

REGULAR

***16**

NUMBER: 38.789

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS, AMENDING CHAPTER 10 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE RELATING TO CLARIFYING AND REORGANIZING THE ZONING ORDINANCE AND ELIMINATING PLACES OF ASSEMBLY USE CATEGORIES FROM THE INDUSTRIAL DISTRICTS THAT ARE NOT ASSOCIATED WITH BUSINESS OR INDUSTRIAL USES

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of April 7, 2009, upon motion by Councilmember Gomez and was adopted (second reading) by the City Council at its meeting of _____, 2009 upon motion by _____. 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

Robert Livengood, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, on December 12, 2007, the Planning Commission of the City of Milpitas directed staff to review the Zoning Ordinance for opportunities to streamline the Zoning Ordinance; and

WHEREAS, the Planning Commission held a duly noticed public hearing on March 11, 2009 and heard evidence prepared by staff and comments by the public, and unanimously recommended approval of this Ordinance making amendments that clarify and reorganize the Zoning Ordinance and eliminate places of assembly use categories from industrial districts that are not associated with business or industrial uses; and

WHEREAS, the City Council finds that the proposed amendments are consistent with the General Plan in that the changes ensure consistent and clear implementation of the stated goals and policies of the General Plan; and

WHEREAS, the City Council finds that the proposed amendments will not adversely affect the public health, safety and welfare in that the project contemplates clarifying the Zoning Ordinance and ensuring that compatible uses exist within the Industrial Districts; and

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

WHEREAS, the City Council finds that the proposed Ordinance adoption is categorically exempt for purposes of the California Environmental Quality Act (CEQA) per CEQA Guideline Section 15061(b)(3) in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment because the project merely involves reformatting the Zoning Ordinance, clarifying or further defining terms and ensuring that compatible and consistent uses exist within the Industrial Districts. The proposed amendments would not result in increased densities or intensification of uses.

In addition, this project is also statutorily exempt pursuant to Sections 15168(c) and 15162 of the CEQA Guidelines, since the project provisions related to compliance with the regulations within the Midtown and Transit Areas are within the scope of development evaluated in the Midtown and Transit Area Specific Plan EIRs. No substantial changes have occurred to the circumstances under which the EIRs were certified and no new information, which was not known and could not have been known at the time that the EIRs were certified as complete, has become available relating to the environmental effects of this project. Therefore, the Midtown and Transit Area Specific Plan EIRs are adequate for the approval of the project for those provisions of the Zoning Ordinance amendments addressed in such EIR documents.

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

SECTION 1. RECORD AND BASIS FOR ACTION

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

SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 2.03 (“Definitions”) of the Milpitas Municipal Code is hereby amended with the addition of the new term and definitional entry for “Bedroom” under the “B” letter section to reads as follows:

“Bedroom” means any room which meets the minimum requirements of both the Zoning Ordinance and the Building Code for a Habitable Room, which is constructed in such a manner that less than fifty (50) percent of one (1) wall is open to an adjacent room or hallway and which can be readily used for private sleeping purposes, shall be counted as a bedroom in order to determine parking or other requirements. For the purpose of calculating parking requirements, the following rooms which regularly make up a standard dwelling unit shall not be considered a “bedroom”: one (1) kitchen, one (1) living room; one (1) family or recreation room; one (1) dining

room; and the customary sanitary facilities. Planning staff shall determine whether or not a room qualifies as one of the above exceptions.

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

Title XI, Chapter 10, Section 2.03 of the Milpitas Municipal Code (“Definitions”) is hereby further amended with the addition of the new term and definitional entry for “Business support services” under the “B” letter section to read as follows:

“Business Support Services” means establishments primarily within structures that provide other businesses with ancillary services that further or facilitate the other businesses’ primary activity. This term does not include activities or uses that are specifically listed as a conditionally permitted or prohibited use in the applicable zone. Examples of business support services include but are not limited to:

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

SECTION 4. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 2.03 of the Milpitas Municipal Code (“Definitions”) is hereby further amended with the addition of the new term and definitional entry for “Commercial Services” under the “C” letter section to read as follows:

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

Examples of establishments covered by this designation include:

1. Accountants;
2. Architects;
3. Dry-cleaners;
4. Floral shops;
5. Barber and beauty shops;
6. Interior decorators;
7. Laundromats (self-service laundries);
8. Locksmiths;
9. Mail box rentals;

10. Photocopy shops;
11. Shoe repair shops;
12. Tailors;
13. Tuxedo rental shops.

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

SECTION 5. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 2.03 of the Milpitas Municipal Code (“Definitions”) is hereby further amended with the addition of the new term and definitional entry for “Internet Access Studio” or “Internet Café” under the “I” letter section to read as follows:

“Internet Access Studio” or “Internet Café” means any place, including but not limited to, computer arcades, computer lounges, cyber arcades, internet cafés, internet arcades, internet workstation stores, on-site computer rentals, PC arcades, and other similar businesses, where the primary purpose of the business is devoted to making available the use of computers, or a port connection for a portable computer, to gain access to the internet system. Any internet access studio or internet café consisting of seven (7) or more computer terminals made accessible to the public (excluding school, library or similar public use) shall be considered through a Conditional Use Permit.

SECTION 6. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 2.03 of the Milpitas Municipal Code (“Definitions”) is hereby amended by the deletion of the entire term and definitional entry for “Lot Dimensions” and replacement with the following new text:

“Lot Dimensions.”

