

Index of attachments for the Conversion to Mobilehome Parks to Other Uses and Establishing Mobilehome Park Conversion Permit Process

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ATTACHMENT A

REGULAR

NUMBER: 38.790

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING SECTION 64 OF CHAPTER 10 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE ADDING THE MOBILE HOME PARK CONVERSION PERMIT PROCESS

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

AYES:

NOES:

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 November 27, 2007, the City Council of the City of Milpitas directed staff to review the Conversion of Mobile Home Parks to Other Uses Ordinance for opportunities to increase the compensation to mobile home park residents when a mobile home park is closed; and

WHEREAS, in revising the Conversion of Mobile Home Parks to Other Uses chapter, the Mobile Home Park Conversion Permit process was created; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission recommend to the City Council to determine that this project is categorically exempt per Section 15061(b)(3) in that the project will not have the potential to cause a significant effect on the environment. 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 administrative and referencing changes to the Zoning Ordinance; and

WHEREAS, the Planning Commission held a duly noticed public hearing on April 8, 2009 and heard evidence prepared by staff and comments by the public, and unanimously recommends approval of the amendments; 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, including General Plan Policy 2.a I-2 (promotion of rational and efficient in-fill development within the existing urban fabric) and Guiding Principle 2.a-G-1 (maintenance of land use program that balances regional and local housing and economic needs); and

WHEREAS, the City Council finds the proposed amendments will not adversely affect the public health, safety and welfare in that the project contemplates clarifying the Zoning Ordinance and the procedure for an applicant to close or convert a mobile home park, thereby ensuring a fair and transparent program for the relocation of mobile home park residents and the conversion of mobile home park sites to new uses; and

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

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

Section 64 of Chapter 10 of Title XI of the Milpitas Municipal Code (“Development Review Process”) is hereby amended to read as follows:

XI-10-64.01 Purpose and Intent

This chapter is intended to describe the general procedures for filing applications when required or permitted by this title.

XI-10-64.02 Authority for Land Use and Zoning Decisions

Table XI-10-64.02 (Decision-Making Body and Role) identifies the city official or body responsible for reviewing and making decisions on each type of application, land use permit, and other entitlements required by this Zoning Ordinance.

**Table XI-10-64-02
Decision-Making Body and Role¹**

Type of Permit or Decision	Procedures are found in:	Planning Division	Planning Commission Subcommittee	Planning Commission	City Council
Land Use Permits and other Development Entitlements					
Staff Review ²		Issuance		Appeal ³	Appeal
Conditional Use Permits	10-57			Decision	Appeal
Development Agreements				Recommend	Decision
Minor Site Development Permits	10- <u>57</u>		Decision	Appeal ³	Appeal
<u>Mobile Home Park Conversion Permit</u>	<u>Chapter 20</u>			<u>Recommend</u>	<u>Decision</u>
Planned Unit Development	10-54.07			Recommend	Decision
Site Development Permits	10-57.03			Decision Recommend ⁴	Appeal Decision ⁴
Variances	10-57.06			Decision	Appeal
Zoning Ordinance Administration and Amendments					
General Plan Amendments	10-57.02			Recommend	Decision
Specific Plan Amendments	10-57.02			Recommend	Decision
Zoning Amendments	10-57.02			Recommend	Decision

¹“Recommend” means that the decision-making body makes a recommendation to a higher decision-making body; “issuance” means that the permit is a ministerial action that is issued by the decision-making body; “decision” means that the decision-making body makes the final decision on the matter; “appeal” means that the decision-making body may consider and decide upon appeals to the decision of an earlier decision-making body. Any decision by the Planning Commission may be appealed to the City Council as specified in Section XI-10-64.05, Appeals.

²Includes Home Occupation Permits (Section XI-10-13.05), reviews requiring building permits and other reviews by Planning Division staff not requiring a building permit or review by other decision-making bodies. Any appeal shall first be to the Planning Commission. The Planning Commission’s decision, in turn, may be appealed to the City Council, whose decision shall be final.

³The Planning Commission’s decision may be appealed to City Council, whose decision shall be final.

⁴Refer to Section XI-10-45.09 regarding the process for projects within the “H” Hillside Overlay District.

XI-10-64.03 Consideration of Concurrent Applications

A project that includes more than one application may be combined and processed concurrently, as long as all applicable processing requirements are satisfied. The purpose of allowing concurrent review is to consolidate final action on the project with the highest review authority responsible for making a decision on the applications for a project. The following shall apply to concurrently processed applications:

~~(a)~~ **A. Public Hearing and Nonpublic Hearing Applications.** When an application requiring a public hearing is combined with an application that does not require a public hearing, the combined applications shall require a public hearing.

~~(b)~~ **B. City Council and/or Planning Commission as Highest Review Authority.** When City Council and/or Planning Commission review is required for at least one (1) of the applications for a project, the final decision on all applications shall be made by the highest review authority.

