent as approved by the Building and Safety.

.06 SLOPE. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than two horizontal to one vertical.

.07 DRAINAGE AND TERRACING. Drainage and terracing shall be provided, and the area above fill slopes and the surfaces of terraces shall be graded and paved as required by Section 13.

II-13-15 SETBACKS

.01 GENERAL. The setbacks and other restrictions specified by this section are minimum and may be increased by the Building and Safety or by the recommendation of a civil engineer, soils engineer or engineering geologist, if necessary for safety and stability or to prevent damage of adjacent properties from deposition or erosion or to provide access for slope maintenance and drainage. Retaining walls may be used to reduce the required setbacks when approved by the Chief Building Official.

.02 SETBACKS FROM PROPERTY LINES. The tops of cuts and toes of fill slopes shall be set back from the outer boundaries of the permit area, including slope-right areas and easements, in accordance with Figure No.2.

.03 DESIGN STANDARDS FOR SETBACKS. Setback between graded slopes (cut or fill) and structures shall be provided in accordance with CBC 2007 Figure No.1805.3.1

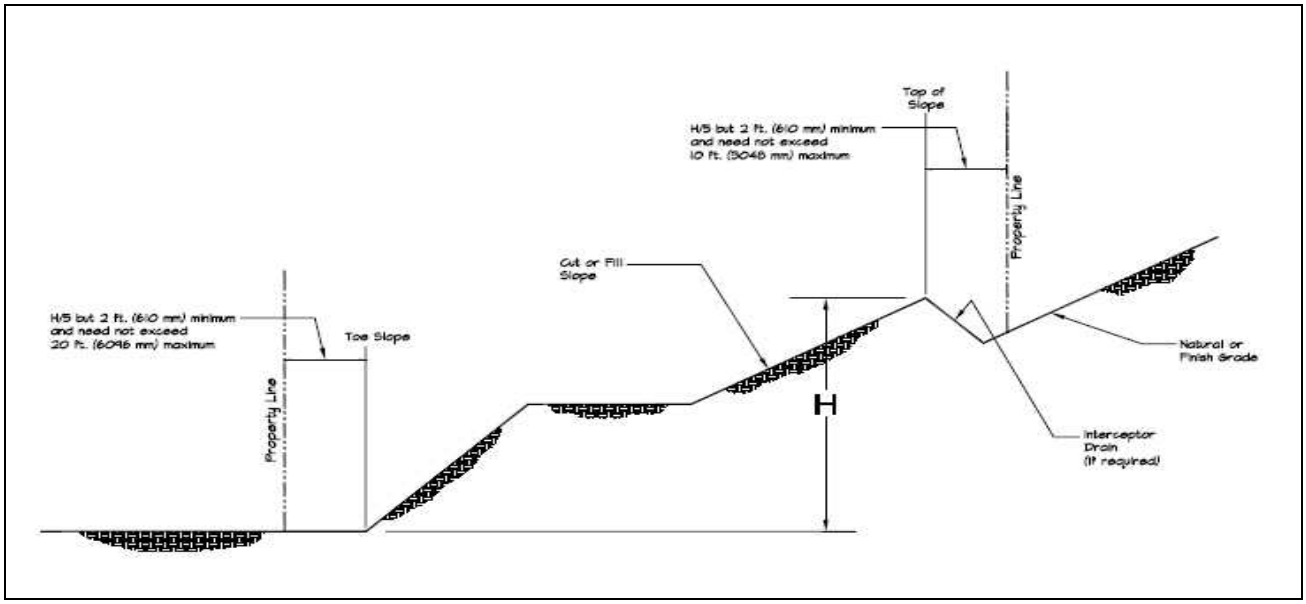

Figure No .2

II-13-16 DRAINAGE AND TERRACING

.01 GENERAL. Unless otherwise indicated on the approved grading plan, drainage facilities and terracing shall conform to the provision of this section.

.02 TERRACE. Terraces at least 6 feet in width shall be established at not more than 30-feet vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than 60 feet and up to 120 feet in vertical height, one terrace at approximately mid-height shall be 12 feet in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet in height shall be designed by the Civil Engineer and approved by the Building and Safety. Suitable access shall be provided to permit proper cleaning and maintenance.