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

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

Title XI, Chapter 10, Section 2.03 of the Milpitas Municipal Code (“Definitions”) is hereby further amended with the addition of the new term and definitional entry for “Retail Stores, General Merchandise” under the “R” letter section to read as follows:

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

1. Art supply;
2. Antiques;
3. Bakeries (retail only);

4. Bicycles;
5. Candy stores;
6. Clothing and accessories;
7. Collectables;
7. Fabrics and sewing supplies;
8. Gifts (novelties and souvenirs);
9. Hobby materials;
10. Jewelry;
11. Luggage and leather goods;
12. Music stores;
13. Sporting goods and equipment;
14. Toys and games;
15. Variety stores;

SECTION 8. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10 of the Milpitas Municipal Code is hereby amended with the addition of a new Section 5 (“Commercial Zones and Standards”), which reads in its entirety as follows:

SECTION 5 COMMERCIAL ZONES AND STANDARDS

- 10-5.01 Purpose and Intent
- 10-5.02 Commercial Use Regulations
- 10-5.03 Commercial Zone General Development Standards
- 10-5.04 Commercial Zone Special Development Standards
- 10-5.05 Conformance with Specific Plans

10-5.01 Purpose and Intent

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

- A. Administrative and Professional Office (CO) Zone.** The purpose and intent of this zone is to provide a district for medical, business, and professional offices, and medical and dental clinics.
- B. Neighborhood Commercial (C1) Zone.** The purpose and intent of this zone is to provide for general commercial needs of neighborhood areas of the City and to promote stable, attractive commercial development which will afford a pleasant shopping environment and will complement the essential residential character of the neighborhood. The Neighborhood Commercial District shall contain, as permitted uses, those activities which primarily provide for the day-to-day shopping needs of the residential neighborhood in which it is located. It shall not include uses which generate loud noises or unpleasant odors. It shall not include retail stores, offices or service establishments which are not open to minors or which are designed to attract customers and traffic from areas other than the neighborhood area in which they are located.
- C. General Commercial (C2) Zone.** The purpose and intent of this zone is to provide for the wide range of retail sales and personal and business services primarily oriented to the automobile customer to provide for general commercial needs of the City and to promote stable, attractive, commercial development which will afford a pleasant shopping environment. It is intended to include those commercial uses in which shopping may be conducted by people walking to several stores as in a center and may include uses customarily of a single-purpose character served from an immediately parked automobile. Special development standards are incorporated in the district regulations in order to provide for orderly development and to minimize potential traffic hazards. The C2 District, when appropriate, will be located along major thoroughfares and in accordance with the adopted City of Milpitas General Plan.

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

E. Town Center (TC) Zone. The purpose and intent of this zone is to provide for an area that supports a wide range of administrative, business, entertainment, residential, dining, and cultural activities in the geographic center of the City to suit the varying lifestyles of residents and visitors alike. The area is easily accessible via the City’s transportation network.

The Town Center District consists of two (2) distinct subareas. This separation of the Town Center into distinct subareas allows for a great variety of uses within the Town Center District and yet, through their separateness, ensures that they will reinforce rather than negatively affect each other.

1. Town Center East. This sub-district is located between I-680 and North Hillview Drive.
 - a. Town Center East will predominately have office and highway serving uses (hotels, restaurants, etc.).
2. Town Center West. This sub-district is located between North Hillview Drive westerly to the railroad tracks.
 - b. Town Center West will predominately have retail and entertainment uses and may include residential.

10-5.02 Commercial Use Regulations.

A. Permitted and Conditionally Permitted Uses.

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

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

B. Prohibited Uses. The following uses are prohibited:

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

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

**Table 5.02-1
Commercial Zone Uses**

Use	CO	C1	C2	HS	TC-W	TC-E
1. Commercial Uses						
Art/Photography studio or gallery	NP	P	P	P	P	NP
Bookstore	NP	P	P	C	P	NP
Commercial services ¹ (floral shops, barber shops, dry cleaners, laundromats, photocopy shops, accountants)	P	P	P	NP	P	NP
Department stores	NP	P	P	P	P	P
Funeral home or mortician	NP	NP	C	C	NP	NP
Furniture sales	NP	P	P	P	P	NP
Grocery store (supermarkets)						
Within 1,000 ft. of residential zone	NP	C	C	C	C	NP
Not within 1,000 ft. of residential zone	NP	P	P	P	P	NP
Home improvement (hardware, blinds, interior decorating, etc.)	NP	P	P	C	P	NP
Not fully enclosed operation	NP	C	C	C	C	NP
Household appliance store	NP	NP	P	P	NP	NP
Small appliance repair	NP	NP	C	P	NP	NP
Large appliance repair	NP	NP	NP	P	NP	NP
Janitorial services	NP	NP	P	P	NP	NP
Liquor store (alcoholic beverage sales)	NP	C	C	NP	C	C
Newsstand						
Indoor	P	P	P	NP	P	NP
Outdoor	C	C	C	NP	C	NP
Nursery (flower or plant)						
Indoor	NP	NP	P ²	P	P	NP
Outdoor	NP	NP	C	P	NP	NP
Office supply sales (stationary, equipment)	C	P	P	P	P	P
Paint and Wallpaper Stores	NP	NP	P	P	P	NP
Pawnshops	NP	NP	C	NP	NP	NP
Pet stores	NP	NP	P	P	P	NP
Printing (newspaper, blueprint, lithograph, publishing)	NP	NP	P	P	P	NP
Rentals (medical supplies, costumes, party equipment, office equipment)	NP	NP	P	P	P	NP
Retail Stores, general merchandise	NP	P	P	NP	P	NP
Tanning salon	NP	NP	C	NP	C	NP
Thrift store	NP	NP	P	P	P	NP
Tobacco shop	NP	C	C	NP	C	NP
Video rental and sales	NP	C	C	NP	C	C

2. Entertainment and Recreation						
Adult business ³	NP	NP	NP	P	NP	NP
Arcade and amusement	NP	C	C	C	C	NP
Billiards	NP	NP	C	C	C	NP
Bowling alley	NP	NP	P	P	P	NP
Commercial athletic facilities						
Indoor	NP	C	P	P	P	NP
Outdoor	NP	NP	NP	C	NP	NP
Internet access studio	C	C	C	C	C	C
Massage establishment	NP	NP	C	C	C	NP
Motion picture theater (See 7 below)						
Sauna and steam bath	NP	NP	NP	P	NP	NP

