

REGULAR

NUMBER: 38.777

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS, CALIFORNIA, AMENDING TITLE XI CHAPTER 10 FOR THE PURPOSE OF IMPLEMENTING THE TRANSIT AREA SPECIFIC PLAN

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of June 3, 2008, upon motion by Councilmember Gomez and was adopted (second reading) by the City Council at its meeting of _____, 2008 upon motion by Councilmember _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

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:

SECTION 1. RECITALS AND FINDINGS

WHEREAS, the City of Milpitas has initiated a proposed General Plan amendment, a Midtown Specific Plan amendment, rezoning, adoption of the Milpitas Transit Area Specific Plan (TASP), and other related actions needed to implement the Plan and thus provide for transit-oriented residential and commercial redevelopment on older industrial land around existing light rail stations and a future BART station. These actions are collectively referred to as the "Project"; and

WHEREAS, the City determined that an Environmental Impact Report ("EIR") would be required for the Project and circulated a Notice of Preparation dated April 1, 2006 to public agencies and interested parties for consultation on the scope of the EIR; and

WHEREAS, based on the responses to the Notice of Preparation, the City prepared a Draft Environmental Impact Report ("Draft EIR") dated October 2007 (SCH No. 2006032091) which reflected the independent judgment of the City as to the potential environmental effects of the Project. The Draft EIR was circulated for a 45 day public review and comment period, from November 7, 2007 to December 21, 2007; and

WHEREAS, the Project was the subject of numerous public meetings and the Project and Draft EIR was the subject a public meeting held on November 28, 2007; and

WHEREAS, the Planning Commission held a duly noticed public hearing on May 28, 2008 and heard evidence prepared by staff and comments by the public and recommends approval of the amendments; and

WHEREAS, with respect to the EIR, the City has prepared findings, facts in support of findings, statement of overriding considerations, mitigation monitoring program and incorporated them into the final EIR and resolved and certified in a separate resolution adopted by the City Council of the City of Milpitas; and

WHEREAS, the City Council finds that the amendments are consistent with the General Plan in that the project amends goals and policies of the General Plan reflecting the vision of the Transit Area Plan; and

WHEREAS, the City Council finds that proposed amendment will not adversely affect the public health, safety and welfare in that the project contemplates a vision that includes the harmonious development of new housing, retail, infrastructure and ensures compatibility with existing uses that may not transition to the new vision in the immediate future; and

WHEREAS, the City Council finds that with the inclusion of the amendments the Zoning Ordinance remains internally consistent.

SECTION 2. The Zoning Map of the City of Milpitas, which was adopted as part of Ordinance No. 38, enacted as Chapter XI-10 (Zoning, Planning and Annexation) of the Milpitas Municipal Code of said City, is hereby amended by adding a new Section District No. 570, a copy of which is attached hereto and incorporated herein.

SECTION 3. The exterior boundaries of the Zoning Map of the City of Milpitas as shown on the map entitled "Index Map to Section District Maps, Zoning Map of the City of Milpitas", which Index Map was adopted as a part of Ordinance No. 38 of the City of Milpitas, and which is referred to in Section 3.03 of Ordinance No. 38, are hereby amended by adding Sectional District No. 570, referred to in Section 2 of this Ordinance.

SECTION 4. Chapter 10, Section 3.01 of Title XI of the Milpitas Municipal Code, “Districts” is hereby amended to read as follows:

In order to carry out the purpose and provisions of this Chapter, the City is hereby divided into districts known as:

Full Name	Short Name
"R1" Single-Family District	"R1" District
"R2" One and Two-Family District	"R2" District
"R3" Multiple-Family District	"R3" District
"R4" Multiple Family Very High Density District	"R4" District
“R5” Urban Residential	“R5” District
"AR" Agricultural Residence	"AR" District
"CO" Administrative & Professional Office District	"CO" District
"C1" Neighborhood Commercial District	"C1" District
"C2" General Commercial District	"C2" District
"HS" Highway Service District	"HS" District
"TC" Town Center District	"TC" District
"MXD" Mixed Use District	"MXD" District
“MXD2” High Density Mixed Use District	“MXD2” District
“MXD3” Very High Density Mixed Use District	“MXD3” District
"M1" Light Industrial District	"M1" District
"M2" Heavy Industrial District	"M2" District
"MP" Industrial Park District	"MP" District
"A" Agricultural District	"A" District
"POS" Park and Open Space District	"POS" District

SECTION 5. Chapter 10, Section 3.03 of Title XI of the Milpitas Municipal Code, “Zoning Map” is hereby amended to read as follows:

The districts aforesaid and the boundaries of such districts are shown upon the map attached hereto and made a part of this Chapter, being designated as the “Zoning Map of the City of Milpitas,” together with “Sectional District Map of the City of Milpitas” supplementary thereto, consisting of an “Index Map” to sectional district maps numbered consecutively, and said map and all notations, references and other information shown thereon shall be as much a part of this Chapter as if the matters and information set forth by said map were all fully described herein.

SECTION 6. Chapter 10, Section 4 of Title XI of the Milpitas Municipal Code “R1 Single-Family Residence District” is hereby amended in its entirety to read as follows:

--Begin Section--

SECTION 4 RESIDENTIAL ZONES AND STANDARDS

10-4.01 Purpose and Intent

10-4.02 Residential Use Regulations

- 10-4.03 Residential Zone Special Uses**
- 10-4.04 Residential Zone General Development Standards**
- 10-4.05 Residential Zone Special Development Standards**
- 10-4.06 Residential Zone Off Street Parking Regulations**
- 10-4.07 Conformance with Specific Plans**

10-4.01 Purpose and Intent

- A. Single Family Residential (R1) Zone.** The purpose and intent of this zone is to stabilize and protect the residential characteristics of the District and to promote and encourage a suitable environment for family life. The R1 District is intended for the suburban family home and the services appurtenant thereto.
- B. One and Two-Family Residential (R2) Zone.** The purpose and intent of this zone is to stabilize and protect the residential characteristics of the District and to promote and encourage a suitable environment for family life. The R2 District is intended for suburban family homes and the community services appurtenant thereto.
- C. Multi-Family High Density Residential (R3) Zone.** The purpose and intent of this zone is to stabilize and protect the residential characteristics of the District and to promote, insofar as compatible with the intensity of land use, a suitable environment for family life.
- D. Multi-Family Very High Density Residential (R4) Zone.** The purpose and intent of this zone is to stabilize and protect the residential characteristics of the District and to promote a suitable residential environment. The "R4" District is intended to provide for higher-density residential "villages" structured around transit stations, streets, creek side open spaces, trails and parks.
- E. Urban Residential (R5) Zone.** The purpose and intent of this zone is to provide for high-density residential development structured around transit stations.

10-4.02 Residential Use Regulations

A. Permitted and Conditionally Permitted Uses.

1. General Requirements. The uses identified in Table 4.02-1, Residential Zone Uses, shall be the primary uses allowed to occur on a property. All uses except for those noted shall be conducted entirely within enclosed structures. The primary uses identified in Table 6.02-1 shall be permitted or conditionally permitted, as indicated:

P	Where the symbol "P" appears, the use shall be permitted.
P/C	Where the symbol "P/C" appears the use may be permitted if certain criteria is met or otherwise a Conditional Use Permit shall be required, in accordance with Section 57, Conditional Uses Permitted, of this chapter.
C	Where the symbol "C" appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Section 57, Conditional Uses Permitted By Commission, of this title.
O	Where the symbol "O" appears, the use is subject to an alternative review process described in a subsequent footnote.

2. Accessory Uses. The following are the accessory uses permitted in all residential zoning districts:

- a. Home occupations and professional offices in home, as provided in subsection 54.08.
- b. A State authorized, certified or licensed family care home, foster home or group home serving six (6) or fewer mentally disordered or otherwise handicapped persons or dependent or neglected children provided such care home furnishes care on a 24-hour a day basis.
- c. Other accessory uses and accessory buildings customarily appurtenant to a permitted use, as provided for in subsection 54.09.
- d. Small family child care home.
- e. Large family child care home, as provided for in Subsections 53.23-6 through 53.23-8 and 54.16.

B. Prohibited Uses. The following uses are prohibited:

- 1. Uses where the symbol “NP” appears within Table 4.02-1.
- 2. Adult Businesses as defined in Subsection 54.18, Adult Business Location Requirements, of this chapter.
- 3. Uses that have been excluded from Table 4.02-1, unless they are found by the City to be similar to permitted or conditionally permitted uses in accordance with C below.

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

**Table 4.02-1
Residential Zone Uses**

Use	R1	R2	R3	R4	R5
1. Commercial					
Commercial Services ¹	NP	NP	C	NP	NP
2. Professional Offices and related uses					
Offices ²	NP	NP	NP	NP	NP
3. Public/Quasi-Public and Institutional Uses					
Child Care Center	C	C	C	C	P
Hospital ³	NP	NP	C	NP	NP
Nursing home ⁴	NP	C	C	NP	NP
Park, Playground or Community Center (Non-Profit)	C	C	C	C	C
Parking Lots	C	C		NP	NP
Public Service	C	C	C	C	C

structure					
Religious facility	C	C	C	C	C
Sanitarium ⁵	NP	NP	C	NP	NP
School	C	C	C	C	NP
Social Halls, Lodges, Fraternal Organizations and Clubs (Non-Profit)	NP	NP	C	NP	NP
4. Residential Uses					
Condominiums and Condo Conversions	NP	SFR: C Duplex: C	C	C	C
Duplex (Two dwellings)	NP	P	NP	NP	NP
Group Dwelling	NP	NP	NP	C	C
Guest House	C	NP	NP	NP	NP
Mobile Homes ⁶	P	NP	NP	NP	NP
Multi-Family Dwellings (Three or more units)	NP	NP	P	P	P
Planned Unit Development ⁷	P	P	P	P	P
Second Residential Dwelling Units ⁸	P	SFR: P Duplex: NP	NP	NP	NP
Single Family Dwelling	P	P	NP	NP	NP
5. Restaurants					
Restaurants ⁹	NP	NP	C	NP	P/C
6. Unclassified Uses					
Agriculture ¹⁰	P	P	P	NP	NP
Boarding House (Three or more persons)	NP	C	C	C	C
Golf Course ¹¹	C	C	C	NP	NP
Live Work Units ¹²	NP	NP	NP	C	P
Temp. Tract Office ¹³	P	P	P	P	P

1 Refer to Subsection 4.02-1, Residential Zone Special Uses, of this chapter, for standards.

2 Refer to Subsection 4.02-1, Residential Zone Special Uses, of this chapter, for standards.

- 3 Includes Hospital, sanitarium or licensed nursing home exceeding six (6) persons except for the following: clinic, animal hospital, and hospital, sanitarium, or nursing home used primarily for contagious sickness, mental or drug or alcohol addict cases.
- 4 Licensed nursing home serving more than six (6) persons.
- 5 See footnote 3 above.
- 6 Refer to Subsection 54.14, Mobile Home Development Standards, of this chapter, for standards.
- 7 Refer to Subsection 54.07, Planned Unit Developments, of this title, for standards.
- 8 In conjunction with an existing legal single-family dwelling. Refer to Subsection 54.22, Second Family Unit, of this chapter, for standards.
- 9 Refer to Subsection 4.02-1, Residential Zone Special Uses, of this chapter, for standards.
- 10 Except the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises.
- 11 Except driving tee or range, miniature course and similar uses operated for commercial purposes.
- 12 Allowed commercial uses to be specified through the Conditional Use Permit process within R3 Zone.
- 13 Refer to Section 54.26, Model Home Complexes and Sales Offices for temporary tract office and signs with the exception that no tract sign shall be permitted within six hundred (600) feet of a Santa Clara County Expressway.

10-4.03 Residential Zone Special Uses.

A. Incidental services within R3 zones. Incidental services such as restaurants and retail sales to serve residents may be allowed through the approval of a Conditional Use Permit in accordance with the provisions in Section 57, of this chapter, provided there is no exterior display or advertising and such activities are conducted in spaces which are integral parts of a main building.

B. Commercial Services, Retail and Offices within R5 zones.

Commercial services, retail and offices may be permitted provided they are:

- 1. Less than or equal to ten thousand (10,000) square feet in gross floor area;
- 2. Not open past 10:00 p.m.;
- 3. Not specifically noted in Table 4.02-1, Residential Zone Uses, of this chapter, requiring Conditional Use Permit approval or listed as a prohibited use; and
- 4. Not listed as a prohibited use in Section 10-4.02 (B), Prohibited Uses, of this chapter.

If items 1 through 2 above are not met, then approval of a Conditional Use Permit is required in accordance with Section 57, of this chapter.

C. Affordable Housing. Affordable housing units should be provided in all new housing projects. While twenty percent (20%) is the minimum goal, affordable unit requirements will be determined on a project by project basis, taking into consideration the size and location of the project, the type of housing unit, proximity to transit and the mix of affordable units in the vicinity.