.03 SWALES OR DITCHES. on terraces shall have a minimum gradient of 5 percent and must be paved with reinforced concrete not less than 3 inches in thickness or an approved equal paving. They shall have a minimum depth at the deepest point of 1 foot and a minimum paved width of 5 feet. A single run of swale or ditch shall not collect runoff from a tributary area exceeding 1 surface acre (projected) without discharging into a down drain, and subject to approval of the-Building and Safety.

.04 SUBSURFACE DRAINAGE. Cut and fill slopes shall be provided with sub-surface drainage as necessary for stability.

.05 DISPOSAL. All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the Chief Building Official and/or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of nonerosive downdrains or other devices.

.06 BUILDING sites shall have a drainage gradient of 2 percent from the building pad toward approved drainage facilities, unless waived by the Chief Building Official.

EXCEPTION: The gradient from the building pad may be 1 percent if all of the following conditions exist throughout the permit area:

A. No proposed fills are greater than 10 feet in maximum depth.

B. No proposed finish cut or fill slope faces have a vertical height in excess of 10 feet.

C. No existing slope faces, which have a slope face steeper than 10 horizontally to 1 vertically, shall have a vertical height in excess of 10 feet.

.07 INTERCEPTOR DRAINS. Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than 40 feet measured horizontally. Interceptor drains shall be paved with a minimum of 3 inches of concrete, or gunite and reinforced. They shall have a minimum depth of 12 inches and a minimum paved width of 30 inches measured horizontally across the drain. The slope of drain shall be approved by the Building and Safety.

II-13-17 LOT IMPROVEMENT, PAVING OF DRIVEWAYS, PARKING LOTS

.01 DRAINAGE SWALES. Each lot shall be graded to provide protective slopes away from all sides of all buildings on the lot. Where such a swale meets a slope which drains toward a building, a drainage swale of adequate width, depth and longitudinal gradient will be required to carry away the surface water without flooding against the buildings or without ponding lot areas. The location of the swales is to be directly related to the block grading type.

.02 ELEVATION OF PADS. The elevation of the pads shall be higher than the elevation of the drainage swale or ground slope measured at least 5' (five feet) from the outer walks of the buildings.

.03 DRAINAGE METHOD used shall be shown on all plans. When building plans indicate that the construction will comply with the provisions of this chapter, but inspection shows that the building as constructed cannot drain by gravity, the Building and Safety may require that the condition be remedied by installing a pump or by other approved means. No Final Inspection or Certificate of Occupancy may be issued until this requirement is met.

.04 Not used.

.05 FLAT CEMENT WORK for garage, or carport floors, and patio slabs shall have minimum thickness of 4 inches and shall be installed over (4) inches of an approved aggregate base (6x6x10x10 woven wire mesh laid within the slab may be used in place of the approved aggregate base) and shall have a perimeter footing to a minimum depth of (8) eight inches and a minimum width of 8 inches when not supporting a structure. One continuous horizontal (#4) number four reinforcing steel bar shall be installed in approximate center of the footing. Other flat cement work, except walkways, having any minimum dimension of (6') six feet and a minimum area of (64) sixty-four square feet shall be installed in a like manner.

II-13-18 PAVING STANDARDS

.01 The areas designed for use as driveways, parking lots and loading areas and their approaches shall be paved with asphalt concrete , portland cement concrete on prepared bases or any other approved material meeting traffic index as noted in Sec.02 and shall be maintained in good condition to the satisfaction of the Chief Building Official.

.02 Paving sections shall be designed by a Civil Engineer or a Soils Engineer based on a "R" value test of the native soil and a traffic index as noted below and approved by the Chief Building Official.

1.	One family residential	T.I. 3.5
2.	Multi-family	T.I. 5
3.	Commercial	T.I. 5
4.	Industrial auto parking lots	T.I. 5
5.	Industrial driveways	T.I. 5.5
6.	Industrial & commercial loading zones	T.I. 6

.03 On approval of the Building and Safety, the following minimum standards may be used without a soils report:

a. Residential--Single Family and Duplex

(1) Portland Cement concrete four (4) inches of concrete on four (4) inches of approved granular aggregate base on compacted subgrade.