Shooting range, indoor	NP	NP	NP	C	NP	NP
3. Health Uses and Veterinarian						
Hospital	C	NP	C	C	C	C
Medical and dental office	P	P	P	NP	P	P
Medical and dental clinic	P	C	C	NP	C	NP
Medical and dental laboratories	C ⁴	NP	C	NP	NP	NP
Optician and optometrist shop	P	P	P	NP	P	P
Veterinary clinic and animal grooming	NP	NP	C	C	C	NP
Pharmacy/drug store	NP	P	P	P	P	NP
4. Industrial Uses						
Commercial fueling facility	NP	NP	NP	C	NP	NP
Commercial laboratory and chemist	NP	NP	C	P	NP	NP
Contractor's yards and offices	NP	NP	C	C	NP	NP
Disinfection and extermination business	NP	NP	C	P	NP	NP
Dry-cleaning plant	NP	NP	NP	P	NP	NP
Food storage locker	NP	NP	NP	P	NP	NP
Landscape contractor	NP	NP	C	P	NP	NP
Lumberyards	NP	NP	C	C	NP	NP
Mini-storage complex with or without caretaker residence	NP	NP	C	C	NP	NP
Plumbing, sheet metal or woodworking	NP	NP	C	C	NP	NP
Sign sales and fabrication (electric and neon sign, sign painting)	NP	NP	C	P	NP	NP
5. Lodging						
Hotel and motel	NP	NP	C	C	C	C
6. Professional Offices, Financial Institutions and Related Uses						
Automatic teller machines (freestanding) ⁵	NP	P	P	NP	C	C
Financial institutions (banks, savings and loans, etc.)	P	P	P	P	P	P
General offices (administrative and business services, real estate, travel agencies, etc.)	P	P	P	P	P	P
7. Public, Quasi-Public and Assembly Uses						
Auction hall	NP	NP	C	C	C	C
Auditorium	NP	NP	P	NP	C	C
Child care						
Child care center	C	C	C	C	C	C
Day care school	C	C	C	C	C	C
Large family child care home	NP	NP	NP	NP	C	C
Small family child care home	NP	NP	NP	NP	C	C
Club or social organization	NP	C	P	P	C	C
Educational institutions						
School-elementary (K-8 Public or Private)	NP	NP	C	NP	C	C
School-secondary (9-12 Public or Private)	NP	NP	C	NP	C	C
Vocational school	C	NP	P	P	NP	NP
Farmer's market (not including flea market)	NP	C	C	C	C	C
Government offices and related uses	C	C	C	P	C	C
Instructional studio (dance, yoga)	C	C	C	P	C	NP
Library	NP	C	NP	NP	C	C
Private instruction, personal enrichment (tutoring)	C	C	P	C	P	NP
Religious facility	C	C	C	C	C	C
Motion picture theater						
Indoor	NP	C	C	C	C	C
Outdoor	NP	NP	NP	C	NP	NP
Public utilities	C	C	C	C	C	C
Transportation facility (taxi, limousine, etc.)	NP	NP	C	C	C	C
8. Restaurants or Food Service						

Banquet hall	NP	NP	C	C	C	C
Bars, cocktail lounge (including dancing/entertainment)	NP	NP	C	C	C	C
Catering establishment	NP	NP	P	P	NP	NP
Restaurants (includes Drive in or Drive thru)						
With on-site service of alcohol	C ⁶	C	C	C	C	C
Without on-site service of alcohol	C ⁶	C	C	P	C	C
Drive in or Drive thru	NP	C	C	C	C	C
9. Residential Uses						
Caretaker (in conjunction with contractor's yard)	NP	NP	C	C	NP	NP
Residential dwellings (between 1 and 20 d.u. per gross acre)	NP	NP	NP	NP	C	C
Residential dwellings (between 21 and 40 d.u. per gross acre)	NP	NP	NP	NP	P	NP
10. Vehicle-Related Uses						
Auto repair (tire, oil change, smog check, etc.)	NP	NP	C	C	NP	NP
Auto sales, outdoor (new and used cars in operable condition)	NP	NP	C	P	NP	NP
Car wash	NP	NP	C	C	NP	NP
Service stations (with or without repair or retail) ⁷	C	C	C	C	NP	C
Vehicle rental (auto, RV and truck)	NP	NP	C	P	NP	NP
11. Unclassified Uses						
Accessory structures ⁸	P	P	P	P	P	P
Agriculture	P ⁹	NP	NP	NP	NP	NP
Mortuaries or crematories	C	NP	NP	C	NP	NP
Parking facilities, storage garages	NP	P	P	C	C	C
Radio or television stations	NP	NP	C	P	NP	NP
Temporary seasonal sales (Christmas tree or pumpkin patch) ¹⁰	NP	P	P	P	P	P
Temporary tract signs ¹¹	C	C	C	C	C	C

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

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

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

4 Does not include the manufacture of pharmaceutical or other products for general sale and distribution.

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

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

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

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

9 Except the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises.

10 Reserved.

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

10-5.03 Commercial Zone General Development Standards

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

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

Standard	CO	C1	C2	HS	TC-W	TC-E
Lot Area, minimum	None	None	10,000 s.f.	Fronting major street (4 or more lanes): 1.5 ac. Fronting all	None	None

Standard	CO	C1	C2	HS	TC-W	TC-E
				other streets (two lanes): 20,000 s.f.		
Lot Width, minimum	None	None	100 ft.	Fronting major street: 250 ft. Fronting all other streets: 125 ft.	None	None
Front Yard Setback, minimum	10 ft.	20 ft.	0 ft.	Major street: 50 ft. All other streets: 0 ft.	20 ft. 35 ft. along E. Calaveras Blvd.	20 ft. 35 ft. along E. Calaveras Blvd.
Side Yard Setback (interior), minimum	10 ft.	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District
Street Side Yard Setback, minimum	10 ft.	0 ft.	0 ft.	0 ft.	20 ft. 35 ft. along E. Calaveras Blvd.	20 ft. 35 ft. along E. Calaveras Blvd.
Rear Yard Setback, minimum	10 ft. When abutting residential, not less than R District required setback	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District	0 ft. 15 ft. when abutting R District
Building Height, maximum						
Primary building	35 ft. or 3 stories	35 ft. or 2.5 stories	None	None	None ¹	None ¹
Accessory building	25 ft. or 2 stories	25 ft. or 2 stories				
Parking	Refer to Section 53, Off Street Parking, of this Chapter.					
Lot Coverage	None	None	None	None	None	None
Floor Area Ratio	0.50	0.35	0.50	0.50	0.85	0.85
Landscaping	None	None	None	25% of front yard setback	All required setback areas and the ends of each parking aisle ²	All required setback areas and the ends of each parking aisle ²

1 If the project proposes a structure over 35 ft (excluding freestanding signs), the Planning Commission shall make a finding that any such excess height will not be detrimental to the light, air, or privacy of any other structure or use currently existing or anticipated.