10-4.04 Residential Zone General Development Standards

The following minimum requirements shall be observed, except where increased for conditional uses. The minimum requirement shall be one of the following for the district classification as designated on the zoning map. (Ord. 38.19, 1/17/61)

**Table 4.04-1
Residential Zone Development Standards**

Standards	R1	R2	R3	R4	R5
Lot Area, minimum (s.f.) ¹	R1-2.5: 2,500 R1-3: 3,000 R1-4: 4,000 R1-5: 5,000 R1-6: 6,000 R1-8: 8,000 R1-10: 10,000	Single-Family: 6,000 Two-Family: 8,000	8,000 2,000 per dwelling unit	None	None.
Lot width, minimum (ft.) ²	R1-2.5: 30 R1-3: 30 R1-4: 40 R1-5: 50 R1-6: 55 R1-8: 70 R1-10: 80	Single-Family: 55 Two-Family: 70	70	None	None.
Density, (Min-Max)	1 Dwelling Unit/Lot (3-15 units per gross acre)	7-11 units per gross acre	12-20 units per gross acre	31-40 units per gross acre	41-60 units per gross acre
Front yard Setback, minimum (ft.) ³	R1-2.5: 20 R1-3: 20 R1-4: 20 R1-5: 20 R1-6: 20 R1-8: 25 R1-10: 25	Single-Family: 20 Two-Family: 20	20	8 min/15 max from back of sidewalk.	Min: 12 Min: 20
Side yard setback (Interior), minimum (ft.) ⁴	R1-2.5: One side 5 R1-3: One side 5 R1-4: One side 6 R1-5: Adj to garage 6, total ten feet. R1-6: Adj to garage 6, total 13. R1-8: One side 7, total both sides 17 R1-10: One side 8, total both sides 20	Single-Family: Single Story: One side 4, total both sides 12. Two story: One side 6, total both sides 15. Two-Family: Single Story: One side 7, total both sides 12. Two Story: One side 8, total both sides 20.	Single Story: One side 5 ft., total both sides 12 ft. Two-2.5 story: One side 10 ft., total both sides 25 ft. Three-3.5 story: One side 12 ft, total both sides 30 ft.	10	15 20 for buildings over 3 stories which abut residential uses
Street side yard Setback,	10	10	10	Same as Front yard	Min: 12 Max: 20

Standards	R1	R2	R3	R4	R5
minimum (ft.) ⁵				setback. See footnote 2.	
Rear yard setback, minimum (ft.) (single story/two stories or greater) ⁶	R1-2.5: 15/20 R1-3: 15/20 R1-4: 15/20 R1-5: 20/20 R1-6: 25/25 R1-8: 25/30 R1-10: 30/35	Single-Family: 25/25 Two-Family: 25/30	Single Story: 30 ft. Two/2.5 story: 35 ft. Three/3.5 story: 40 ft.	10	15 20 for buildings over 3 stories which abut residential uses
Other Setbacks					Refer to Subsection 10-4.04, Special Development Standards.
Building Height, maximum (ft.) ⁷	Principal building: 30 Accessory building: 15 Guest house/ Caretaker building: 17	Principal building: 2.5 stories (30 ft.) Accessory building: 1.5 stories (15 ft.)	Principal building: 3.5 stories (35 ft.) Accessory building: 2.5 stories (25 ft.)	Four stories and 60 ft. Including architectural elements.	Six stories and 75 ft.
Parking	Refer to Subsection 10-4.06, Residential Zone Off Street Parking Regulations, of this chapter.	Refer to Subsection 10-4.06, Residential Zone Off Street Parking Regulations, of this chapter.	Refer to Subsection 10-4.06, Residential Zone Off Street Parking Regulations, of this chapter.	Refer to Subsection 10-4.06, Residential Zone Off Street Parking Regulations, of this chapter.	Refer to Subsection 10-4.06, Residential Zone Off Street Parking Regulations, of this chapter.
Lot Coverage	Refer to Subsection 10-4.05, Special Development Standards, of this chapter.	NA	Refer to Subsection 10-4.05, Special Development Standards, of this chapter.		

1 For R3 properties, the minimum requirement of lot area per dwelling unit may be waived where a Planned Unit Development has been approved at a higher density in accordance with the provisions of 10-54.07-6(c), Planned Unit Development, of this title. For R3 Properties, provided that all other requirements of this title are met, the required area per dwelling may be reduced to 1,000 square feet for each efficiency apartment, as defined herein, contained in a multiple-family dwelling.

2 For R1 properties with slopes less than sixteen (16) percent. For R1-10 properties with slopes equal to or greater than sixteen (16) percent, but less than twenty-six (26) percent, the minimum lot width shall be two-hundred (200) feet. For R1-10 properties with slopes equal to or greater than twenty-six (26) percent, the minimum lot width shall be three-hundred (300) feet.

3 For R1 properties with slopes less than sixteen (16) percent. For R1-2.5, R1-3, and R1-4 properties, if access is provided to the side of garage via curved driveway, the setback may be 15 feet. For R1-10 properties with slopes equal to or greater than sixteen (16) percent, the minimum setback is forty (40) feet.

For R4 properties, the sidewalk shall be based on either existing sidewalk or an assumed 10-foot wide sidewalk, whichever is wider. Where a public easement prevents a building from being located at its required min or max setback, the building shall be located as close to the back of said easement as possible.

For R4 and R5 properties, 1) porches, stairs and balconies may be located in the front and street side setback areas provided they are incorporated into an integrated landscape concept where the majority of the setback areas are reserved for landscaping; 2) stairs and porches may project up to six (6) feet into the min setback; 3) the front yard setback area shall be landscaped; 4) where a public easement prevents a building from being located at its required minimum or maximum setback lines, the building shall be located as close to the back of said easement as possible.

4 For R1 properties with slopes less than sixteen (16) percent. For R1-10 properties with slopes equal to or greater than sixteen (16) percent but less than twenty-six (26) percent the minimum setback shall be twenty (20) feet on side and a total of forty-five (45) feet for both sides. For R1-10 properties with slopes equal to or greater than twenty-six (26) percent, the minimum setback shall be forty (40) feet.

For R4 and R5 properties, balconies, bay windows and awnings may project up to six (6) feet into the interior side setback. Interior side setback areas shall be landscaped but may also be occupied by accessory buildings and drive aisles.

5 For R5 properties, the street-side yard setback shall be landscaped.

6 For R1 properties with slopes less than sixteen (16) percent. For R1-10 properties with slopes equal to or greater than sixteen (16) percent, the minimum setback is forty (40) feet.

For R4 and R5 properties, balconies, bay windows and awnings may project up to six (6) feet into the rear setback. Interior side setback areas shall be landscaped but may also be occupied by accessory buildings and drive aisles.

For R5 properties, to mitigate the effects of adjacent service commercial or light industrial uses, increased setbacks and other measures, such as a solid six-foot barrier, shall be considered by the Planning Commission during the site and architectural review process.

7 For R3 properties, the height restriction can be waived where a Planned Unit Development has been approved at a density in excess of twenty (20) units per gross acre in accordance with the provisions of Section 10-24.07-6(c), of this chapter.

For R5 properties, except on specified sites with frontage on arterials, including Capitol Avenue, Great Mall Parkway, Montague Expressway, Milpitas Boulevard Extension, and Piper Drive, where heights may extend up to twelve (12) stories.

10.4.05 Residential Zone Special Development Standards

A. All Zones

1. Areas for Collecting and Loading Recyclable Materials. There shall be provided areas for collecting and loading recyclable materials in accordance with the requirements of Subsection 54.15 of this Chapter. (Ord. 38.687 (1) (part), 4/19/94)

B. R1 Zones

1. Front Yard Coverage.

- a. A portion of the required front yard may be paved. The width of the area that may be paved shall not exceed the width of the garage, or fifty percent (50%) of the lot width measured at the front property line, whichever is greater. Patios within the required front are included in this calculation. Walkways, which are not used for vehicular parking, do not count towards coverage limits. Exceptions may be granted by the Planning Commission after public hearing notification, per Section 64 of this Chapter, for a Site Development Permit application, as described in Section 42 of this Chapter. For Hillside properties, refer to Section 45 of this Chapter for additional requirements. For regulations pertaining to parking in the front yard, refer to Milpitas Municipal Code Section V-500.
- b. For purposes of this section, “patio” shall mean a surfaced area (concrete, brick, stone, asphalt, pavers and the like) for recreational outdoor living use, not for vehicular parking purposes, within the required front yard.
- c. For purposes of this section, “walkway” shall mean a created surface, such as brick, stone, concrete, asphalt, pavers and the like, not exceeding six (6) feet in width, intended to facilitate pedestrian or bicycle passage, and not used for vehicular parking purposes. (Ord. 38.758, 7/3/01; Ord. 38.746, 9/21/99)

C. R3 Zones

1. Landscape and Open Space Requirements.

- a. A minimum of twenty-five (25) percent of the total lot area (not including paved parking area) shall be landscaped or recreational open space, exclusive of parking and vehicular traffic area and this shall be shown on site plan in detail for Planning Commission approval.
- b. An average of two hundred square feet of usable open space shall be provided for each dwelling unit. “Usable open space” shall mean any open space, the smallest dimension of which is at least 4 1/2 feet and which is not used as storage or for movement of motor vehicles: except that yards abutting a public street, which are not adequately screened for privacy, in the opinion of the Planning Commission, shall not qualify as usable open space. Balconies, porches, or roof decks may be considered usable open space when properly developed for work, play or outdoor living areas. At least thirty (30) percent of required open space shall be contiguous to and provide for private usable open space of the individual dwelling unit. (Ord. 38.767 (part), 2/7/06; Ord. 38.57 (part), 6/18/64; Ord. 38 (part), 3/15/55)

2. On-Site Utilities Requirements

- a. Where the allowable dwelling units exceed six (6) for a single parcel or the total area to be subdivided exceeds three (3) acres, all on-site utilities are to be placed underground.
- b. Television antennas are to be centralized for structures of four (4) or more units. (Ord. 38.57 (part), 6/18/64; Ord. 38 (part), 3/15/55)

3. Trash and Storage Areas and Areas for Collecting and Loading Recyclable Materials

- a. There shall be provided areas for collecting and loading recyclable materials in accordance with the requirements of subsection 54.15 of this Chapter.

- b. All outdoor storage and trash areas shall be within a completely enclosed building or behind a solid wall or tight board fence a minimum of six (6) feet in height. (Ord. 38.760 (3), 9/17/02; Ord. 38.687 (1) (part), 4/19/94)

D. R4 Zones

1. Park and Open Space Requirements for Residential Uses.

- a. All residential projects within the Midtown Specific Plan area shall provide park land at a ratio of three and one-half (3 1/2) acres per one thousand (1,000) population. Up to one and one-half (1 1/2) of each three and one-half (3 1/2) total park acres required (43%) may be satisfied by the provision of private recreational areas. The remaining park land requirement must be satisfied by either dedication of land to the City for public parks and open space, or payment of an in-lieu fee, as set forth in Section 9 (Park Dedication) of the Milpitas Subdivision Ordinance (Title XI, Chapter 1).
- b. All residential projects outside the Midtown Specific Plan area shall comply with the park land dedication provisions provided in Section 9.06 (Amount of Park Land to be Dedicated) of the Milpitas Subdivision Ordinance.
- c. A minimum of twenty-five percent (25%) of the total site shall be usable open space or recreational facilities. Balconies, porches, or roof decks may be considered usable open space when properly developed for work, play or outdoor living areas.
- d. Balconies and porches located above ground level with a minimum dimension of 4 1/2 feet constructed for use by dwelling units shall be exempt from the usable open space dimension standards above and within in Section 2 of this chapter, and may be considered to satisfy usable open space requirements. Each dwelling unit shall be provided with private open space as follows:
 - i. Balconies and porches (above ground level): minimum sixty (60) square feet; or
 - ii. Patios (at ground level): minimum one hundred square feet. (Ord. 38.767 (part), 2/7/06; Ord. 38.760 (3), 9/17/02; Ord. 38.759 (part), 4/2/02)

3. Exceptions to Standards

- a. Exceptions to all but the use, density and park land requirement regulations of this Section may be approved by the Planning Commission through approval of a Conditional Use Permit in accordance with the requirements of Section 57.
- b. In addition to the required findings under Chapter 57, the Planning Commission must be able to make the following two additional findings for such exceptions:
 - i. The exceptions meet the design intent identified within the Specific Plan and do not detract from the overall architectural, landscaping and site planning integrity of the proposed development.
 - ii. The exceptions allow for a public benefit not otherwise obtainable through the strict application of the specified standard. (Ord. 38.759 (part), 4/2/02)

E. R5 Zones

1. Building Location and Placement

- a. All buildings shall face the street.
- b. Primary building entrances shall be oriented to the street.