(2) Asphaltic concrete surfacing Two (2) inches of asphaltic concrete with fog seal on six (6) inches of aggregate base on compacted subgrade.

.04 Residential Multiple, Commercial and Institutional

(1) Portland Cement concrete Five (5) inches of concrete on four (4) inches of aggregate base.

(2) Asphaltic concrete surfacing Two and one half inches (2 ½) of asphaltic concrete with fog seal on ten (10) inches of aggregate base material on compacted subgrade.

An alternate, with approval of the Chief Building Official, a 6x6x10x10 mesh in the concrete may be substituted for the aggregate base under the Portland Cement.

.05 Materials:

a. "Aggregate Base" material shall be Class 2 and shall conform to Caltrans Standard Specifications, Section 26 for 3/4", one and one-half (1½") inches maximum combined grading, except as herein specified.

b. Equipment used in lieu of Section 26-1.04 shall be approved by the Building and Safety prior to construction.

c. "Asphalt Concrete Surfacing" shall conform to Caltrans Standard Specifications, Section 39 for Type B Asphalt Concrete. Aggregate grading shall conform to 1/2" maximum, Medium.

d. Asphalt of grade AR 4000 shall be used and a certificate guaranteeing compliance of asphalt with specification is to be furnished.

e. Placing of tack coat, prime coat, spreading and compaction methods and miscellaneous details of asphaltic construction shall be in accordance with applicable portions of Caltrans Standard Specifications.

f. Concrete:

Portland Cement Concrete shall be designed to develop a strength of a minimum of 2000 pounds per square inch at twenty-eight (28) days and shall be poured with a maximum of (4") four inches of slump.

g. Mix Design:

Mix design shall be designed by an approved laboratory and paid for by the contractor. The basic proportions of the mix shall be determined by weight of loose dry material, and all proportioning of the ingredients for each batch shall be done by weighing the fine and coarse aggregates separately. Water and cement shall be separately measured and introduced to the mix by such methods that the proportions thereof can be accurately controlled and easily checked at any time.

h. Approval:

Approval of the mix shall be by the Building and Safety who may determine accuracy by making tests, to be paid for by the contractor. Batch tickets to be provided the Building and Safety upon request with each load.

II-13-19 Not used.

II-13-20 Not used.

II-13-21 Not used.

II-13-22 Not used.

II-13-23 DESIGN STANDARD-GENERAL

.01 Developments shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion. Control measures shall apply to all aspects of the proposed grading and shall be in operation during all stages of development. The following basic design standards shall serve as minimum guidelines for grading and erosion and sediment control plans.

II-13-24 NATIVE VEGETATION

.01 Native vegetation, requiring minimum maintenance, shall be used, to the extent possible, in permanent replanting areas subject to provisions of the local Fire Code.

.02 Existing natural vegetation shall be retained, protected, and supplemented to the greatest extent possible. Site development shall be accomplished so that existing trees can be preserved whenever possible and practical. In addition, no tree with a trunk diameter of 6 inches or larger measured 1 foot above root base, may be removed without permission of Building and Safety.

II-13-25 PLANTING TIME LIMITS

.01 The planting schedule, as part of erosion control plan, shall include initiation, sequence of installation of sediment control facilities, duration of exposure, start/stop dates of critical area stabilization.

.02 Planting shall be completed as soon as possible after grading and clearance.

.03 Planting shall be completed within 90 days after grading completion and as subject to other seasonal limitations.

II-13-26 DRAINAGE CONTROLS

.01 Drainage controls shall be installed immediately after extensive clearing or grading.

.02 Concentrated runoff shall be taken in nonerodable surfaced facilities.

.03 Runoff conduits shall have energy dissipaters at discharge points.

.04 Roads and driveways shall have a nonerodable surface with drainage facilities.

.05 All graded areas larger than 5,000 sq. ft. that tend to pond or concentrate water be provided with drains.

.06 Underground drainage shall be provided for, where necessary.

.07 Localized drainage from roof areas and driveways shall be removed by adequate drainage systems to prevent erosion.

.08 All such facilities be in place and completed by November 1.

II-13-27 SLOPE CONSTRUCTION

.01 Fill slopes shall not be steeper than two horizontal to one vertical unless a thorough geological and engineering analysis indicates that steeper slopes are safe and appropriate erosion control measures are specified.