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

10-5.04 Commercial Zone Special Development Standards

A. All Zones.

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

10-5.05 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 fifty percent (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 ten percent (10%) of the existing gross floor area or is enlarged by five hundred (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.

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 sub-districts 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 fifty percent (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 ten percent (10%) of the existing gross floor area or is enlarged by five hundred (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. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10 of the Milpitas Municipal Code is hereby amended with the addition of a new Section 7 (“Industrial Zones and Standards”) which reads in its entirety as follows:

SECTION 7 INDUSTRIAL ZONES AND STANDARDS

- 10-7.01 Purpose and Intent
- 10-7.02 Industrial Use Regulations
- 10-7.03 Industrial Zone General Development Standards
- 10-7.04 Industrial Zone Special Development Standards
- 10-7.05 Conformance with Specific Plans

10-7.01 Purpose and Intent

- A. Light Industrial (M1) Zone.** The M1 Light Industrial District is reserved for the construction, use and occupancy of buildings and facilities for office, research, limited and light manufacturing, and other uses compatible with the district.
- B. Heavy Industrial (M2) Zone.** The M2 Heavy Industrial District is reserved for the construction, use, and occupancy of buildings and facilities for office, research, general manufacturing, warehousing and distribution and other uses compatible with the district.
- C. Industrial Park (MP) Zone.** The MP District is intended to accommodate, in a park-like setting, a limited group of research, professional, packaging and distribution facilities and uses which may have unusual requirements for space, light, and air, and the operation of which are clean and quiet and which meet the standards set herein.

10-7.02 Industrial Use Regulations

A. Permitted and Conditionally Permitted Uses.

1. Primary uses. The uses identified in Table 7.02-1, Industrial 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 7.02-1 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 Subsection 57.04, Conditional Use Permits, of this Chapter.
C	Where the symbol “C” appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits, 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. The following accessory uses are allowed when incidental to the primary use:
 - a. In MP Zones, incidental services, such as restaurants and recreation facilities for employee use only and when conducted in and entered from within the building or campus.

B. Prohibited Uses. The following uses are prohibited:

1. Uses where the symbol “NP” appears within Table 7.02-1.
2. Uses that have been excluded from Table 7.02-1, 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 7.02-1
Industrial Zone Uses**

Use	M1	M2	MP
1. Commercial Uses			
Adult Businesses ¹	P	P	NP
Business support services	P	P	P
Commercial services	P	P	P
Office supplies	C	C	C
Printing (newspaper, blueprint, publishing)	P	P	C
Retail stores, general merchandise ²	C	C	C
2. Entertainment and Recreation Uses			
Billiards	C	C	C
Commercial athletic facilities	C	C	C
3. Health and Veterinarian Uses			
Hospitals	NP	NP	C
Kennel	P	P	NP
Medical laboratories	P	P	P
Medical and dental offices and clinics ²	P	P	NP
Veterinarian hospital	P	P	C
4. Industrial Uses			
Assembly from pre-processed materials ³	P	P	P
Auto assembly facility	NP	P	NP
Bottling facility	P	P	NP
Building material sales (equipment rental) ⁴	NP	C	NP
Chemical and physical science offices and laboratory	NP	NP	P
Commercial fueling facility	C	C	NP
Contractor’s yard and offices ⁴	NP	C	NP
Distribution facility	P	P	P
Freight and trucking yard ⁴	NP	P	NP
Mini-storage complex	C	C	NP
Plumbing, sheet metal or woodworking	P	P	NP
Plant or facility (research & development, assembly, manufacturing, packaging, processing, repairing, etc. or materials, merchandise or products)	P	P	NP
Pottery or tile manufacturing	P	P	NP
Recycling processing facility	C	C	NP
Warehousing and wholesale	P	P	P

Use	M1	M2	MP
5. Lodging Uses			
Hotels/Motels	C	C	C
6. Professional Office Uses			
Administrative, professional or research ²	P	P	P
Financial institutions (banks, savings and loans, etc.)	C	C	P
7. Public, Quasi-Public and Assembly Uses			
Auditorium ⁵	NP	NP	C
Conference center ⁵	NP	NP	C
Vocational school	C	C	C
Farmer's market (not including flea market) ⁶	NP	NP	C
Government offices and related uses	NP	NP	C
Public Utilities ⁷	P	P	P
8. Residential Uses			
Caretaker's residence	C	C	NP
9. Restaurants or Food Service Uses			
Banquet hall ⁵	C	C	C
Cafeteria ⁵	P	P	P
Catering	P	NP	P
Restaurants (includes drive in and drive thru)			
With on-site service of alcohol	C	C	C
Without on-site service of alcohol	C	C	C
Drive in or Drive thru	C	C	C
10. Vehicle Related Uses			
Auto junk yard ⁴	NP	C	NP
Auto repair (tire, oil change, smog check, etc.) ⁸	C	P	C ⁹
Service stations (with or without repair or retail) ⁸	C	C	C
With car wash	NP	NP	C
Transportation facility (taxi, parcel service, armored car, etc.) ⁴	NP	P	NP
Vehicle rental (auto, RV and truck)	C	C	C ⁹
Vehicle sales (auto, RV and truck-new and used in operable condition) ¹⁰	C	C	C
11. Unclassified Uses			
Temporary tract advertising signs	C	C	C

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

2. When found necessary to serve and appropriate to the industrial area.

3. Assembling, packaging, or distribution from previously prepared materials, such as cloth, plastic, paper, leather, precious or semi-precious metals or stones, electric or electronic instruments and devices such as television, radios, and pharmaceutical products.