2. Park and Open Space Requirements

- a. All residential projects within the Transit Area Specific Plan area shall provide park land at a ratio of three and one-half (3.5) acres per one thousand (1,000) population.
 - i. Two (2) of the required three and one-half (3.5) acres must be satisfied by either dedication of land to the City for public parks and open space, or payment of an in-lieu fee, as set forth in Section 9 (Park Dedication) of the Milpitas Subdivision Ordinance (Title XI, Chapter 1). Land dedication is required if a park is shown on a property on Figure 3-8 of the Transit Area Specific Plan.
 - ii. Up to one and one-half (1.5) of each three and one-half (3.5) total park acres required (43%) may be satisfied by the provision of private recreational areas. Private open space cannot be shared between separate developments.
- b. Each residential project shall provide adequate on-site usable open space or recreational facilities to the approval of the Planning Commission through the Site Development Permit process. (Ord. 38.760 (3), 9/17/02; Ord. 38.759 (part), 4/2/02)
 - i. Balconies, porches, or roof decks, with a minimum dimension of four and one-half (4.5) feet, may be considered usable open space when properly developed for work, play or outdoor living areas.
 - ii. Each dwelling unit shall be provided with private open space as follows:
 1. Balconies (above ground level): minimum forty (40) square feet; or
 2. Patios or porches (at ground level): minimum fifty (50) square feet. (Ord. 38.767 (part), 2/7/06; Ord. 38.760 (3), 9/17/02; Ord. 38.759 (part), 4/2/02)
- c. All development projects within the Transit Area Specific Plan area shall dedicate and/or improve public trails if a trail is shown on a property on Figure 3-8 of the Transit Area Specific Plan.
- d. Twenty percent (20%) of a landscape buffer area may count towards the public park and open space requirements when it includes trails or wide sidewalks connected to the pedestrian and bicycle network.
- e. Park Sites: Parks must be bordered by public streets, or public right-of-way such as a trail or railroad right-of-way, on at least three sides.

3. Exceptions to Standards

- a. Exceptions to all but the allowable uses, density requirements, and public and private park land requirement regulations may be approved by the Planning Commission through approval of a conditional use permit in accordance with the requirements of Section 57.
- b. In addition to the required findings under Chapter 57, the Planning Commission must be able to make the following two additional findings for such exceptions:
 - i. The exceptions meet the design intent identified within the Transit Area Specific Plan and do not detract from the overall architectural, landscaping and site planning integrity of the proposed development.
 - ii. The exceptions allow for a public benefit not otherwise obtainable through the strict application of the specified standard. (Ord. 38.759 (part), 4/2/02)
 - iii. The project design in its totality does not adversely impact adjoining properties to a greater degree than a project that complies with all development standards. Impacts to be considered include: access to sunlight, views, shadows on parks and open space, privacy, and noise.

10-4.06 Off Street Parking Regulations

There shall be provided off-street parking for automobiles in terms of design layout and sufficient quantity in accordance with the requirements of Section 53, Off Street Parking Regulations, of this title. All such parking spaces shall be improved as provided for in Subsection 54.03.

A. R1 and R2 Zones

- 1. A minimum of two (2) permanently maintained parking spaces on the same lot for each dwelling.
- 2. Parking spaces shall not be less than ten (10) feet wide and twenty (20) feet long with adequate provision for ingress and egress. No automobile driveway to provide access shall be less than eight (8) feet in width.

B. R3 Zones

**Table 10-4.06-1
Number of Parking Spaces Required for R3 Zone**

Use	Min Required
Studio	1 covered per unit
1 + bedrooms	2 per unit, at least one covered
Guest Parking	20% of required total

- 1. All required parking spaces shall be located to the rear of the front setback line.
- 2. Parking space dimensions shall be as follows:

- a. Standard parking spaces shall be a minimum of nine (9) feet wide by eighteen (18) feet long.
 - b. Compact parking spaces shall be a minimum of 7.5 feet wide by 15 feet long. When compact parking spaces are used in garages with more than two spaces each space shall be marked as compact.
 - c. If tandem spaces are allowed by the Planning Commission through a Conditional Use Permit, those spaces shall be a maximum of two (2) parking spaces deep.
3. Two (2) parking space deep tandem parking as surface parking or garage parking may be allowed for each dwelling unit if a Conditional Use Permit, in accordance with Section 57, of this Chapter is approved. All tandem parking spaces shall be assigned and marked for residents only.
 4. A maximum of forty (40) percent of parking may be compact parking spaces. No compact parking spaces are allowed for guest parking.

C. R4 Zones

**Table 10-4.06-2
Number of Parking Spaces Required for R4 Zone**

Use	Min Required
Studio	1 covered per unit
1 Bedroom	1.5 covered per unit
2 + Bedrooms	2 covered per unit
Guest Parking	15% of required total, may be uncovered.
Bicycle Parking	5% of total required

1. Parking is prohibited in the front and street side setback areas.
2. Tandem parking may be allowed with the approval of a Conditional Use Permit, in accordance with Section 57, of this Chapter. All tandem parking spaces shall be assigned and marked for residents only.
3. Parking space dimensions. The standards below are for 90 degree parking spaces. Refer to Table 53.22 for dimensions of other angled parking spaces.
 - a. Standard parking spaces shall be a minimum of nine (9) feet wide by eighteen (18) feet long.
 - b. Compact parking spaces shall be a minimum of 7.5 feet wide by 15 feet long. When compact parking spaces are used in garages with more than two spaces each space shall be marked as compact.
 - c. Tandem parking spaces shall be a maximum of two (2) parking spaces deep.
4. Carports shall be no more than eight (8) parking stalls wide and shall be separated from one another by a four (4) foot wide (interior dimension) landscape island, planted with a tree.

5. A maximum of forty (40) percent of parking may be compact parking spaces. No compact parking spaces are allowed for guest parking.

D. R5 Zones

1. Residential Uses.

**Table 10-4.06-3
Number of Parking Spaces Required for R5 Zone**

Use	Min Required
Studio	1 covered per unit
1 Bedroom	1.5 covered per unit
2 + Bedrooms	2 covered per unit
Guest Parking	15% of required total
Bicycle Parking	5% of total required

- a. Guest parking may be covered or uncovered.
 - b. A maximum of forty percent (40%) of parking may be compact parking spaces. No compact parking spaces are allowed for non-residential uses or guest parking.
 - c. Tandem Parking
 - i. Approval of a Conditional Use Permit, in accordance with Section 57, of this title is required for tandem parking.
 - ii. A maximum of seventy-five percent (75%) of parking required for residential uses may be tandem parking.
 - iii. Tandem parking spaces shall be a maximum of two (2) parking spaces deep.
 - iv. When tandem parking spaces are used in garages with more than two (2) parking spaces, they shall be assigned and marked for resident use.
 - d. Garages attached to individual units may not occupy more than fifty percent (50%) of the ground level frontage facing the street.
2. Parking Location
 - a. No parking spaces are allowed within the front or street side setback areas.
 - b. Parking must be located behind buildings to minimize visibility from public streets.
 - c. At least seventy percent (70%) of the street facing perimeter of above-ground parking shall be wrapped with habitable space. Exceptions may be allowed with a conditional use permit, if the design quality of the structure is equivalent to habitable space.

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

10-4.07 Conformance with Specific Plans

A. Midtown Specific Plan

- 1. The Midtown Specific Plan policies, as well as the Design Guidelines and Standards set forth in Chapter 8 of the Plan, shall apply to all properties within the Midtown area if any one or more of the following occurs:
 - a. Whenever a new building is constructed, regardless of size;
 - b. Whenever the use of an existing building is expanded or changed to a use requiring 50% or more off-street parking spaces, as determined by the City’s adopted parking standards; or
 - c. Whenever an existing building is increased in gross floor area by 10% of the existing gross floor area or is enlarged by 500 or more square feet, whichever is less (all additions or enlargements completed since May 2, 2002 shall be totaled).

If exterior building or site improvements (including signage) are proposed that do not fall under (a) through (c) above, such improvements shall be designed to conform to the Midtown policies, guidelines and standards applicable to the improvements, without requiring additional Midtown-related improvements to be imposed. (Ord. 38.760 (2, 3), 9/17/02; Ord. 38.759 (part), 4/2/02)

- 2. Whenever an entitlement is required for projects within the Specific Plan, in addition to all of the required findings, the following finding shall also be made:

The proposed use complies and is consistent with the Specific Plan.

B. Transit Area Specific Plan

- 1. The Transit Area Specific Plan policies, including policies for specific subdistricts in Chapter 4 and the Development Standards and Design Guidelines set forth in Chapter 5 of the Plan, shall apply to all properties within the Transit Area if any one or more of the following occurs:
 - a. Whenever a new building is constructed, regardless of size;

- b. Whenever the use of an existing building is expanded or changed to a use requiring 50% or more off-street parking spaces, as determined by the City’s adopted parking standards; or
- c. Whenever an existing building is increased in gross floor area by 10% of the existing gross floor area or is enlarged by 500 or more square feet, whichever is less (all additions or enlargements completed since the adoption of the Specific Plan June 3, 2008 shall be totaled).

If exterior building or site improvements (including signage) are proposed that do not fall under (a) through (c) above, such improvements shall be designed to conform to the Transit Area policies, guidelines and standards applicable to the improvements, without requiring additional Transit Area-related improvements to be imposed.

- 2. The policies and standards of the Transit Area Specific Plan will supersede the Midtown Specific Plan and the General Plan in the transit area. Should a conflict between the existing plans and codes arise within the Transit Area, the policies and standards of the Transit Area Specific Plan shall govern.
- 3. Whenever an entitlement is required for projects within the Specific Plan, in addition to all of the required findings, the following finding shall also be made:

The proposed use complies and is consistent with the Specific Plan.

SECTION 7. Chapter 10, Section 5 of Title XI of the Milpitas Municipal Code “R1X Single-Family Estate District” is hereby deleted in its entirety.

SECTION 8. Chapter 10, Section 6 of Title XI of the Milpitas Municipal Code “R2 One and Two-Family Residence District” is hereby amended in its entirety to read as follows:

--Begin Section--

SECTION 6 MIXED USE ZONES AND STANDARDS

- 10-6.01 Purpose and Intent**
- 10-6.02 Mixed Use Regulations**
- 10-6.03 Affordable Housing**
- 10-6.04 Mixed Use Zone General Development Standards**
- 10-6.05 Off-Street Vehicle and Bicycle Parking**
- 10-6.06 Special Development Standards**
- 10-6.07 Exceptions to Standards**
- 10-6.08 Conformance with Specific Plans**

10-6.01 Purpose and Intent

- A. Mixed Use (“MXD”) Zoning District.** The purpose of the MXD zoning district is to encourage a compatible mix of residential, retail, entertainment, office and commercial service uses within the framework of a pedestrian-oriented streetscape. It is intended that the residential and commercial use allowed in the "MXD" District combine to provide for an "around-the-clock-environment" with urban open areas (i.e. plazas, squares) that serve multiple purposes and can be used for special events.
- B. High Density Mixed Use (“MXD2”) Zoning District.** The purpose of the MXD2 zoning district is to encourage a mix of retail, restaurant, entertainment, and commercial service uses on the ground

floor with residential or office uses on the floors above while maintaining a pedestrian-oriented streetscape. It is intended that the retail or restaurant space required will ensure neighborhood-oriented retail and services are provided within walking distance of high density residential development.

- C. **Very High Density Mixed Use (“MXD3”) Zoning District.** The purpose of the MXD3 zoning district is to provide very-high density housing, retail and employment uses.

10-6.02 Mixed Use Regulations

A. Permitted and Conditionally Permitted Uses.

- 1. Primary uses. The uses identified in Table 6.02-1, Mixed Use Zone Uses, shall be the primary uses allowed to occur on a property. All uses except for those noted shall be conducted within enclosed structures. The primary uses identified in Table 6.02-1 shall be permitted or conditionally permitted, as indicated:

P	Where the symbol “P” appears, the use shall be permitted.
P/C	Where the symbol “P/C” appears the use may be permitted if certain criteria is met or otherwise a Conditional Use Permit shall be required, in accordance with Section 57, Conditional Uses Permitted, of this chapter.
C	Where the symbol “C” appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Section 57, Conditional Uses Permitted By Commission, of this chapter.
O	Where the symbol “O” appears, the use is subject to an alternative review process described in a subsequent footnote.

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

B. Prohibited Uses. The following uses are prohibited:

- 1. Uses where the symbol “NP” appears within Table 6.02-1.
- 2. The following uses are not permitted in any mixed use zone:
 - a. Adult Businesses as defined in Subsection 54.18, Adult Business Location Requirements, of this chapter.
 - b. Disinfecting and extermination business.
 - c. Ground level residential in the Ground Level Commercial Area as shown on the Midtown Specific Plan Land Use Map, Figure 3.1.
 - d. Massage establishments.

- e. Outdoor storage of vehicles.
- f. Private self-storage facilities
- g. Single family detached dwellings
- h. Two family dwelling units
- i. Vehicle oriented window service facilities.