.02 Cut slopes shall not be steeper than 2:1 unless a thorough geological and engineering analysis indicates that steeper slopes are safe and appropriate erosion control measures are specified.

II-13-28 SLOPE SURFACE STABILIZATION

.01 No clearing shall take place more than 15 days before grading commences (except with special approval).

.02 All cut/fill surfaces shall have appropriate low maintenance plant material installed.

.03 Clearing shall be kept to the minimum needed, as determined by Building and Safety.

.04 All soil stabilization measures shall be in place as soon as possible after grading and will be defined within the approved sediment control plan.

II-13-29 VEGETATION MAINTENANCE

.01 Adequate irrigation measures shall be available for use prior to planting and shall be maintained until planting has become sufficiently established to properly promote growth.

II-13-30 PROTECTION OF WATERCOURSES

.01 Cuts and fills shall not encroach on natural watercourses or constructed channels.

.02 Fills placed against watercourses shall have suitable protection against erosion during flooding.

.03 Excavated materials shall not be deposited or stored in or alongside the river or watercourses where the materials can be washed away by high water or storm runoff.

II-13-31 SEDIMENT CONTROL

.01 Facilities shall be constructed to maximize the retention of sediment produced on site.

.02 Sediment basins, sediment traps, diversions or similar required measures shall be installed well in advance, coincident of any clearing or grading and maintained throughout any such operations. The design of such structures shall account for potential mosquito problems.

.03 Permanent control structures and final vegetation shall be installed as soon as practical in the development.

.04 Surface runoff rates in excess of pre-development levels shall be retarded by appropriate measures.

.05 Disposal of cleared vegetation and excavated materials shall be done in a manner which reduces the risk of erosion and shall strictly conform to the provisions of the approved grading permit. Topsoil shall be conserved for reuse in revegetation of disturbed areas whenever possible.

II-13-32 GRADING INSPECTION

.01 GENERAL. All grading operations for which a permit is required shall be subject to inspection by the Chief Building Official. When required by the Chief Building Official, special inspection of grading operations and special testing shall be performed in accordance with the provisions of Section. II-I-22.01 of the City of Milpitas Municipal Code.

.02 GRADING DESIGNATION. All grading in excess of 5000 cubic yards shall be performed in accordance with the approved grading plan prepared by a Civil Engineer, and shall be designated as “engineered grading”. Grading involving less than 5000 cubic yards shall be designated “regular grading”, unless the permittee, with the approval of the Chief Building Official, chooses to have the grading performed as “engineered grading”.

.03 ENGINEERED GRADING REQUIREMENTS. For engineered grading, it shall be the responsibility of the Civil Engineer who prepares the approved grading plan to incorporate all recommendations from the soil

engineering and engineering geology reports into the grading plan. He also shall be responsible for the professional inspection and approval of the grading within his area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade and drainage of the development area. The Civil Engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the Chief Building Official. The Civil Engineer also shall be responsible for the preparation of revised plans and the submission of as-graded grading plans upon completion of the work. The grading contractor shall submit in a form prescribed by the Chief Building Official a statement of compliance to said as-built plan.

.04 SOIL ENGINEERING and engineering geology reports shall be required as specified in Section 7. During grading all necessary reports, compaction data and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the Chief Building Official by the Soils Engineer and the Engineering Geologist.

.05 THE SOILS ENGINEER'S area of responsibility shall include, but need not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and the design of buttress fills, where required, incorporating data supplied by the Engineering Geologist.

.06 THE ENGINEERING GEOLOGIST'S area of responsibility shall include, but need not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters and the need for subdrains or other ground water drainage devices. He shall report his findings to the soils engineer and the Civil Engineer for engineering analysis.

.07 THE CHIEF BUILDING OFFICIAL shall inspect the project at the various stages of the work requiring approval and at more frequent intervals as necessary, to determine that adequate control is being exercised by the professional consultants.

.08 REGULAR GRADING REQUIREMENTS. The Chief Building Official may require inspection and testing by an approved testing agency, paid for by the Contractor.

The testing agency's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills.