4. When conducted wholly within a completely enclosed building or within an area enclosed on all sides with a solid wall or fence (e.g. chain link with slats) not less than eight (8) feet in height.

5. Accessory facilities shall be ancillary to the primary use and associated with business or industrial uses. With regard to Banquet Halls, the use shall be ancillary to convention centers, hotels and motels.

6. Refer to Subsection 13.10, Farmers Markets, of this Chapter.

7. Includes service facilities, electric transmission and distribution substations and public utility service centers.

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

9. Within MP zones, rental and repair may be considered only when ancillary to new auto dealerships.

10. Within MP zones, boat and camper sales are prohibited. Dealerships shall be on property at least three (3) acres or greater in area.

10.7.03 Industrial Zone General Development Standards

A. The following minimum or maximum requirements shall be observed.

**Table 7.03-1
Industrial Zone Development Standards**

Standard	M1	M2	MP
Lot Area, minimum	None	None	Individual sites shall be of such size to that all space requirements in this table are satisfied.
Lot Width, minimum	None	None	100 ft.
Front Yard Setback, minimum	Along major street: 35 ft. from face of curb. Along non-major street: 25 ft. from face of curb.	Along major street: 35 ft. from face of curb. Along non-major street: 25 ft. from face of curb.	35 ft.
Side Yard Setback (interior), minimum	None	None	10 ft.
Street Side Yard Setback, minimum	Same as front yard setback	Same as front yard setback	Same as front yard setback
Rear Yard Setback, minimum	None	None	20 ft.
Building Height, maximum	None. However, prior to construction of any structure that exceeds three (3) stories or thirty-five (35) feet in height, the Planning Commission must make the following finding: That any such excess height will not be detrimental to the light, air or privacy of any other structure or use currently existing or anticipated.		
Parking	Refer to Section 53, Off Street Parking, of this Chapter.		
Floor Area Ratio	0.40	0.40	0.50
Landscaping	Refer to Subsection 7.03(B)		

B. Areas of Lot Required to be Landscaped. Landscaped areas shall mean any area planted with plant material (trees, shrubs, ground cover, etc.). Landscape areas shall be exclusive of parking and vehicular traffic area (direct driveways excepted) and this shall be shown on the site plan in detail for Planning Commission approval.

The following areas shall be landscaped:

1. Required front yard area.
2. Required street side yard area.

This may be adjusted, by the Planning Commission, if it is found that adequate landscaping adjacent to the building(s) is provided to compensate for a reduction.

C. Fences, Hedges and Walls. All planting, fencing and walls for new development, including but not restricted to fences and walls along rear and interior side property lines shall be approved by the Planning Commission. Modifications regarding landscaping, fencing and walls at existing developed sites shall be subject to the provisions of Subsection 54.10, Fences and Walls, of this Chapter.

D. Utilities. All wires, pipes, cables and utility connections shall be placed in underground or subsurface conduits. All above ground transformers and vaults for new development shall be adequately screened to the approval of the Planning Commission. Modifications regarding subsurface conduits or above ground transformers and vaults at existing developed sites shall be subject to the provisions of Subsection 54.16, Trash Enclosures, Equipment and their Screening, of this Chapter.

- E. 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 54.12, Areas for Collecting and Loading Recyclable Materials, of this Chapter.
- F. Legal Nonconforming Projects.** Existing development lawful at the time of installation or improvements which have been approved and a building permit issued prior to June 17, 1982, and installed in conformance with said approval and permit are considered legal nonconforming projects.

10.7.04 Industrial Zone Special Development Standards

A. All Industrial Zones

1. Abutting any R District. Where any M District abuts any R District, there shall be provided one hundred (100) feet between any M building and any R District. Applicants are advised that mitigating improvements may be needed to eliminate any adverse impacts from the residences and that additional requirements may be imposed on the developer to remedy the situation.
2. Outdoor Storage. Outdoor storage for such things as trash and materials shall be permitted only when said storage areas are suitably screened with a solid wall or tight board fence and are located at least one hundred (100) feet from any R District and not within any required front or street side yard. Said location and screening of outdoor storage areas shall be to the approval of the Planning Commission. Modifications regarding outdoor storage at existing developed sites shall be subject to the provisions of Subsection 54.16, Trash Enclosures, Equipment and their Screening, of this Chapter.

B. MP Zones

1. Uses in the MP District shall be such that they:
 - a. Emit no obnoxious, toxic or corrosive fumes or gases.
 - b. Emit no odors perceptible at the property line.
 - c. Emit no smoke.
 - d. Discharge into the air no dust or other particular matter created by any industrial operations or emanating from any products stored prior or subsequent to processing.
 - e. Produce no heat or glare perceptible beyond the lot boundaries.
 - f. Utilize all lighting in a manner which produces no glare on public streets or on any other parcel.
 - g. Produce no physical vibrations perceptible at or beyond the lot boundaries.
 - h. Produce no electromagnetic radiation or radioactive emission injurious to human beings, animals or vegetation, except under controlled operations being conducted observing standards or methods or operation established by the Nuclear Regulatory Commission. Electromagnetic radiation or radioactive emissions shall not be of an intensity that interferes with the use of any other property.
 - i. Do not engage in the production or storage of any material designed for use as an explosive, or in the use of such material in production.
 - j. Are conducted within a completely enclosed building except as otherwise may be provided by the Planning Commission.
 - k. Indicate that all industrial uses shall use only gas, electricity, or preheated oil as a fuel; provided, however, that oil-burning equipment may be installed for stand-by emergency use only.

10.7.05 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 fifty percent (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 ten percent (10%) of the existing gross floor area or is enlarged by five-hundred (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.

- 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 sub-districts 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 fifty percent (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 ten percent (10%) of the existing gross floor area or is enlarged by five-hundred (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 10. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 9 of the Milpitas Municipal Code (“Agricultural Residence District”) is hereby repealed and deleted in its entirety.