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

**Table 6.02-1
Mixed Use Zone Uses**

Use	MXD	MXD2		MXD3
		Ground Level (Facing Retail street)	Upper Floor	
1. Commercial Uses				
Blueprinting	C	NP	NP	NP
Catering establishments	C	C	C	C
Commercial Laboratories (Including medical and dental)	C	C	C	P
Commercial Services ¹	P/C	P/C	P/C	P/C
Grocery Stores (Supermarkets)	C	C	C	C
Laundries and Dry cleaners	C	NP	NP	NP
Liquor Stores	C	C	C	C
Pawn Shops ²	C	C	C	C
Pet shops	C	NP	NP	NP
Retail ³	P/C	P/C	P/C	P/C
Tanning salons	C	C	C	C
Thrift shops (used merchandise)	C	C	C	C
2. Lodging				
Bed and Breakfast	NP	P	NP	NP
Boarding houses (3 or more persons)	C	C	C	C
Group dwellings	C	C	C	C
Hotels	C	P	P	P
Motels	C	C	C	C
3. Professional Offices, Financial Institutions and Related Uses				
Medical or dental offices and clinics	P	NP	P	P
Offices ⁴	P/C	NP	P/C	P
4. Public/Quasi Public and Institutional Uses				
Child Care centers ⁵	C	P	C	P
Dance and Music instruction	C	NP	NP	NP

Use	MXD	MXD2		MXD3
		Ground Level (Facing Retail street)	Upper Floor	
Hospitals or sanitariums ⁶	C	C	C	C
Large family child care home ⁷	P	P	C	P
Park, playground or community center ⁸	NP	NP	P	P
Pet hospitals and Veterinarians	C	C	C	C
Places of assembly ⁹	C	C	C	C
Schools, Private (Elementary, Middle and High) ¹⁰	C	C	C	C
Small family child care home	P	P	P	P
Theaters (Indoor)	C	C	C	C
Transportation facilities ¹¹	C	C	C	C
Vocational Schools ¹²	C	C	C	C
5. Residential Uses				
Multi-family housing ¹³	P	NP	P	P
6. Restaurants				
Restaurants ¹⁴	P/C	P/C	NP	P/C
With Dancing and Entertainment	C	C	C	
With Internet Usage	P	P	P	
With ancillary on-premise beer & wine with no separate bar	P	P	P	
Bars, Cocktail lounges	C	C	C	
7. Unclassified Uses				
Arcades	C	C	C	C
Billiard centers	C	C	C	C
Bowling alleys	C	C	C	NP
Cabinet or carpenter shop ¹⁵	C	NP	NP	NP
Indoor recreation (Health/Fitness/Sports Clubs Facilities)	C	C	C	C
Janitorial and window cleaning services ¹⁶	C	NP	NP	NP
Live-work units	P	P	P	P
Lobbies and entries for upper floor uses	NP	P	NP	NP
Mixed use developments ¹⁷	P	P	P	P
Planned Unit Development ¹⁸	P	NP	NP	NP
Plumbing or sheet metal shops ¹⁹	C	NP	NP	NP
Sign Shops ²⁰	C	NP	NP	NP
Temporary tract signs ²¹	C	NP	NP	NP
8. Vehicle-Related Repair , Sales and Services				
Vehicle Dealership (Sales, Leasing, New and Used) ²²	C	C	C	C
Vehicle service uses ²³	C	NP	NP	C

1 Refer to Subsection 6.02-1, Commercial Services, of this chapter, for standards.

- 2 Refer to Subsection 6.02-2, Special Uses, of this chapter, for standards.
- 3 Refer to Subsection 6.02-3, Retail and Offices, of this chapter, for standards.
- 4 Refer to Subsection 6.02-3, Retail and Offices, of this chapter, for standards.
- 5 Refer to Subsections 53.23-6 through 53.23-8 and 54.16 for standards.
- 6 Refer to Subsection 6.02-4, Quasi-Public Uses, of this chapter, for standards.
- 7 Refer to Subsections 53.23-6 through 53.23-8 and 54.16 for standards.
- 8 Owned and operated by a government agency or a non-profit community organization.
- 9 Refer to Subsection 6.02-4, Quasi-Public Uses, of this chapter, for standards.
- 10 Refer to Subsection 6.02-4, Quasi-Public Uses, of this chapter, for standards.
- 11 Refer to Subsection 6.02-2, Special Uses, of this chapter, for standards.
- 12 Refer to Subsection 6.02-4, Quasi-Public Uses, of this chapter, for standards.
- 13 Ground level residential is prohibited in the Ground Level Commercial Area as shown on the Midtown Specific Plan Land Use Map, Figure 3.1.
- 14 Refer to Subsection 6.02-5, Restaurant Uses, of this chapter, for standards.
- 15 Refer to Subsection 6.02-2, Special Uses, of this chapter, for standards.
- 16 Refer to Subsection 6.02-2, Special Uses, of this chapter, for standards.
- 17 Which include only permitted uses.
- 18 Refer to Subsection 54.07, Planned Unit Developments, of this chapter, for standards.
- 19 Refer to Subsection 6.02-2, Special Uses, of this chapter, for standards.
- 20 Refer to Subsection 6.02-2, Special Uses, of this chapter, for standards.
- 21 No tract signs shall be permitted within 600 feet of a Santa Clara County expressway.
- 22 New and used auto, recreational vehicle and boat sales, excluding commercial vehicles, trucks, buses, vans, and farm equipment, with accessory repairs and services, only allowed if fully enclosed within a building. Bicycle and auto rental agency, excluding commercial vehicles, trucks, buses, vans, boats and RV rentals, only if fully enclosed within a building.
- 23 Refer to Subsection 6.02-2, Special Uses, of this chapter, for standards.

6.02-1 Commercial Services within Mixed Use Zones

- A.** Commercial services as defined in Section 2.26-5, of this chapter may be permitted provided:
1. When located within the MXD zone they are less than or equal to ten thousand (10,000) square feet in gross floor area;
 2. When located within the MXD2 and MXD3 zones they are less than or equal to fifty thousand (50,000) square feet in gross floor area;
 3. They are not open past 10:00 p.m.;
 4. They are not specifically noted in Table 6.02-1, Mixed Use Zone Uses, of this chapter, requiring Conditional Use Permit approval or listed as a prohibited use;
 5. They are not listed as a prohibited use in Section 10-6.02 (B), Prohibited Uses, of this chapter.

If items 1 through 3 above are not met, then approval of a Conditional Use Permit is required in accordance with Section 57, of this chapter.

6.02-2 Mixed Use Zone Special Uses

- A. Special Uses within MXD zones.** Certain uses noted in Table 6.02-1, Mixed Use Zone Uses may be allowed through the approval of a Conditional Use Permit, in accordance with Section 57,

Conditional Uses Permitted by Commission, of this chapter, if they are not located within one thousand (1,000) feet of another commercial service use listed below. This distance shall be measured from the property line of the parcel where such use is located.

1. Auto service uses, including but not limited to: gasoline service stations, car washes, tire shops, towing without vehicle storage and auto repair shops of all kinds, radiators, paint, body, glass, brakes, upholstery, and other types if all operations are conducted wholly within a completely enclosed building. Entrances to the service bays shall not be open to the street but shall be designed to face the rear or interior side property line.
2. Cabinet or carpenter shops if conducted in a completely enclosed building.
3. Janitorial services and window cleaning services.
4. Local transportation service facilities (e.g. taxi, parcel service, ambulance, armored car, and van storage) without outdoor storage of vehicles.
5. Pawnshops.
6. Plumbing or sheet metal shops.
7. Sign shops, if conducted wholly within completely enclosed buildings.

B. Special Uses within MXD2 zones. Certain uses noted in Table 6.02-1, Mixed Use Zone Uses may be allowed through the approval of a Conditional Use Permit, in accordance with Section 57, Conditional Uses Permitted by Commission, of this chapter, if they are not located within one thousand (1,000) feet of another commercial service use listed below. This distance shall be measured from the property line of the parcel where such use is located.

1. Local transportation service facilities (e.g. taxi, parcel service, ambulance, armored car, and van storage) without outdoor storage of vehicles.
2. Pawnshops.

C. Special Uses within MXD3 zones. Certain uses noted in Table 6.02-1, Mixed Use Zone Uses may be allowed through the approval of a Conditional Use Permit, in accordance with Section 57, Conditional Uses Permitted by Commission, of this chapter, if they are not located within one thousand (1,000) feet of another commercial service use listed below. This distance shall be measured from the property line of the parcel where such use is located.

1. Local transportation service facilities (e.g. taxi, parcel service, ambulance, armored car, and van storage) without outdoor storage of vehicles.
2. Pawnshops.
3. Auto service uses, limited to gasoline service stations and car washes.

6.02-3 Retail and Offices within Mixed Use Zones

Retail and offices may be permitted provided:

1. When located within the MXD zone they are less than or equal to ten thousand (10,000) square feet in gross floor area;
2. When located within the MXD2 and MXD3 zones they are less than or equal to fifty thousand (50,000) square feet in gross floor area;
3. They are not open past 10:00 p.m.;
4. They are not specifically noted in Table 6.02-1, Mixed Use Zone Uses, of this chapter, requiring Conditional Use Permit approval or listed as a prohibited use; and
5. They are not listed as a prohibited use in Section 10-6.02 (B), Prohibited Uses, of this chapter.

If items 1 through 3 above are not met, then approval of a Conditional Use Permit is required in accordance with Section 57, of this chapter.

6.02-4 Quasi-Public Uses within MXD Zone

- A.** The following quasi-public uses may be permitted within the MXD zones provided their location is first approved by the Planning Commission, in accordance with Section 57, Conditional Uses Permitted by Commission, of this chapter, and they are not located within one thousand (1,000) feet of the parcel boundary of another quasi-public use listed below. This distance shall be measured from the property line of the parcel where such use is located.
1. Places of meeting or assembly, such as auditoriums, banquet halls, fraternal or union hall, churches and other religious institutions.
 2. Hospitals or sanitariums.
 3. Private elementary, middle or high school.
 4. Vocational schools, if not found objectionable due to noise, odor, vibration or other similar health, safety and welfare basis.

6.02-5 Restaurant Uses within Mixed Use Zones

- A.** Restaurant or restaurants which include internet usage for customers may be permitted provided:
1. They provide no dancing or live entertainment;
 2. They have only ancillary on-premise consumption of beer and wine associated with food sales;
 3. They have no separate bar area;
 4. When located within the MXD2 and MXD3 zones they are located on the ground floor facing a public street designated as a retail mixed use street; and
 5. They conform to the performance standards listed in subsection 6.02-5 (B) below.

If items 1 through 4 above are not met, then approval of a Conditional Use Permit is required in accordance with Section 57, of this chapter.

B. Restaurant Performance Standards. Restaurants shall comply with the following performance standards:

1. Seating shall not exceed that which the amount of parking allocated for the restaurant space would allow. A sign measuring at least one (1) foot by one (1) foot, with a lettering height of at least three (3) inches, shall be placed in a conspicuous location near the restaurant front entrance stating the maximum total seating allowed. Outdoor seating is allowed if it has been approved as part of the facility's Site and Architectural application and is operated in conformance with any conditions of that approval.
2. The restaurant shall comply with the City Council's Guidelines for Recycling Enclosures (Resolution No. 6296).
3. The restaurant shall incorporate measures to reduce odors to acceptable levels, including, but not limited to, installation of a scrubber, carbon filter or similar equipment, on the roof vent to control odors.
4. All the facility's floor drains, trash compactors and indoor mat and equipment washing areas shall be drained to the sanitary sewer.
5. Where applicable, the restaurant shall maintain an active account with a tallow hauling company.
6. The restaurant shall prepare and implement a program assigning restaurant staff responsibility for complying with the following guidelines which shall be adhered to while the restaurant is in operation:
 - a. Wash all containers and equipment in the kitchen areas so that wash water may drain into the sanitary sewer.
 - b. Keep garbage dumpsters clean inside and out; replace very dirty dumpsters with new, clean ones.
 - c. Double bag waste to prevent leaking.
 - d. Place, do not drop or throw, waste-filled bags, to prevent leaking.
 - e. Keep the ground under and around the garbage dumpsters swept.
 - f. Sprinkle the ground lightly after sweeping with a mixture of water and a little bleach.
 - g. Hold training sessions to instruct employees on the proper procedures in the handling and disposal of food items; the general maintenance and use of the compactor and any other procedures that would assist the business in complying with all State and local health and sanitation standards. A record of such training must be kept to prove compliance with this requirement.
 - h. Post signs (in English and multi-lingual) inside the premises for all employees identifying procedures for food delivery and garbage disposal.

- i. All garbage bins shall be stored in the garbage enclosure except for the twelve (12) hours immediately before and after garbage collection.