When the Chief Building Official has cause to believe that geologic factors may be involved the grading operation will be required to conform to "engineered grading" requirements.

.09 NOTIFICATION OF NONCOMPLIANCE. If, in the course of fulfilling their responsibility under this chapter, the Civil Engineer, the Soils Engineer, the Engineering Geologist or the testing agency finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the Chief Building Official. Recommendations for corrective measures, if necessary, shall be submitted.

.10 TRANSFER OF RESPONSIBILITY FOR APPROVAL. If the civil engineer, the soils engineer, the engineering geologist or the testing agency of record is changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of their technical competence for approval upon completion of the work.

II-13-33 COMPLETION OF WORK

.01 FINAL REPORTS. Upon completion of the rough grading work and at the final completion of the work the Chief Building Official may require the following reports and drawings and supplements thereto:

1. An as-graded grading plan prepared by the Civil Engineer including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and sub-surface drainage facilities. Civil Engineer shall provide approval that the work was done in accordance with the final approved grading plan.

2. A soil grading report prepared by the Soil Engineer including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during

grading and their effect on the recommendations made in the soil engineering investigation report. Soil Engineer shall provide approval as to the adequacy of the site for the intended use.

3. A geologic grading report prepared by the Engineering Geologist including a final description of the geology of the site including any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. Engineering Geologist shall provide approval as to the adequacy of the site for the intended use as affected by geologic factors.

.02 NOTIFICATION OF COMPLETION The permittee or his/her agent shall notify the Chief Building Official when the grading operation is ready for final inspection. Final approval shall not be given until all work including installation of all drainage facilities and their protective devices and all erosion control measures have been completed in accordance with the final approved grading plan and the required report have been submitted.

II-13-34 CONDITIONS OF APPROVAL OR DENIAL OF GRADING PERMIT

.01 The City of Milpitas reserves the right to impose such conditions on the grading permit as may be reasonable or necessary to prevent creation of a nuisance or dangerous conditions, and to deny the issuance of a grading permit where the proposed work would cause hazards adverse to the public safety and welfare.

.02 Approval of the permit will not be granted unless:

1. The proposed grading is related to a use presently permitted by law on the property.

2. The grading is necessary for the establishment or maintenance of a use.

3. The design, scope, and location of the grading or clearing is appropriate for the use and causes minimum disturbance of the terrain and natural features of the land, and does not degrade water quality or certain other natural resources.

II-13-35 REVIEW AND APPROVAL

.01 Grading permit applications and accompanying maps and plans shall be reviewed by the Chief Building Official and approved when found to be in compliance with the provisions of this Chapter, and conforms to acceptable grading and erosion control techniques.

II-13-36 ENFORCEMENT AND INSPECTION

.01 The provisions of this ordinance shall be enforced by the City of Milpitas and by the Chief Building Official who shall inspect all grading and erosion control work and require compliance with all the provisions of the Chapter.

II-13-37 GRADING AND EROSION CONTROL INSPECTION

.01 The Chief Building Official shall inspect the work site for compliance with conditions of the approved permit, for verification of reports submitted by the permittee, and for the quality of the work being performed as approved by the permit.

.02 Approved plans and permits for grading and erosion control work shall be maintained at the site during the grading activity and until the work has been approved.

.03 A minimum of at least five inspections shall be made as listed.

1. Initial inspection. When permittee or his agent is ready to begin work on excavation or fill and construction stakes have been set, but no grading begun;

2. Rough Grading. Including stripping, keying, compaction and subsurface drains;

3. Erosion Control compliance inspection. An inspection of erosion control facilities and revegetation measures shall be made between September 15 and October 1, if work completion is scheduled after October 1.

4. Final construction inspection. When all work, including installation of all drainage, and other erosion control facilities and all planting has been completed.

5. Final stabilization inspection. During the first rainy season an inspection of the site will be made to determine if any remedial work is necessary to abate erosion and sedimentation problems prior to issuing the Notice of Compliance for the permit.

II-13-38 NOTIFICATION OF COMPLETION

.01 The permittee or his agent shall notify the Building and Safety when the grading/erosion operation is ready for final inspection. Final approval shall not be given until all work including installation of all drainage facilities and their protective devices and all erosion control measures have been completed and maintained through one entire rainy season following completion of grading or clearing, in accordance with the final approved grading and erosion control plans and the required reports have been submitted.