SECTION 11. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 10 of the Milpitas Municipal Code (“‘I’ Institutional District”) is hereby repealed in its entirety and replaced with the text below to read as follows:

SECTION 10 INSTITUTIONAL ZONE AND STANDARDS

- 10-10.01 Purpose and Intent
- 10-10.02 Institutional Use Regulations
- 10-10.03 General Development Standards
- 10-10.04 Institutional Zone Special Development Standards

10-10.01 Purpose and Intent

The purpose and intent of the Institutional District is to encourage the orderly development of public service and educational uses in the community and to ensure their presence as a vital part of the neighborhood balance.

10-10.02 Institutional Use Regulations

A. Permitted and Conditionally Permitted Uses. The uses identified in Table 10.02-1, Institutional 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 10.02-1 shall be permitted or conditionally permitted as indicated:

P	Where the symbol “P” appears, the use shall be permitted.
C	Where the symbol “C” appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Section 54.04, Conditional Use Permits, of this Chapter.
O	Where the symbol “O” appears, the use is subject to an alternative review process described in a subsequent footnote.

B. Prohibited Uses. The following uses are prohibited:

1. Uses where the symbol “NP” appears within Table 10-10.02-1, Institutional Zone Uses.
2. Uses that have been excluded from Table 10.02-1, Institutional Zone Uses, 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 10.02-1
Institutional Zone Uses**

Use	Institutional Zone
Correctional Facility	C
Educational Institutions: ¹ Public Colleges or Universities	€ O

Use	Institutional Zone
Private Colleges or Universities	C
Public schools	€ O
Farmer's market (not including flea market)	C
Government Offices and Related Facilities (Federal, State and Local)	C
Hospital or Sanitarium (Public) ¹	C
Library (Public)	C
Medical Clinic or Offices (Public)	C
Museum	C
Parks	C
Public Utility or Public Service Use or Structure	C
Transportation Facility	C

¹ State has authority over permitting process regarding public facilities.

10-10.03 General Development Standards

- A. Table 10.03-1, Institutional Zone Development Standards, lists development standards required for projects in public zones.

**Table 10.03-1
Institutional Zone Development Standards**

Standard	Institutional
Lot Area, Minimum (s.f.)	None
Lot Width, Minimum (ft.)	None
Front Yard Setback, Minimum (ft.)	None
Side Yard Setback (interior), minimum (ft.)	None
Street Side Yard Setback, minimum (ft.)	None
Rear Yard Setback, minimum (ft.)	None
Building Height, maximum (ft.)	None
Parking	Refer to Section 53, Off-Street Parking Regulations, of this Chapter.
Lot Coverage	None
Floor Area Ratio	None

10.04 Institutional Zone Special Development Standards

- A. **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 54.12, Areas for Collecting and Loading Recyclable Materials, of this Chapter.

SECTION 12. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 13.06.B.2. of the Municipal Code is hereby amended to read as follows:

- Child care centers shall require approval of a Conditional Use Permit by the Planning Commission, as per Subsection 57.07, Conditional Use Permits, of this Chapter. The applicable development standards are listed in Subsection 18.06(C), below.

SECTION 13. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 13.06.C.1. of the Municipal Code is hereby amended to read as follows:

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

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

SECTION 14. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 13.06.C.3. of the Municipal Code is hereby amended to read as follows:

3. Hours of operation. For large family child care homes, hours of operation shall not occur before 6:30 A.M or after 7:30 P.M., in order to maintain compatibility with neighboring properties and limit noise during night-time hours. Hours of operation may be limited through the Conditional Use Permit process and shall be based on compatibility with neighboring properties and other planning principles as set forth in Subsection 57.04, Conditional Use Permits, of this Chapter.

SECTION 15. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 17 of the Milpitas Municipal Code (“ ‘CO’ Administrative and Professional Office District”) is hereby repealed and deleted in its entirety.

SECTION 16. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 18 of the Milpitas Municipal Code (“ ‘C1’ Neighborhood Commercial District”) is hereby repealed and deleted in its entirety.

SECTION 17. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 19 of the Milpitas Municipal Code (“ ‘C2’ General Commercial District”) is hereby repealed and deleted in its entirety.

SECTION 18. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 21 of the Milpitas Municipal Code (“ ‘HS’ Highway Services District”) is hereby repealed and deleted in its entirety.

SECTION 19. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 22 of the Milpitas Municipal Code (“ ‘TC’ Town Center District”) is hereby repealed and deleted in its entirety.

SECTION 20. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 30 of the Milpitas Municipal Code (“ ‘M1’ Light Industrial District”) is hereby repealed and deleted in its entirety.

SECTION 21. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 31 of the Milpitas Municipal Code (“ ‘M2’ Heavy Industrial District”) is hereby repealed and deleted in its entirety.

SECTION 22. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 36 of the Milpitas Municipal Code (“ ‘MP’ Industrial Park”) is hereby repealed and deleted in its entirety.

SECTION 23. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 40 of the Milpitas Municipal Code (“ ‘A’ Agricultural District”) is hereby amended to read in its entirety as follows:

SECTION 40 AGRICULTURAL ZONES AND STANDARDS

- 10-40.01 Purpose and Intent
- 10-40.02 Agricultural Use Regulations
- 10-40.03 Agricultural Zone General Development Standards
- 10-40.04 Agricultural Zone Special Development Standards
- 10-40.05 Conformance with Specific Plans

10-40.01 Purpose and Intent

To preserve lands best suited for agricultural use from the encroachment of incompatible uses, and to preserve in agricultural use land suited to eventual development in other uses, pending proper timing for the economical provision of utilities, major streets, and other facilities so that compact, orderly development will occur. Change of zoning district from A to any other zoning district shall only be made in general accord with the General Plan.

10-40.02 Agricultural Use Regulations

A. Permitted and Conditionally Permitted Uses.

1. General Requirements. The uses identified in Table 40.02-1, Agricultural Zone Uses, shall be the primary uses allowed to occur on a property. The primary uses identified in Table 40.02-1 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 unless located in an “A” District designated for future residential use in the General Plan, otherwise a Conditional Use Permit shall be required, in accordance with Section 57.04, Conditional Use Permits, of this Chapter.
C	Where the symbol “C” appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Section 57.04, Conditional Use Permits, of this Chapter.
O	Where the symbol “O” appears, the use is subject to an alternative review process described in a subsequent footnote.