10-6.03 Affordable Housing

Affordable housing units should be provided in all new housing projects. While twenty percent (20%) is the minimum goal, affordable unit requirements will be determined on a project by project basis, taking into consideration the size and location of the project, the type of housing unit, proximity to transit and the mix of affordable units in the vicinity. (Ord. 38.759 (part), 4/2/02)

10-6.04 Mixed Use Zone General Development Standards

A. Standards within Specific Plan Areas.

For properties located within a Specific Plan, refer to the specific plan for development standards. When a standard is not listed within the specific plan, the standards listed within the zoning ordinance shall govern.

- B. General Standards.** The following minimum requirements shall be observed. The minimum requirement shall be one of the following for the district classification as designated on the zoning map.

**Table 6.04-1
Mixed Use Zone Development Standards**

Standards	MXD	MXD2	MXD3
Non-residential lot area minimum	Individual sites shall be of such size that all space requirements provided in this section are satisfied.	Individual sites shall be of such size that all space requirements provided in this section are satisfied.	Individual sites shall be of such size that all space requirements provided in this section are satisfied.
Density, Minimum-Maximum Residential (Dwellings) ¹	21 min. 30 max. per gross acre	31 min. 40 max. per gross acre. For additional standards refer to Section 6.04(C), Multi-Family Residential Density within the MXD2 and MXD3 zones.	41 min. 60 max. per gross. For additional standards refer to Section 6.04(C), Multi-Family Residential Density within the MXD2 and MXD3 zones.
Front and Street-Side Yard Setback, Minimum	Refer to Section 6.04(D), Front and Street-Side Yard Setbacks.	Refer to Section 6.04(D), Front and Street-Side Yard Setbacks.	12 ft. min--20 ft. max For additional standards refer to Section 6.04(D), Front and Street-Side Yard Setbacks, of this chapter.
Interior-Side Yard Setback, Minimum ²	Ground Level Commercial Area: 0 ft. All other areas: 10 ft.	0 ft. Except when abutting residential use and for portions of buildings over 60 ft or four stories tall, where the interior side yards shall	10 ft. 15 ft. when abutting residential. 20 ft. for portions of

Standards	MXD	MXD2	MXD3
		be a minimum of 10 ft.	buildings over 60 ft. or four stories tall.
Rear Yard Setback, Minimum ³	10 ft.	10 ft 15 ft. when abutting residential 20 ft. for portions of buildings over 60 ft or four stories tall.	15 ft. 20 ft. when abutting residential 30 ft. for portions of buildings over 60 ft. or four stories tall.
Floor Area Ratio, Non-Residential and Mixed Use projects	For buildings and portions thereof: .75 max.	1.5 max. Refer to Section 6.04(F), Floor Area Ratio, Non-Residential.	2.0 max. Refer to Section 6.04(F), Floor Area Ratio, Non-Residential.
Commercial Area, Minimum	Not Applicable	200 sq. ft. of retail, restaurant, or pedestrian-oriented commercial service uses, allowed in Table 6-02-1, Mixed Use Zone Uses, must be provided for every unit, using the minimum density.	Not Applicable
Building Height ⁴	Principal building: 3 stories and 45 ft.	Principal building: 6 stories or 75 ft. Principal buildings with frontage along Great Mall Parkway: 12 Stories or 150 ft. Greater height, up to 20 stories may be allowed through the approval of a Conditional Use Permit.	Principal buildings: 12 stories or 150 ft. Greater height, up to 20 stories may be allowed through the approval of a Conditional Use Permit.
Landscaping	Refer to Section 6.04(G), Landscaping.	Refer to Section 6.04(G), Landscaping.	Refer to Section 6.04(G), Landscaping.
Parking	Refer to Section 6.05, Off-Street Vehicle and Bicycle Parking.	Refer to Section 6.05, Off-Street Vehicle and Bicycle Parking.	Refer to Section 6.05, Off-Street Vehicle and Bicycle Parking.

1 For MXD3 properties, density may be averaged over contiguous parcels.

2 To mitigate the effects of adjacent service commercial or light industrial uses, increased setbacks and other measures, such as solid six-foot fence or masonry wall, shall be considered on a case by case basis by the Planning Commission during the Site Development Permit process, taking into consideration the nature of adjacent uses.

3 See Note 2 above.

4 Within the MXD zone, special architectural features, such as towers or corner elements may be up to 55 ft.

C. Multi-Family Residential Density within the MXD2 and MXD3 zones.

1. MXD2 Standards.

- a. The minimum number of multi-family residential units may be reduced for parcels less than twenty thousand (20,000) square feet.
- b. Units with four bedrooms shall be counted as one and one-half (1.5) units when calculating density.
- c. In buildings which have ground floor retail, restaurant, child care, or commercial service uses as allowed in Table 6.02-1, Mixed Use Zone Uses, the square footage of said uses does not contribute to the density limits.

2. MXD3 Standards.

- a. Units with four bedrooms shall be counted as one and one-half (1.5) units when calculating density.
- b. In buildings which have ground floor retail, restaurant, child care, or commercial service uses as allowed in Table 6.02-1, Mixed Use Zone Uses, the square footage of said uses does not contribute to the density limits.

D. Front and Street-Side Yard Setbacks. The front and street-side yard setbacks shall be as follows:

1. All zones.

- a. Where a public easement prevents a building from being located in at its required minimum or maximum setbacks, the building shall be located as close to the back of said easement as possible.
- b. Trellises, canopies and fabric awnings may project up to five (5) into minimum front and street side setback areas and public right of ways, provided they are not less than eight (8) feet above the sidewalk.
- c. All buildings shall be oriented towards the street. Primary building entrances shall be oriented toward the street.

2. MXD zones:

- a. All areas.
 - i. Balconies, bay windows, porches, stoops, trellises, canopies and awnings may project into the minimum setback areas provided at least sixty percent (60%) of the required setback area is landscaping.
 - ii. A building's first floor may be recessed from either the maximum front and street side building setback line or the specified build-to-line for the purposes of an arcade, or a small gathering/dining or special entry area.

The arcade shall have a minimum height of (8) feet, a minimum width of eight (8) feet. Other recessed areas may have maximum depth of ten (10) feet, and may not exceed forty percent (40%) of the building's street facing elevation. An entry door area up to nine (9) feet wide may be recessed up to four (4) feet from the back of the sidewalk.

b. Within the Midtown Specific Plan

- i. The Ground Level Commercial Area (as shown on the Specific Plan Land Use Map, Figure 3.1), shall have a build-to line that is fifteen (15) feet behind the curb. The fifteen (15) feet between the curb and the building build-to-line shall be developed with sidewalk and street trees.

c. Outside the Midtown Specific Plan

- i. Minimum of eight (8) feet and a maximum of fifteen (15) feet from back of sidewalk. The sidewalk shall be based on either the existing sidewalk or assumed ten (10) foot wide sidewalk, whichever is wider.

3. MXD2 zones:

a. All areas.

- i. Balconies, bay windows, porches, stoops, trellises, canopies and awnings may project into the setback areas up to the property line.
- ii. A building's first floor may be recessed from the front and street side building setback line for the purposes of an arcade, outdoor dining area, or special entry area.

The arcade shall have a minimum height of (8) feet, and a minimum width of eight (8) feet. Other recessed areas may have a maximum depth of ten (10) feet, and may not exceed twenty percent (20%) of the building's street facing elevation. An entry door area up to nine (9) feet wide may be recessed up to four (4) feet from the front and street-side building setback.

b. Within the Transit Area Specific Plan. Setbacks are defined and illustrated in the street sections of Chapter 5 of the Transit Area Specific Plan.

c. Outside the Transit Area Specific Plan

- i. Minimum eight (8) feet and a maximum of fifteen (15) feet from back of sidewalk.

E. Floor Area Ratio, Non-Residential.

In addition to the standards listed in Table 6.04-1 Mixed Use Zone Development Standards for MXD2 and MXD3 zoned properties, the following shall apply:

1. A Floor Area Ratio of two and a half (2.5) for non-residential buildings may be considered for individual sites with a Conditional Use Permit, in accordance with Section 57, Conditional Uses Permitted by Commission, of this chapter.
2. There are no FAR or density limits for hotels.

3. In buildings which have ground floor retail, restaurant, child care, or commercial service uses as provided for in Table 6.02-1, Mixed Use Zone Uses, the square footage of said uses does not contribute to the FAR calculation.
4. Buildings which include both non-residential uses and residential uses on the upper floors shall be considered “non-residential,” and Floor Area Ratio standards shall apply.

F. Landscaping

All required front and street setback areas shall be landscaped or paved to allow for outdoor seating, display of goods, or street furniture.

G. Park and Open Space Requirements for Residential Uses

1. Areas within Midtown Specific Plan
 - a. All residential projects within the Midtown Specific Plan area shall provide park land at a ratio of three and one-half (3 1/2) acres per one thousand (1,000) population. Up to one and one-half (1 1/2) of each three and one-half (3 1/2) total park acres required (43%) may be satisfied by the provision of private recreational areas. The remaining park land requirement must be satisfied by either dedication of land to the City for public parks and open space, or payment of an in-lieu fee, as set forth in Section 9 (Park Dedication) of the Milpitas Subdivision Ordinance (Title XI, Chapter 1).
 - b. A minimum of twenty-five percent (25%) of the total site shall be usable open space or recreational facilities. Balconies, porches, or roof decks may be considered usable open space when properly developed for work, play or outdoor living areas.
 - c. Balconies, porches, or roof decks may be considered usable open space when properly developed for work, play or outdoor living areas. Balconies and porches located above ground level with a minimum dimension of 4 1/2 feet constructed for use by dwelling units shall be exempt from the useable open space dimension standards above and within Section 2 of this chapter, and may be considered to satisfy usable open space requirements. Each dwelling unit shall be provided with private open space as follows:
 - i. Balconies and porches (above ground level): minimum sixty (60) square feet; or
 - ii. Patios (at ground level): minimum one hundred square feet. (Ord. 38.767 (part), 2/7/06; Ord. 38.760 (3), 9/17/02; Ord. 38.759 (part), 4/2/02)
2. Areas within Transit Area Specific Plan
 - a. All residential projects shall provide park land at a ratio of three and one-half (3.5) acres per one thousand (1,000) population.
 - i. Two (2) of the required three and one-half (3.5) acres must be satisfied by either dedication of land to the City for public parks and open space, or payment of an in-lieu fee, as set forth in Section 9 (Park Dedication) of the Milpitas Subdivision Ordinance

(Title XI, Chapter 1). Land dedication is required if a park is shown on a property on Figure 3-8 of the Transit Area Specific Plan.

- ii. Up to one and one-half (1.5) of each three and one-half (3.5) total park acres required (43%) may be satisfied by the provision of private recreational areas. Private open space cannot be shared between separate developments.
 - b. Each residential project shall provide adequate on-site usable open space or recreational facilities to the approval of the Planning Commission through the Site Development Permit process. (Ord. 38.760 (3), 9/17/02; Ord. 38.759 (part), 4/2/02) Each dwelling unit shall be provided with private open space as follows:
 - i. Balconies (above ground level): minimum forty (40) square feet; or
 - ii. Patios and porches (at ground level): minimum fifty (50) square feet.
 - c. All development projects shall dedicate land for parks if a park is shown on a property on Figure 3-8 of the Transit Area Specific Plan.
 - d. All commercial development projects shall dedicate and/or improve public trails if a trail is shown on a property on Figure 3-8 of the Transit Area Specific Plan.
 - e. Twenty percent (20%) of a landscape buffer area may count towards the public park and open space requirements when it includes trails or wide sidewalks connected to the pedestrian and bicycle network.
 - f. Park Sites: Parks must be bordered by public streets, or public right-of-way such as a trail or railroad right-of-way, on at least three sides.
3. Areas outside Specific Plans
- a. All residential projects outside a Specific Plan area shall comply with the park land dedication provisions provided in Section 9.06 (Amount of Park Land to be Dedicated) of the Milpitas Subdivision Ordinance.

10-6.05 Off-Street Vehicle and Bicycle Parking

**Table 6-05-1
Number of Parking Spaces Required for Mixed Use Zones**

Use	MXD/MXD2/MXD3
	Min Required
1. Residential	
Studio	1.0 covered per unit
1 Bedroom	1.5 covered per unit
2 + Bedrooms	2.0 covered per unit
Guest Parking	15% of required total
Bicycle Parking	5% of total parking required.
2. Commercial¹	
Retail	1 per 250 sq. ft.

Office	If building is 1,000 sq. ft. or smaller: 1 per 250 sq. ft. If building is larger than 1,000 sq. ft.: 3.3 per 1,000 sq. ft.
Other Uses	Refer to Table 53.23, Parking Schedule, of this chapter.
Bicycle Parking	1 per every 20 parking spaces required (5%)

1Per gross floor area.