II-13-39 APPLICANT'S RESPONSIBILITIES

.01 The applicant shall install all soil erosion and sediment control measures in strict compliance with this Chapter and in accordance with the approved erosion control plan. All soil erosion and sediment control measures shall be adequately maintained by the applicant for three years or until such measures are stabilized as determined by the Chief Building Official. The Building and Safety shall issue a notice of compliance when the approved grading and erosion control plan measures are fully applied and completed indicating the date of compliance.

.02 A new or modified erosion and sediment control technique may be allowed to be used provided there is mutual agreement between the Chief Building Official and the applicant that the technique meets the intent of the erosion control plan.

.03 The City of Milpitas may cause remedial work to be done, at the applicant's expense, if it is determined that it is necessary to protect completed work or to prevent damage.

II-13-40 PERMIT SUSPENSION

.01 In the event that work performed does not conform to the provisions of the permit, or to the approved plans and specifications, or to any written instructions of the Chief Building Official, a written notice to comply shall be given to the permittee. Such notice shall set forth the nature of the corrections required and the time within which corrections shall be made. Failure to comply with such written notice shall be deemed justification for suspension of the permit, which will require that all work stop except that necessary for correction of the violation. Upon correction of the violation the permittee may apply for removal of suspension.

II-13-41 ABATEMENT OF HAZARDS

.01 Whenever the City of Milpitas determines that any existing excavation embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of public way, drainage channel, or identified sensitive environmental resources of critical concern, the owner of the property upon which the excavation or fill is located, or the Lessee thereof, or other person or agent in control of said property, upon receipt of notice in writing from the City of Milpitas shall, within the period specified therein, repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this Chapter.

II-13-42 PERFORMANCE BOND

.01 The Building and Safety shall, before issuing a permit in hillside areas, require a cash or corporate surety bond, instrument of credit or other security acceptable to the City be posted by the applicant, conditioned upon the faithful performance of the conditions in the permit, and erosion control measures specified in the permit within the time specified by the Chief Building Official.

.02 The amount of the bond or security shall be the full cost of the installed erosion and sediment control measures and facility maintenance.

.03 The Chief Building Official may grant a partial or complete waiver of such bond where he finds minimal impairment of existing surface drainage, minimal erosion hazard and minimal sedimentation hazard upon any adjacent land or watercourse and no hazard to human life or property.

.04 The bond or security shall remain in effect through the first complete rainy season following completion of the grading/erosion control operation and held until the erosion and sediment control measures have stabilized the site and all plan and permit conditions have been met, at which time a "notice of compliance" certificate will be issued following the final stabilization inspection.

II-13-43 APPEAL

Any act of any officer or employee of the City of Milpitas under the provisions of this Chapter may be appealed in accordance with the provisions of II-1-13.01 of the Milpitas Municipal Code.

II-13-44 PENALTIES

.01 See II-1-26.

II-13-45 FEES

.01 PLAN CHECKING FEE For excavation and fill on the same site, the fee shall be based on the volume of the excavation or fill, whichever is greater. Before accepting a set of plans and specifications for checking, the Chief Building Official shall collect a plan checking fee. Separate permits and fees shall apply to retaining walls or major drainage structures as indicated elsewhere in this Chapter. There shall be no separate charge for standard terrace drains and similar facilities. The amount of the plan checking fee for grading plans shall be as set forth by Resolutions of the City Council.

.02 The plan checking fee for a grading permit authorizing additional work to that under a valid permit shall be the difference between such fee paid for the original permit and the fee shown for the entire project.

II-13-46 GRADING PERMIT FEES

A fee for each grading permit shall be paid to the City of Milpitas as set forth by Resolutions of the City Council.

II-13-47 NOT USED

Section 1 Adoption of the Existing Building Code

II-14-1.01

The 2007 Edition of the California Existing Building Code, California Building Standards Code, known as the California Code of Regulations, Title 24, incorporating the International Existing Building Code, 2006 Edition, and International Existing Building Code Appendixes A2, A3, A4, and A5 published by the International Code Council is hereby adopted. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 2007 California Code Existing Building Code

II-14-2.01

Adopt 2006 International Existing Building Code Appendixes Chapters A2, A3, A4, and A5 including provisions for seismic strengthening for existing reinforced concrete and masonry wall buildings with flexible diaphragms, cripple walls and sill plates of light, wood frame residential buildings, wood-frame residential buildings with soft or open-front walls, and existing concrete buildings.