2. Accessory Uses. The following are the accessory uses permitted in all agricultural zoning districts:
 - a. Living quarters of persons regularly employed on the premises; but not including labor camps and labor dwellings, accommodations, or areas for transient labor.
 - b. Guest houses, not rented or otherwise conducted as a business.
 - c. Home occupations and professional offices in the home.
 - d. Offices incidental and necessary to the conduct of a permitted use.
 - e. Private garages, parking areas and stables.
 - f. Roadside stands not exceeding four hundred square feet in floor area, for the sale of agricultural products grown on the premises.
 - g. Other accessory uses and buildings customarily appurtenant to a permitted use.

B. Prohibited Uses. The following uses are prohibited:

1. Uses where the symbol “NP” appears within Table 40.02-1.
2. Adult Businesses as defined in Subsection 13.04, Adult Businesses, of this Chapter.
3. Uses that have been excluded from Table 40.02-1, 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 40.02-1
Agricultural Zone Uses**

Use	Agricultural Zone
Agricultural Uses	
Agriculture and Farming	P/C
Commercial agricultural processing plant	C
Commercial animal feed sales	C
Guest ranches	P/C
Commercial Uses	
Kennels	C
Public/Quasi Public and Institutional	
Public and Quasi Public use	C
Child Care ¹	
Small and Large family child care home	C
Child care center	C
Recreational Uses	
Commercial recreation facilities (outdoor) ²	C
Private recreation areas, uses and facilities (clubhouses)	C
Public parks and areas	P
Riding academies and Public stables	P/C
Residential Uses	
Quarters, accommodations or areas for transient labor, such as labor camps	C
Ranch and farm dwellings ³	P/C
Unclassified Uses	
Cemeteries	C
Commercial mines, quarries and gravel pits	C
Private airports and landing strips	C
Temporary tract signs ⁴	C

1. Refer to Subsection 13.06, Large Family Child Care and Child Care Centers, of this Chapter for standards.

2. Refer to Subsection 40.02(D), Agricultural Special Uses

3. When ancillary to primary agricultural use.

4. No tract signs shall be permitted within 600 feet of a Santa Clara County expressway.

D. Agricultural Special Uses

1. Commercial recreational facilities including, but not limited to, outdoor theaters, golf driving ranges, commercial swimming pools (but not including such facilities in which the principal use is enclosed in a building, such as bowling alleys and skating rinks) may be allowed with the approval of a Conditional Use Permit.

Incidental to commercial recreation facilities, there may also be permitted hotels, restaurants, and similar commercial facilities when the same are located on a minimum twenty (20) acre site under single

ownership, provided that the total floor area of all enclosed structures and roofed areas upon the total site shall not exceed forty thousand (40,000) square feet.

10-40.03 Agricultural Zone General Development Standards

The following property development standards shall apply to all land and permitted or conditionally permitted buildings located within their respective agricultural zone.

A. General Requirements. Table 40.03-1, Agricultural Zone Development Standards, lists the site development standards required for agricultural development projects.

Exception: Conditionally permitted uses as indicated in Table 40.02-1, Agricultural Zone Uses, may deviate from the development standards through the Conditional Use Permit process.

**Table 40.03-1
Agricultural Zone Development Standards**

Standards	Agricultural
Lot Area, minimum (acres)	5
Lot Width, minimum (ft.)	300
Front yard setback, minimum (ft.)	50
Side yard setback (interior), minimum (ft.)	50
Street side yard setback, minimum (ft.)	50
Rear yard setback, minimum (ft.)	50
Other setbacks	Refer to Subsection 40.04, Agricultural Zone Special Development Standards.
Building height, maximum	2.5 stories or 30 feet
Parking	Refer to Section 53, Off-Street Parking Requirements, of this Chapter.
Lot Coverage	None

10-40.04, Agricultural Zone Special Development Standards

The following additional conditions shall apply in an Agricultural District:

1. Any building or enclosure in which animals or fowl, except domestic pets in household numbers, are contained shall be distant at least two hundred feet from any lot in any Residential, Mixed Use or Commercial District, or from any school or institution for human care.
2. Site plan and architectural approval are required of all conditional uses.
3. The minimum lot area per dwelling unit shall be not less than two and one-half acres, except as herein specified for labor camps.

10-40.05 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; or
 - b. Whenever the use of an existing building is expanded or changed to a use requiring fifty percent (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 ten percent (10%) of the existing gross floor area or is enlarged by five hundred (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.

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 sub-districts 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 fifty percent (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 ten percent (10%) of the existing gross floor area or is enlarged by five hundred (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 24. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 54.08.A.2. of the Milpitas Municipal Code is hereby amended to read as follows:

2. All accessory buildings and structures, as well as building additions as described in Subsection 55.03(7), Rear Yard--Building Additions in R1 and R2, of this Chapter, in the rear yard are limited cumulatively to a total area not exceeding thirty percent (30%) of the area of the required rear yard, except where noted below. Projection of eaves of accessory buildings and structures shall not be closer than three (3) feet to any side or rear lot line.

SECTION 25. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Title XI, Chapter 10, Section 55 of the Milpitas Municipal Code, (“Exceptions”) is hereby amended to read in its entirety as follows:

SECTION 55 EXCEPTIONS

10-55.01 Purpose and Intent

10-55.02 Height

10-55.03 Setbacks

10-55.04 Lot Area

10-55.05 Projections Allowed Into Required Yards/Setbacks

10-55.01 Purpose and Intent

The regulations included in this section provide for the encroachment of architectural and functional features into setback areas. This section also provides for exceptions from certain development standards in this Chapter under unique situations.

10-55.02 Height

A. Measurement of Height for Through Lots.

1. Through Lots 150 Feet or Less in Depth. On a through lot one hundred fifty (150) feet or less in depth, the height of a building may be measured from the adjoining curb level on either street.
2. Through Lots More Than 150 Feet in Depth. On a through lot more than one hundred fifty (150) feet in depth, the height regulation and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than one hundred fifty (150) feet from that street.