A. Additional Parking Standards within MXD Zone

1. All Uses.

- a. No parking spaces are allowed within the front or street side setback areas.
- b. On-street parking along the building's street frontage can be counted toward a development's overall parking requirements.
- c. There shall be provided off-street parking for automobiles in terms of design layout and sufficient quantity in accordance with the requirements of Section 53. All such parking spaces shall be improved as provided for in Subsection 54.03.

2. Residential Uses.

- a. Parking space dimensions. The standards below are for 90 degree parking spaces. Refer to Table 53.22 for dimensions of other angled parking spaces.
 - i. Standard parking spaces shall be a minimum of nine (9) feet wide by eighteen (18) feet long.
 - ii. Compact parking spaces shall be a minimum of 7.5 feet wide by 15 feet long.
- b. Tandem Parking
 - i. Approval of a Conditional Use Permit, in accordance with Section 57, of this chapter is required for tandem parking.
 - ii. Tandem parking spaces shall be a maximum of two (2) parking spaces deep.
 - iii. Tandem parking is not allowed for non-residential uses or guest parking. When tandem parking spaces are used in garages with more than two (2) parking spaces, they shall be assigned and marked for resident.
- c. Compact Parking
 - i. A maximum of forty (40) percent of parking may be compact parking spaces. No compact parking spaces are allowed for non-residential uses or guest parking. (Ord. 38.761 (part), 5/20/03; Ord. 38.760 (2, 3), 9/17/02; Ord. 38.759 (part), 4/2/02)
 - ii. When compact parking spaces are used in garages with more than two spaces, each space shall be marked as compact and shall be assigned and marked for resident use.

B. Additional Parking Standards within MXD2 and MXD3 Zones

1. All Uses.
 - a. Parking Location
 - i. No parking spaces are allowed within the front or street side setback areas.
 - ii. Parking must be located behind buildings to minimize visibility from public streets.
 - iii. At least seventy percent (70%) of the street facing perimeter of above-ground parking shall be wrapped with habitable space. Exceptions may be allowed with a conditional use permit, if the design quality of the structure is equivalent to habitable space.
 - b. Parking may be partially above ground along the street, provided that no more than four (4) feet of the structure is above grade. The above grade area must be wrapped with continuous landscaping that screens parking garage openings.
 - c. Parking Garage Access.
 - i. No more than one curb cut per lot per street frontage is allowed.
 - ii. Parking garage entrances shall be no greater than twenty-two (22) feet wide.
 - iii. Parking garage access points shall be set back from the curb so that a car can pull up to the entry gate or ticket machine without blocking the sidewalk.
2. Non-Residential Uses. Bicycle parking must be provided on the same site as the use it serves.
 - a. Thirty percent (30%) of the bicycle parking shall be long-term and be located in a lighted, high visibility, covered area protected from the elements.
 - b. Thirty percent (30%) of the bicycle parking must be short-term, and be located within fifty (50) feet from the entrance to the commercial building it serves with good visibility.
 - c. Office and employment developments larger than 50,000 square feet shall provide showers and lockers for bicycle riders. The showers and lockers must be available to all on-site employees and maintained in a sanitary and safe condition.
3. Residential Uses.
 - a. Guest parking may be covered or uncovered.
 - b. Compact Parking
 - i. A maximum of forty percent (40%) of parking may be compact parking spaces. No compact parking spaces are allowed for non-residential uses or guest parking.
 - ii. Compact parking spaces shall be a minimum of 7.5 feet wide by 15 feet long when using 90 degree angle parking space. For other dimensions for angled parking spaces refer to

Table 53.22. When parking spaces are used in garages within more than two spaces, each space shall be marked as compact and shall be assigned and marked for resident use.

- c. Tandem Parking
 - i. Tandem parking is not allowed for non-residential uses or guest parking.
 - ii. A conditional use permit is required for tandem parking.
 - iii. A maximum of seventy-five percent (75%) of parking required for residential uses may be tandem parking.
 - iv. Tandem parking spaces shall be a maximum of two (2) parking spaces deep.
 - v. When tandem parking spaces are used in garages with more than two (2) parking spaces, they shall be assigned and marked for resident use.
- d. Garages attached to individual units may not occupy more than fifty percent (50%) of the ground level frontage facing the street.

10-6.06 Special Development Standards

A. Utilities

1. Utilities shall be placed in underground or subsurface conduits.
2. All mechanical equipment, ground transformers and meters shall be located and screened to minimize visual impacts.
3. Rooftop mechanical equipment shall be concealed from street level views through roof designs that is architecturally integrated with the building, such as equipment wells and parapets.
4. Public utility distribution meters, vaults and similar installations shall be consolidated in a single area whenever possible and located away from highly visible areas such as street corners and public open spaces.
5. Backflow preventors shall be located within landscaped setback areas and painted black or dark green to minimize visual impact. Where no landscaped setback areas exist the backflow preventors shall be incorporated into the front of the building to minimize visual obtrusiveness.
6. Refuse and recycling containers shall not be visible from a public or private street. Such containers shall be stored either within the parking facility of the building or within a vehicular accessway with screening designed to meet the requirements of this section.
7. Trash enclosure walls shall incorporate building materials and colors that match the architecture of the building, and be well landscaped.
8. All telecommunications antennas shall be building facade or roof mounted and screened appropriately.

9. On Main Street only telecommunication facilities that are disguised to appear as a part of the building architecture (i.e. “stealth” antennas) may be used. (Ord. 38.760 (2, 3), 9/17/02; Ord. 38.759 (part), 4/2/02)

10-6.07 Exceptions to Standards

1. Exceptions to all but the use, floor area ratio, density, and park land requirement regulations of this Section may be approved by the Planning Commission through approval of a Conditional Use Permit in accordance with the requirements of Section 57, Conditional Uses Permitted by Commission, of this chapter.
2. In addition to the required findings under Chapter 57, the Planning Commission must be able to make the following two additional findings for such exceptions:
 - a. The exceptions meet the design intent identified within the Zoning District and/or Specific Plan and do not detract from the overall architectural, landscaping and site planning integrity of the proposed development.
 - b. The exceptions allow for a public benefit not otherwise obtainable through the strict application of the specified standard. (Ord. 38.759 (part), 4/2/02)

10-6.08 Conformance with Specific Plans

A. Midtown Specific Plan

1. The Midtown Specific Plan policies, as well as the Design Guidelines and Standards set forth in Chapter 8 of the Plan, shall apply to all properties within the Midtown area if any one or more of the following occurs:
 - a. Whenever a new building is constructed, regardless of size;
 - b. Whenever the use of an existing building is expanded or changed to a use requiring 50% or more off-street parking spaces, as determined by the City’s adopted parking standards; or
 - c. Whenever an existing building is increased in gross floor area by 10% of the existing gross floor area or is enlarged by 500 or more square feet, whichever is less (all additions or enlargements completed since May 2, 2002 shall be totaled).

If exterior building or site improvements (including signage) are proposed that do not fall under (a) through (c) above, such improvements shall be designed to conform to the Midtown policies, guidelines and standards applicable to the improvements, without requiring additional Midtown-related improvements to be imposed. (Ord. 38.760 (2, 3), 9/17/02; Ord. 38.759 (part), 4/2/02)

2. Whenever an entitlement is required for projects within the Specific Plan, in addition to all of the required findings, the following finding shall also be made:

The proposed use complies and is consistent with the Specific Plan.

B. Transit Area Specific Plan

1. The Transit Area Specific Plan policies, including policies for specific subdistricts in Chapter 4 and the Development Standards and Design Guidelines set forth in Chapter 5 of the Plan, shall apply to all properties within the Transit Area if any one or more of the following occurs:
 - a. Whenever a new building is constructed, regardless of size;
 - b. Whenever the use of an existing building is expanded or changed to a use requiring 50% or more off-street parking spaces, as determined by the City's adopted parking standards; or
 - c. Whenever an existing building is increased in gross floor area by 10% of the existing gross floor area or is enlarged by 500 or more square feet, whichever is less (all additions or enlargements completed since the adoption of the Specific Plan June 3, 2008 shall be totaled.

If exterior building or site improvements (including signage) are proposed that do not fall under (a) through (c) above, such improvements shall be designed to conform to the Transit Area policies, guidelines and standards applicable to the improvements, without requiring additional Transit Area-related improvements to be imposed.

2. The policies and standards of the Transit Area Specific Plan will supersede the Midtown Specific Plan and the General Plan in the transit area. Should a conflict between the existing plans and codes arise within the Transit Area, the policies and standards of the Transit Area Specific Plan shall govern.
3. Whenever an entitlement is required for projects within the Specific Plan, in addition to all of the required findings, the following finding shall also be made:

The proposed use complies and is consistent with the Specific Plan.

SECTION 9. Chapter 10, Section 7 of Title XI of the Milpitas Municipal Code "R3 Multiple-Family Residence District" is hereby deleted in its entirety.

SECTION 10. Chapter 10, Section 8 of Title XI of the Milpitas Municipal Code "R4 Multi-Family Very High Density District" is hereby deleted in its entirety.

SECTION 11. Chapter 10, Section 11 of Title XI of the Milpitas Municipal Code "Specific Plan Areas" is hereby added in its entirety to read as follows:

-- Begin Section --

SECTION 11 SPECIFIC PLAN AREAS

10-11.01 Purpose and Intent

10-11.02 Applicability

10-11.03 Adoption and Amendment of Specific Plans

10-11.04 Relationship between Specific Plans and Zoning Ordinance

10-11.05 Adopted Specific Plans.

10-11.01 Purpose and Intent

The purpose of this chapter is to explain the relationship between the Zoning Ordinance and any adopted Specific Plans. A specific plan is a document designed to implement the goals and policies of the General Plan. A specific plan is intended to establish the nature, character, and location of activities and development; to guide the orderly growth; to more specifically define the nature of development and the physical framework; and to provide a basis for future implantation actions within a specific geographic area.

10-11.02 Applicability

The provisions in this section shall apply to all areas for which a specific plan has been prepared and adopted by the City Council.

10-11.03 Adoption and Amendment of Specific Plans

Adoption and/or amendment of a specific plan shall occur in accordance with the provision for specific plans and specific plan amendments described in Section 62.

10-11.04 Relationship between Specific Plans and Zoning Ordinance

The adopted specific plan shall operate as the zoning regulations for the subject property. Where standards are not listed within the specific plan, the Zoning Ordinance shall regulate.

10-11.05 Adopted Specific Plans

As of the date of the adoption of this Zoning Ordinance, the following specific plans have been adopted by the City. Complete specific plans are provided as a separate appendix to this chapter.

**Table 11.05-1
Adopted Specific Plans**

Specific Plan Name/Abbreviation	City Council Resolution #	Development Agreement
Midtown/ MTSP		
Transit Area/TASP		

SECTION 12. Chapter 10, Section 38 of Title XI of the Milpitas Municipal Code “MXD Mixed Use District” is hereby deleted in its entirety.

SECTION 13. Chapter 10, Section 43 of Title XI of the Milpitas Municipal Code “TOD Transit Oriented Development Combining District” is hereby amended in its entirety to read as follows:

--Begin Section--

SECTION 43 TRANSIT ORIENTED DEVELOPMENT (-TOD) OVERLAY DISTRICT

10-43.01 Purpose and Intent

10-43.02 Applicability

10-43.03 Permitted, Accessory and Conditional Permitted Uses

10-43.04 Development Standards

10-43.05 Conformance with Specific Plans

10-43.01 Purpose and Intent

The purpose of the Transit Oriented Development Overlay District ("TOD") is to provide for land uses, land use densities and intensities and development standards that act to enhance and support transit and to locate such uses near rail transit stations. These provisions allow for a mix of goods and services within a convenient walk of the transit stations, encourage the creation of stable, attractive residential, commercial and industrial environments within the District and provide for a *desirable* transition to the surrounding conventional areas. (Ord. 38.759 (part), 4/2/02)

10-43.02 Applicability

The "-TOD" overlay can be combined with any zoning district on lands that are generally within a 2,000 foot walk from a rail transit station. If any of the regulations specified in the "-TOD" overlay district differ from any corresponding regulations of any district with the "-TOD" Overlay district is combined, then the provisions of the "-TOD" Overlay district shall govern. (Ord. 38.759 (part), 4/2/02)

TOD developments within a 2,000 foot radius of the Northern BART station may only apply the twenty percent (20%) reduction once a decision on the location and viability of the Northern BART station has been made by the City Council. (Ord. 38.761 (part), 5/20/03; Ord. 38.759 (part), 4/2/02)

10-43.03 Permitted, Accessory and Conditionally Permitted Uses

A. Permitted and conditional uses within the -TOD Overlay are the same uses as those allowed within the underlying base zones except as noted below. Refer to the use tables in Sections 10-4, Residential Zones and Standards, through 10-6, Mixed Use Zones and Standards, of this title.