Section 3 Repeal of Conflicting Ordinances

II-14-3.01

Upon adoption of each new California Existing Building Code, the previously adopted California Code for Building Conservation is superseded in its entirety.

Section 4 Severability

II-14-4.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-14-5.01

This chapter shall become effective on January 1, 2008.

II-150-1.00 Adoption of Historical Building Code by Reference

The City Council of the City of Milpitas does hereby adopt 2007 California Historical Building Code, such code consisting of all the provisions of Part 8 - State Historical Building Code of Title 24, Building Standards of the California Administrative Code, published by International Code Council, 500 New Jersey Avenue, NW, 6th floor, Washington, D.C. 20001

II-150-2.00 Purpose and Intent

II-150-2.01 Purpose

The purpose of this code is to provide regulations for the preservation, restoration, rehabilitation, relocation, or reconstruction of buildings or properties designated as qualified historical buildings or properties. This Code is intended to provide solutions for the preservation of sustainability, to provide access for persons with disabilities, to provide a cost-effective approach to preservation, and to provide for the reasonable safety of the occupants or users. This Code required enforcing agencies to accept solutions that are reasonably equivalent to the regular code when dealing with qualified historical buildings or properties.

II-150-2.02 Intent

The intent of this Code is to facilitate the preservation and continuing use of qualified historical buildings or properties while providing reasonable safety for the building occupants and access for persons with disabilities.

II-150-3.00 Additions and Amendments (Reserved)

II-150-4.00 Violation an Infraction

Whenever in this chapter any act is prohibited or is made or is declared to be unlawful, or an offense, or the doing of any act is required, or the failure to do any act is declared to be unlawful, the violation of any such provision of said chapter is hereby declared to be an infraction within the meaning of the Government Code and the Penal Code of the State of California. Pursuant to said provisions of said Section 36900 of the Government Code of the State of California, every violation determined to be an infraction is punishable by (1) a fine not exceeding One Hundred Dollars ($100) for a first violation; (2) a fine not exceeding Two Hundred Dollars ($200) for a second violation of the same act within one year; (3) a fine not exceeding Five Hundred Dollars ($500) for each additional violation of the same act within one year. Each day such a violation continues shall be regarded as a new and separate infraction.

II-150-5.00 Conflict

If any procedural provision of Chapter 1, Title II of the Milpitas Municipal Code shall conflict with any procedural provision of the code hereby adopted, the provisions of Chapter 1, Title II of the Milpitas Municipal Code shall prevail. If any provision of Chapter 1, Title II of the Milpitas Municipal code relating to housing or building standards shall conflict with the provisions of the code hereby adopted relating to housing or building standards, the provisions of the California Code hereby adopted shall prevail. Provided, however, that all remedies and penalties provided in said Chapter 1, Title II of the Milpitas Municipal Code and in the code hereby adopted shall be cumulative and not exclusive and in addition to such other remedies or penalties as are provided by law.

II-150-6.00 Effective Date

This chapter shall be effective January 1, 2008.

Section 1 Title

II-160-1.00

These regulations shall be known as “Regulation of Mobile Home Parks,” may be cited as such and will be referred to herein as “this Chapter.”

Section 2 Authority

II-160-2.00:

By the authority granted in Section 18300(b) of the California Health and Safety Code and pursuant to Section 1004, Title 25 of the California Code of Regulations, the City shall be responsible for enforcement of Mobile Home Park regulations as follows:

II-160-2.10: ASSUMPTION OF RESPONSIBILITIES: Upon receiving authorization from the Department of Housing and Community Development of State of California (hereinafter referred to as "HCD") and subject to the acceptance of reasonable conditions of approval, the City of Milpitas (hereinafter referred to as "City") shall assume responsibility for the enforcement of Division 13, Part 2.1 of the California Health and Safety Code and related administrative regulations (hereinafter collectively referred to as "Mobilehome Parks Act").