B. Structures Permitted Above Height Limit. Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building. Parapet walls, skylights, towers, process towers and columns, including appurtenant working structures, steeples, roof signs, flagpoles, chimneys, smokestacks, wireless masts (provided such masts comply with Section 13.09, Wireless Communications Facilities, of this Chapter.), water tanks, gas tanks, silos, or similar structures may be erected above the height limits herein prescribed, but no penthouse or roof structure, or any space above the height limit shall be allowed for the purpose of providing additional floor space.

10-55.03 Setbacks

1. Front Yard — Infill Development Between Projecting Buildings. Where a lot is situated between two lots, each of which has a main building [within twenty-five (25) feet of its side lot lines], which projects beyond the established front yard line and has been so maintained since the Ordinance codified in this Section became effective (March 15, 1955), the front yard requirement on such lot may be the average of the front yards of said existing buildings.
2. Front Yard — Adjoining Projecting Building. Where a lot adjoins only one lot having a main building [within twenty-five (25) feet of its side lot lines], which projects beyond the established front yard line and has been so maintained since the Ordinance codified in this Section became effective (March 15, 1955), the front yard of said existing building and the established front yard line.
3. Front Yard — Sloping Lot. Where the elevation of the ground at a point fifty (50) feet from the front line of a lot, and midway between the side lines, differs ten (10) feet or more from the curb level, or where the slope (measured in the general direction of the side lot lines) is twenty (20) percent or more on at least one-quarter (1/4) of the depth of the lot, the front yard need not exceed fifty (50) percent of that required in the district.

4. Front Yard and Side Yard Waived — Dwelling Over Commercial. The front and side yards shall be waived for mixed use buildings that include dwellings and hotels erected above the ground floor of a building when said ground floor is designed exclusively for commercial purposes.
5. Side Yard Waived — Semi-Detached Dwellings, Etc. For the purposes of side yard regulations, the following dwellings with common party walls shall be considered as one (1) building occupying one (1) lot semi-detached two (2) and four (4) family dwellings, row dwellings, group dwellings and court apartments.
6. Rear Yard — Includes One-Half Alley. In computing the depth of a rear yard where such yard opens onto an alley, one-half (1/2) the width of such alley may be assumed to be a portion of the required rear yard.
7. Rear Yard — Includes Loading Space. A required loading space may occupy a required rear yard, or any part thereof.
8. Rear Yard--Building Additions for R1 and R2. Building additions into the required rear yard shall be allowed for all legal, conforming single-family and two-family dwellings in all Valley Floor Residential districts, when such dwelling has been constructed in accordance with law and a minimum period of one (1) year has elapsed since the final inspection as provided for in Title II of the Milpitas Municipal Code.
 - a. Such building additions may be allowed into the required rear yard so that the remaining rear yard set back (measured perpendicular to the rear lot line at any point) is not less than the exterior height of the rear wall of said building addition and shall not encroach into a public utility easement.
 - b. The exterior height of the rear wall at any point shall be measured vertically from the ground to top of the wall.
 - c. All measurements in regards to yards for building additions shall be measured from the exterior face of wall.
 - d. The cumulative total of all said building additions and any accessory buildings or structures noted in Section 54.08, Accessory Buildings and Structures, of this Chapter, shall not cover an area exceeding thirty percent (30%) of the required rear yard area specified by the regulations or PUD for the District in which this single-family or two-family dwelling is located.
 - e. Applications for building permit pursuant to this section shall provide the Planning Division with sufficient information to determine the remaining rear yard set back and coverage of the required rear yard area as specified in (a) through (c) above. Building additions proposed for all legal, conforming single-family and two-family dwellings in the Valley Floor Residential districts require review and approval by the Planning Division or Planning Commission Subcommittee, pursuant to Section 57.03, Site Development Permits and Minor Site Development Permits, of this Chapter.
 - f. This section is intended to apply to bona fide building additions not contemplated at the time of original construction, where the owner finds for personal or economic reasons (in a community of growing families and under economic conditions where the purchases of larger homes imposes a heavy financial burden) the need to expand his existing dwelling and would not otherwise be allowed to do so within the required set backs of the District or Planned Unit Development. The waiting period of one (1) year from final inspection is intended to insure that the addition is erected in good faith and in accordance with the intent of this section.

10-55.04 Lot Area

1. Large Lots--Additional Dwelling. Where a lot has an area equivalent to two (2) or more times that required by this Ordinance, but without sufficient required frontage for two (2) or more lots, a dwelling shall be permitted on both the front and rear portions of said lot, provided that:
 - a. All height and area requirements, except lot width, are complied with;

- b. A strip of land thirty (30) feet wide, measured at right angles from the rear lot line, is reserved for future access in addition to the required rear yard; and
 - c. A strip of land at least fifteen (15) feet wide, measured at right angles to either side lot line and extending from the street line to the rear portion of the lot, is reserved as a means of access thereto.
2. Lot Area — Includes One-Half Alley. In computing the lot area of a lot which rears upon an alley, one-half (1/2) the width of such alley may be assumed to be a portion of the lot.
3. Through Lot — May Be Two Lots. Where a through lot has a depth of one hundred fifty (150) feet or more, said lot may be assumed to be two (2) lots with the rear lines of each approximately equidistant from the front lot lines, provided all area requirements are complied with. An accessory building shall not project beyond the front yard line of an existing main building along the frontage except that such accessory building need not be located more than twenty-five (25) feet from the street line.

10-55.05 Projections Allowed Into Required Yards/Setbacks

The following architectural and landscape features shall not be located and maintained so as to preclude complete access at all times around a main building. Gates or other suitable openings at least two and one-half (2-1/2) feet in width shall be deemed adequate for such access.

1. Cornices, eaves, belt courses, sills, canopies, foundationless bay windows, garden, greenhouse, or plant-type windows or other similar architectural features (not including bay windows) may extend or project into a required front, side or rear yard not more than thirty (30) inches.
 - a. Chimneys may also extend or project into a required front, side or rear yard not more than thirty (30) inches.
 - b. In no case shall any of the above projections be closer than three (3) feet to any side lot line.

SECTION 26. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 27. EFFECTIVE DATE AND POSTING

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