1. Accessory Uses in R3-TOD/R4-TOD/R5-TOD Zones

- a. Retail stores, offices, and commercial service establishments as defined in Subsection 2.26-7, provided they are:
 - i. On the ground floor level;
 - ii. Located on or within three hundred (300) feet of arterials or collectors including Great Mall Parkway, Montague Expressway, Milpitas Boulevard, Trade Zone Boulevard, and Piper Drive;
 - iii. Less than or equal to ten thousand (10,000) square feet in gross floor areas;
 - iv. Not open past 10:00 p.m.;
 - v. Conducted wholly within a building, except for approved outdoor seating areas,;
 - vi. Not Adult Businesses as defined in Subsection 54.18;
 - vii. Not specifically noted in Subsection 6.04 as requiring Conditional Use Permit approval; and

- viii. Not specifically noted in Subsection 6.04, as a use not permitted in a mixed-use district.

If items a through d are not met, then approval of a Conditional Use Permit is required in accordance with Section 57, of this chapter.

- b. Restaurants, or restaurants which include internet usage for customers, provided they:
 - i. Are located on or within three hundred (300) feet of arterials or collectors including Great Mall Parkway, Montague Expressway, Milpitas Boulevard, Trade Zone Boulevard, and Piper Drive;
 - ii. Are located on the ground floor;
 - iii. Provide no dancing or live entertainment;
 - iv. Have only ancillary on-premise consumption of beer and wine associated with food sales;
 - v. Conform to the performance standards as listed in Subsection 6.02-5.

If items a through d are not met, then approval of a Conditional Use Permit is required in accordance with Section 57, of this chapter.

- c. Other accessory uses and accessory buildings customarily appurtenant to a permitted use, as provided for in Subsection 54.09.

2. Conditionally Permitted Uses

The following require the approval of a Conditional Use Permit in accordance with Section 57.

- a. Retail stores, offices and commercial service establishments, as defined in Subsection 2.26-8, which do not meet the criteria in 10-43.03(A)(1)(a-d), Accessory Uses in R3-TOD/R4-TOD/R5-TOD Zones.
- b. Restaurants, or restaurants which include internet usage for customers, which do not meet the criteria in 10-43.03(A)(2)(a-d) Accessory Uses in R3-TOD/R4-TOD/R5-TOD Zones.
- c. The following uses may be allowed on the ground floor of a mixed use or residential building if a Conditional Use Permit is granted by the Planning Commission:
 - i. Transit stations and parking.
 - ii. Small-scale commercial uses to serve residents and local pedestrian traffic and to transit users, such as dry cleaners, video rentals, day care centers and cafes. (Ord. 38.759 (part), 4/2/02)

B. Prohibited Uses

- 1. Vehicle oriented window service facilities, including drive-up or drive-in services.
- 2. Adult Businesses, as defined in Subsection 54.18

10-43.04 Development Standards

A. The development standards for the underlying base zoning district shall apply, except any deviations noted below:

1. MXD-TOD Areas.

- a. Residential developments shall be a minimum of thirty-one (31) dwelling units per gross acre and shall not exceed forty (40) dwelling units per gross acre. The minimum number of residential units may be reduced for parcels that are less than twenty thousand (20,000) square feet.
- b. Residential building height shall not exceed four (4) stories and sixty (60) feet, including special architectural elements such as towers and spires.
- c. The maximum FAR for non-residential buildings in the “MXD” District is one hundred percent (100% or 1.0).

2. MXD2-TOD Areas.

- a. Residential developments shall be a minimum of thirty-one (31) dwelling units per gross acre and shall not exceed fifty (50) dwelling units per gross acre. The minimum number of residential units may be reduced for parcels that are less than twenty thousand (20,000) square feet.
- b. Childcare Centers.
 - i. Childcare centers are exempt from the FAR limits.
 - ii. Square footage dedicated to childcare centers may be counted towards the commercial space requirement.

3. MXD3-TOD Areas

- a. Residential developments shall be a minimum of forty-one (41) dwelling units per gross acre and shall not exceed seventy-five (75) dwelling units per gross acre. The minimum number of residential units may be reduced for parcels that are less than twenty thousand (20,000) square feet.
- b. Building Height. Greater height up to twenty-four (24) stories may be allowed with Planning Commission review.
- c. Childcare Centers.
 - i. Childcare centers are exempt from the FAR limits.
 - ii. Square footage dedicated to childcare centers may be counted towards the commercial space requirement.

4. R3-TOD Areas.

- a. **Building Height.** Residential building height shall not exceed four (4) stories and sixty (60) feet.
 - b. **Residential Density.** Residential density shall be a minimum of twenty-one (21) dwelling units per gross acre and shall not exceed forty (40) dwelling units per gross acre.
 - c. **Non-Residential Intensity.** Ground floor retail, restaurant, and commercial service uses are permitted up to a maximum Floor Area Ratio of thirty percent (0.30 or 30%).
 - d. **Front and Street Side Setbacks**
 - i. There shall be a minimum setback of eight (8) feet and a maximum building setback of fifteen (15) feet from the property line.
 - iii. Where a public easement prevents a building from being located at its required minimum or maximum setback lines, the building shall be located as close to the back of said easement as possible.
5. **R4-TOD Areas.**
- a. **Building Height.** Residential building height shall not exceed six (6) stories and seventy-five (75) feet.
 - b. **Residential Density.** Residential developments shall be a minimum of forty-one (41) dwelling units per gross acre and shall not exceed sixty (60) dwellings units per gross acre.
 - c. **Non-Residential intensity.** Ground floor retail, restaurant, and commercial service uses are permitted up to a maximum Floor Area Ratio of fifty percent (0.50 or 50%).
 - d. **Front and Street Side Setbacks**
 - i. There shall be a minimum setback of twelve (12) feet and a maximum building setback of twenty (20) feet from the property line.
 - iii. Where a public easement prevents a building from being located at its required minimum or maximum setback lines, the building shall be located as close to the back of said easement as possible.
6. **R5-TOD Areas.**
- a. Residential developments shall be a minimum of forty-one (41) dwelling units per gross acre and shall not exceed seventy-five (75) dwelling units per gross acre.
 - b. Ground floor retail, restaurant, and commercial service uses are permitted, up to a maximum Floor Area Ratio of fifty percent (50% or 0.50).
 - c. **Ground Floor Commercial Design Standards.** On retail mixed use streets, and in any other areas with ground floor retail, restaurant, and commercial service uses, the following standards apply:

- i. Ground Floor Commercial Depth. Ground floor commercial tenant spaces shall be at least sixty (60) feet deep. Exceptions may be allowed for small tenant spaces less than two thousand five hundred (2,500) square feet.
 - ii. Floor to Ceiling Height
 - 1. Retail: minimum eighteen (18) feet.
 - 2. Office: minimum fifteen (15) feet.
 - iii. Windows. At least sixty (60) percent of the ground floor wall area between three (3) and eight (8) feet above the sidewalk shall be glass or other transparent material.
 - iv. Blank Walls. No more than thirty (30) percent of the linear frontage per street may be blank. No more than twenty-five (25) contiguous feet in length may be blank.
 - v. Building entrances. There shall be at least one entrance per one hundred (100) feet of building frontage.
 - vi. Exterior Materials. All ground floor exterior materials shall be durable, quality materials, such as tile, stone, brick or glass.
 - vii. Wall Plane Articulation. Windows, doors, columns, and other features shall be recessed or project forward, such that there is a six-inch difference between wall and window surfaces and a total of at least eighteen inches from the window to the outermost plane of a wall or column.
 - viii. Floor Elevation. Ground floor elevation shall be no more than two feet above or below the sidewalk level.
7. C2-TOD Areas.
- a. Floor Area Ratio. The maximum FAR in the “C2-TOD” District is one hundred percent (100%, or 1.0).
9. “MP-TOD” Areas
- a. Side yard setbacks.
 - i. Minimum thirty-five (35) feet when abutting residential uses.
 - b. Rear yard setbacks.
 - i. Minimum one hundred (100) feet when abutting residential uses.
10. I-TOD Areas.
- a. Floor Area Ratio. There will be no maximum FAR in the “I-TOD” district. (Ord. 38.770 (4) (part), 1/2/07; Ord. 38.761 (part), 5/20/03; Ord. 38.759 (part), 4/2/02)

B. Off-Street Parking and Bicycle Parking

1. Off-Street Parking. Total off-street parking required in the Parking Schedule (refer to Section 53.23) and elsewhere in this Chapter may be reduced up to twenty percent (20%) for all “-TOD” overlay districts.
2. Development projects in the Transit Area Specific Plan area shall have maximum off-street parking requirements which are equal to the minimum off-street parking requirements of the base zoning district. Refer to the Parking Schedule in Section 53.23.
3. For locations within the Transit Area Specific Plan, preferential parking for carpools shall be one percent of the total amount of parking spaces required and appropriately signed.

**Table 43.04-1
Number of Parking Spaces Required for MXD-TOD Zones**

Use	MXD/MXD2/MXD3	
	Min Required	Max Allowed
Studio	0.8 covered	1.0 covered
1 Bedroom	1.2 covered	1.5 covered
2 + Bedrooms	1.6 covered	2.0 covered
Guest Parking	15% of required total	
Bicycle Parking	Long-term Bicycle Parking: 1 per every 4 housing units (25%) Short-term Bicycle Parking: 1 per every 20 parking spaces required (5%)	
Retail	0.8 per 250 sq. ft.	1.0 per 250 sq. ft.
Office	0.8 per 303 sq. ft.	1.0 per 303 sq. ft.
Other Uses	Refer to Table 53.23, Parking Schedule, of this title.	
Preferential Parking for Carpools	1% of required total	

4. Bicycle Parking.
 - a. Long-term bicycle parking shall be one space per every four housing units.
 - b. Short-term bicycle parking shall be one space per every 20 parking spaces required.

C. Landscape and Open Space Requirements for Residential Uses

1. When combined with "-TOD" there shall be no minimum on-site open space requirements other than those specified in the base zoning district; however, adequate open space shall be provided to the approval of the Planning Commission through the Site and Architectural Review ("-S" Zone) process. (Ord. 38.759 (part), 4/2/02)
2. All residential projects within the Transit Area Specific Plan area shall provide park land at a ratio of three and one-half (3.5) acres per one thousand (1,000) population.

- a. Two (2) of the required three and one-half (3.5) acres must be satisfied by either dedication of land to the City for public parks and open space, or payment of an in-lieu fee, as set forth in Section 9 (Park Dedication) of the Milpitas Subdivision Ordinance (Title XI, Chapter 1). Land dedication is required if a park is shown on a property on Figure 3-8 of the Transit Area Specific Plan.
- b. Up to one and one-half (1.5) of each three and one-half (3.5) total park acres required (43%) may be satisfied by the provision of private recreational areas. Private open space cannot be shared between separate developments.

D. Additional Development Requirements

1. All developments within the "-TOD" Combining District shall, through the Site Development Permit review process, incorporate measures that would encourage the use of transit, foot and bicycles, including, but not limited to:
 - a. Retail shops and services that residents and employees use on a frequent basis, such as restaurants, cafes, exercise facilities, dry cleaners, day care, video rental and automated teller machines.
 - b. Participation in the Valley Transportation Agency's EcoPass or similar programs that support mass transit.
 - c. Provision of bicycle facilities and showers in new office and employment uses larger than 50,000 square feet only.
2. For locations within a Specific Plan, all improvements shall conform to the Midtown Specific Plan, including the Design Guidelines and Standards set forth in Chapter 8 (Ord. 38.759 (part), 4/2/02), or the Transit Area Specific Plan, including Design Guidelines and Standards set forth in Chapter 5.

E. Exceptions to Standards

1. Exceptions to all but the density and floor area ratio standards may be approved by the Planning Commission through approval of a Conditional Use Permit in accordance with the requirements of Section 57, Conditional Uses Permitted by Commission, of this Chapter.
2. In addition to the required findings under Chapter 57, the Planning Commission must be able to make the following three additional findings for such exceptions:
 - a. The exceptions meet the design intent identified within the Zoning District and/or Specific Plan and do not detract from the overall architectural, landscaping and site planning integrity of the proposed development.
 - b. The exceptions allow for a public benefit not otherwise obtainable through the strict application of the specified standard. (Ord. 38.759 (part), 4/2/02)
 - c. The project design in its totality does not adversely impact adjoining properties to a greater degree than a project that complies with all development standards. (Impacts to be considered include: access to sunlight, views, shadows on parks and open space, privacy, and noise.)

10-43.05 Conformance with Specific Plans

1. Midtown Specific Plan

a. The Midtown Specific Plan policies, as well as the Design Guidelines and Standards set forth in Chapter 8 of the Plan, shall apply to all properties within the Midtown area if any one or more of the following occurs:

- i. Whenever a new building is constructed, regardless of size;
- ii. Whenever the use of an existing building is expanded or changed to a use requiring 50% or more off-street parking spaces, as determined by the City's adopted parking standards; or
- iii. Whenever an existing building is increased in gross floor area by 10% of the existing gross floor area or is enlarged by 500 or more square feet, whichever is less (all additions or enlargements completed since May 2, 2002 shall be totaled).