II-160-2.20: DELEGATION OF AUTHORITY: Responsibility for enforcing the Mobilehome Parks Act, upon its assumption from HCD, is hereby delegated to the City's Building Inspection Division.

II-160-2.30: USE OF FORMS: The City hereby adopts and agrees to use all forms furnished by HCD for the purpose of enforcing the Mobilehome Parks Act including the application for permit to operate, the permit to operate, and the statement of installation acceptance.

II-160-2.40: PERMITS TO OPERATE AND STATE FEES: The City agrees to send a copy of all permits to operate and State Fees to the Administrative Office of the Divisions of Codes and Standards no later than the 15th of the month following the City's issuance of such permits.

II-160-2.50: SCHEDULE OF FEES: The schedule of fees applicable to the Mobilehome Parks Act is hereby adopted by the City.

II-160-2.60: EFFECTIVE DATE OF ASSUMPTION: The effective date of assumption of enforcement responsibilities from HCD to the City shall be within 30 days following HCD approval of the City's assumption of enforcement responsibilities.

II-160-2.70: TRANSMITTAL OF ORDINANCE: The City Clerk is hereby instructed to transmit three certified copies of this Ordinance to the Director of HCD and to the Administrative Office of the Division of Codes and Standards within ten (10) days of the date of adoption which, in any event, shall not be later than 30 days before the effective date of assumption of enforcement responsibilities.

Section 3 Qualifications

***Note to Section 3**

II-160-3.00: STATEMENT OF QUALIFICATIONS: In discharging its delegated responsibilities, the City's Building Inspection Division shall provide qualified personnel in the enforcement of the Mobilehome Parks Act. In this regard, the Building Inspectors are hereby designated as the Department's authorized representatives for the purpose of enforcing said Act.

Section 4 Purpose and Scope

***Note to Section 4**

II-160-4.00: STATEMENT OF OBJECTIVES: The following sets forth the goals, objectives and obligations of the City:

II-160-4.10: The statutory program and objectives set forth in the Mobilehome Parks Act are hereby adopted by the City.

II-160-4.20: Mobilehome parks known to exist within the corporate limits of the City of Milpitas are as follows:

II-160-4.20(a): Friendly Village Mobile Home Park located at 120 Dixon Landing Road, Milpitas, California, and it encompasses 196 spaces and several accessory structures.

II-160-4.20(b): Main Street Mobile Home Park located at 1504 S. Main Street, Milpitas, California, and it encompasses 45 spaces.

II-160-4.20(c): Mobilodge located at 1515 N. Milpitas Blvd., Milpitas, California, and it encompasses 145 spaces.

II-160-4.20(d): Pioneer Mobile Home Park located at 60 Wilson Way, Milpitas, California, and it encompasses 180 spaces.

II-160-4.30: Objectives The City's specific objectives in assuming statutory authority from HCD are to provide for timely and reliable enforcement of the Mobilehome Parks Act regarding use, maintenance, occupancy and condition of property governed by said Act; and to protect public health, safety and welfare. Not later than 30 days from the effective date of assumption of enforcement as defined in Subsection II-160-2.60 of this Chapter, the city shall commence and thereafter diligently enforce the Mobilehome Parks Act as follows:

II-160-4.30(a): Review relevant files maintained by HCD and compare same with records on file with City;

II-160-4.30(b): Assimilate pertinent building standards of the State relevant to mobilehomes;

II-160.4.30(c): Ascertain the status of all operating permits and their relationship to governing statutes;

II-160.4.30(d): Investigate and resolve complaints as the need arises; and

II-160.4.30(e): Take all other actions as are deemed appropriate in furtherance of State and local regulation.

II-160.4.40: INSPECTION CAPABILITY The City's capability to undertake mobilehome installation inspections to the satisfaction of HCD is demonstrated as follows:

II-160-4.40(a): The City's Building Inspection Division has established and operated concerted code enforcement programs since 1959 encompassing systematic enforcement of State Building Regulations and the Municipal Code.

II-160-4.40(b): The City's Building Inspectors have years of construction inspection experience.

II-160-4.40(c): The City's Housing Officers have years of Code Enforcement experience.