If exterior building or site improvements (including signage) are proposed that do not fall under (a) through (c) above, such improvements shall be designed to conform to the Midtown policies, guidelines and standards applicable to the improvements, without requiring additional Midtown-related improvements to be imposed. (Ord. 38.760 (2, 3), 9/17/02; Ord. 38.759 (part), 4/2/02)

b. Whenever an entitlement is required for projects within the Specific Plan, in addition to all of the required findings, the following finding shall also be made:

The proposed use complies and is consistent with the Specific Plan.

2. Transit Area Specific Plan

a. The Transit Area Specific Plan policies, including policies for specific subdistricts in Chapter 4 and the Development Standards and Design Guidelines set forth in Chapter 5 of the Plan, shall apply to all properties within the Transit Area if any one or more of the following occurs:

- i. Whenever a new building is constructed, regardless of size;
- ii. Whenever the use of an existing building is expanded or changed to a use requiring 50% or more off-street parking spaces, as determined by the City's adopted parking standards; or
- iii. Whenever an existing building is increased in gross floor area by 10% of the existing gross floor area or is enlarged by 500 or more square feet, whichever is less (all additions or enlargements completed since the adoption of the Specific Plan June 3, 2008 shall be totaled).

If exterior building or site improvements (including signage) are proposed that do not fall under (a) through (c) above, such improvements shall be designed to conform to the Transit Area policies, guidelines and standards applicable to the improvements, without requiring additional Transit Area-related improvements to be imposed.

- b. The policies and standards of the Transit Area Specific Plan will supersede the Midtown Specific Plan and the General Plan in the transit area. Should a conflict between the existing plans and codes arise within the Transit Area, the policies and standards of the Transit Area Specific Plan shall govern.
- c. Whenever an entitlement is required for projects within the Specific Plan, in addition to all of the required findings, the following finding shall also be made:

The proposed use complies and is consistent with the Specific Plan.

SECTION 14. Chapter 10, Section 56 of Title XI of the Milpitas Municipal Code, “Non-Conforming Buildings and Uses” is hereby amended in its entirety to read as follows:

--Begin Section--

SECTION 56 NON-CONFORMING BUILDINGS AND USES

10-56.01 Purpose and Intent

10-56.02 Repair, maintenance and improvements to nonconforming buildings and structures

10-56.03 Nonconforming use of buildings and structures

10-56.04 Nonconforming use of land

10-56.01 Purpose and Intent

The purpose of this chapter is to establish regulations for nonconforming buildings, structures and uses. It is the intent of these regulations to result in the conversion of nonconforming buildings, structures, and uses to conforming buildings, structures and uses. However, the City recognizes that until nonconforming buildings, structures, and uses are converted, improvements to them which promote their compatibility with their neighborhoods, enhance the quality of development, and do not increase nonconformity should be encouraged and allowed.

10-56.02 Repair, maintenance and improvements to nonconforming buildings and structures

A nonconforming building or structure may be maintained, except as otherwise provided in this section.

A. Repair, maintenance, aesthetic improvements. Repairs and alterations may be made to a nonconforming building or structure, provided that no structural alterations shall be made except those required by law or ordinance. (Ord. 38 (part), 3/15/55)

B. Restoration of Damaged Buildings. A nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity or act of God or the public enemy, to the extent of not more than seventy-five (75%) percent of its true value at that time, may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such partial destruction, may be continued or resumed, provided the total cost of such restoration does not exceed seventy-five (75%) percent of the true value of the building or structure at the time of such damage and that such restoration is started within a period of one (1) year and is diligently prosecuted to completion.

In the event such damage or destruction exceeds seventy-five (75%) percent of the true value of such nonconforming building or structure, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform to all regulations for new buildings in the district in which it is located.

Provided, however, that any multistory single-family residence, which is subject to the provisions of the hillside section of this Title (Section 45), may be rebuilt to its approved height and setbacks and is not subject to the single-story height restrictions or other restrictions in the Zoning Title currently in effect, but shall conform to those regulations in effect at the time the structure was built. (Ord. 38.681, 8/3/93; Ord. 38 (part), 3/15/55)

C. Additions to,--Enlargements and --Moving of nonconforming buildings and structures.

1. In the R1, R2 and R1-H Districts, a legal non-conforming building or structure shall not be added to or enlarged in any manner unless the addition or enlargement conforms to all development standards and regulations of the district in which it resides, including, but not limited to height, yard setbacks, maximum lot coverage, impervious surface coverage, and maximum size of residence regulations of said district. In addition, a legal non-conforming building or structure shall not be added to or enlarged unless existing front yard paving is brought into conformance.
2. In all districts other than the R1, R2, and R1-H, a legal non-conforming building or structure may be added to or enlarged in a manner consistent with the criteria established in Section 57.02-19 and a Conditional Use Permit is obtained.
3. A building or structure lacking adequate automobile parking space in connection therewith may be altered or enlarged provided the required additional automobile parking space is supplied as per Section 53 for the entire building or use, including the addition or enlargement.
4. A nonconforming building or structure shall not be moved in whole or in part to any other location on the lot unless every portion of such building or structure is made to conform to all regulations of the district in which it is located. (Ord. 38.760 (3), 9/17/02; Ord. 38 (part), 3/15/55)

10-56.03 Nonconforming Use of Buildings and structures

A. Continuation, expansion and change of use. Except as otherwise provided in this section:

1. The nonconforming use of a building or structure, existing at the time the Ordinance codified in this section became effective, may be continued; and
2. The nonconforming use of a building or structure may be changed to a use of the same classification. The Planning Commission may allow a more restricted classification with the approval of a Conditional Use Permit; and
3. A nonconforming use of a building, structure or portion thereof, which is or hereafter becomes vacant and remains unoccupied for a continuous period of one (1) year shall not thereafter be occupied except by the use which conforms to the use regulation of the district in which it is located.

4. The nonconforming use of a building or structure (i.e., commercial use in a dwelling, etc.) shall not be expanded or extended into any other portion of such building or structure nor changed except to a conforming use.

B. Exemptions for Certain Nonconforming Uses

1. The provisions amending Sections 30, 31 and 35 (M1, M2, MP Districts) of this Chapter, related to development standards, shall not apply to any existing improvements (buildings, landscaping, fencing or parking) lawful at the time of installation or improvements which have been approved by the Planning Commission and for which a building permit issued prior to June 17, 1982, and installed in conformance with said approval and permit.
2. The provisions amending Sections 53.14 and 53.22 of this Chapter, related to parking stall dimensions and compact stall ratios and location, shall not apply to any existing improvements (buildings or parking facilities) lawful at the time of installation or improvements which have been approved by the Planning Commission and for which a building permit issued prior to November 19, 1992, and installed in conformance with said approval and permit. (Ord. 38.675 (part), 10/20/92; Ord. 38.547, 5/19/82; Ord. 38 (part), 3/15/55)

10-56.04 Nonconforming Use of Land

1. Continuation of Use. The nonconforming use of land (where no main building is involved), existing at the time the Ordinance codified in this section became effective, may be continued for a period of not more than five (5) years therefrom, provided:
 - a. That no such nonconforming use of land shall, in any way, be expanded or extended either on the same or adjoining property.
 - b. That, if such nonconforming use of land, or any portion thereof, is discontinued or changed, any future use of land shall be in conformity with the provisions of this Chapter.
 - c. That any sign, billboard, commercial advertising structure or statuary, which is lawfully existing and maintained prior to January 26, 1954, may be continued, although such use does not conform with the provisions hereof; provided, however, that no structural alterations are made thereto and provided, further, that all such nonconforming signs, billboards, commercial advertising structures and statuary, and their supporting members, shall be completely removed from the premises not later than five (5) years from the effective date of the Ordinance codified in this section.
2. Nonconforming Due to Reclassification. The foregoing provisions of this section shall also apply to buildings, structures, land, or uses which hereafter become nonconforming due to any reclassification of districts under this Chapter or any subsequent change in the regulations of this Chapter; provided, however, that where a period of years is specified in this section for the removal of nonconforming buildings, structures, or uses, said period shall be computed from the date of such reclassification or change. (Ord. 38 (part), 3/15/55)

SECTION 15. SEVERABILITY

In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

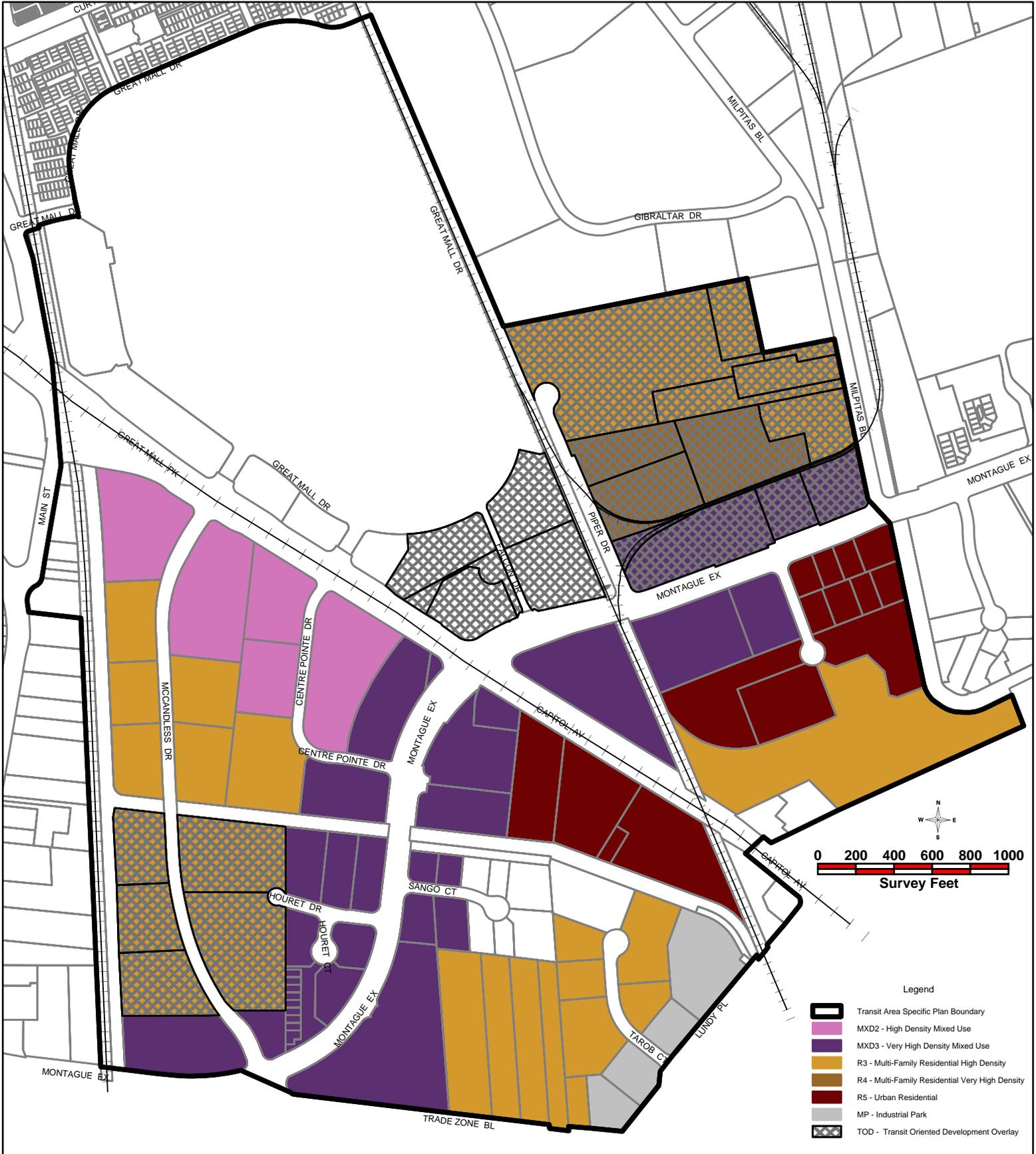
SECTION 16. PUBLICATION AND EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after adoption, and thereafter the same shall be in full force and effect. Prior to the expiration of 15 days from the passage thereof, this Ordinance shall be published at least once in a newspaper of general circulation, published and circulated in the City of Milpitas, County of Santa Clara. At the election of the City, this Ordinance may be published in summary form if prior to adoption the complete text is posted in the City Clerk's Office pursuant to Government Code Section 36933(c).



City of Milpitas
Milpitas Transit Area Specific Plan
New Zoning Designations
Sectional District Map No. 570
Zoning Amendment No. ZA08-002

Map Exhibit



- Legend**
- Transit Area Specific Plan Boundary
 - MXD2 - High Density Mixed Use
 - MXD3 - Very High Density Mixed Use
 - R3 - Multi-Family Residential High Density
 - R4 - Multi-Family Residential Very High Density
 - R5 - Urban Residential
 - MP - Industrial Park
 - TOD - Transit Oriented Development Overlay