When the City Council is the highest review authority for a project, all review by other bodies with approval authority over the applications shall be in the form of a recommendation to the City Council.

When the Planning Commission is the highest review authority for a project, all review by other bodies with approval authority over the applications shall be in the form of a recommendation to the Planning Commission.

~~(c)~~ **C. Omitting Planning Commission Subcommittee Review.** In order to eliminate redundant review and an unnecessary lengthening of the discretionary review process, it is appropriate to eliminate Planning Commission Subcommittee review of some applications. When combined applications are being processed for a project, and both Planning Commission and Planning Commission Subcommittee review are required, Planning Commission Subcommittee review shall be omitted and Planning Commission review substituted.

XI-10-64.04 Public Hearing

~~(a)~~ **A.- Time.**

Time of Giving Notice. Whenever notice of hearing is required by this Chapter, it shall be given at least ten **(10)** calendar days before the hearing.

~~(b)~~ **B.- Manner.**

Manner of giving notice. Whenever notice of hearing is required by this Chapter for any of the following matters, unless otherwise provided by law:

**Table XI-10-64.03
Public Hearing Requirements**

Application ¹	Required Radius	Number of Sets Stamped, Labeled Envelopes ²	Number of Sets Mailing List	Community Meeting Required ³
Conditional Use Permit	1000 feet	1	1	No
Development Agreements	300 feet	2	1	No
General Plan Amendment	1000 feet	3	1	Yes
<u>Mobile Home Park Conversion Permit</u>	<u>Within the mobile home park</u>	<u>2</u>	<u>1</u>	<u>Yes</u>
Site Development Permit	300 feet	1	1	No
Specific Plan Amendment	300 feet	2	1	No
Variance	500 feet	1	1	No
Zoning Amendment	1000 feet	3	1	Yes

¹ Amendments to Conditional Use Permits, Development Agreements, Site Development Permits and Variances shall have the same requirements, unless otherwise noted.

² Projects requiring the processing of a number of applications should provide one (1) set of stamped, labeled envelopes for each review body plus one (1) mailing list for the project file.

³ A community meeting shall be held prior to the public hearing.

~~(1)-1.~~ For projects requiring a public hearing and/or a community meeting identified within Table ~~XI-10-64.03, Public Hearing Requirements, of this Chapter,~~ or for revocation, suspension or modification of the same, or an appeal from the action taken thereon, notice shall be given as per State of California Government Code Section 65091 and by the following:

a. Publishing the notice in a newspaper of general circulation within the City. In addition, for General Plan amendments, Zoning amendments, Conditional Use Permits and Variances, a second notice being a quarter (1/4) page advertisement shall be published in a newspaper of general circulation.

b. Posting one (1) sign notice per one-thousand (1,000) lineal feet of property street frontage in a conspicuous place on the affected property visible from the street frontage. If the affected property has no street frontage, no less than one (1) sign notice shall be required to be posted.

c. Mailing the notice, in accordance with Section I-20-2.02 of the Milpitas Municipal Code to all property owners and residential renters as specified in Table ~~XI-10-64.03, Public Hearing Requirements, of this Chapter.~~ Major environmental reviews (Environmental Impact Reports) shall require notice to all property owners and residential renters within one-thousand (1,000) feet of the subject parcel's property boundaries. The Planning Division staff shall have the discretion to require a one-thousand (1,000) feet notification requirement for public hearings, if the project is deemed to be potentially controversial.

d. Mailing the notice, in accordance with Section I-20-2.02 of the Milpitas Municipal Code, to the owner of the subject real estate property and the applicant, respondent or appellant.

e. Mailing the notice, in accordance with Section I-20-2.02 of the Milpitas Municipal Code, to the Milpitas Unified School District and, in addition, to any other local agency expected to provide essential facilities and services to the project and whose ability to provide said facilities and services may be significantly affected.

~~(2)-2.~~ Contents of Notice of Public Hearing. All notices shall include the date, time and place of any public hearing, the identity of the hearing body, ~~and~~ a general explanation of the matter to be considered and a general description, by text or diagram, of the location of the real property, if any, that is the subject of the hearing.

~~(3)-3.~~ For cases not otherwise provided for herein: (and, except where otherwise required by the law of the State of California) notice shall be given by publication or posting or mailing, in the discretion of the City Manager, and in accordance with the provisions of Section I-20-2.02 of the Milpitas Municipal Code.

XI-10-64.05 Appeals

1. Except as otherwise provided in ~~Section XI-10-57.02(F)(1)(d)-Table XI-10-64.02, Decision Making Body and Role,~~ of this Chapter, any person aggrieved by any decision of any officer, board, commission or department of the City of Milpitas under the provisions of this Chapter may appeal said decision to the City Council in accordance with the provisions of Section I-20-5 of the Milpitas Municipal Code, ~~and Table XI-10-64.02, Decision Making Body and Role, of this Section.~~

2. While appeals hereunder shall be heard at general or special meetings of the City Council, no notice thereof need be given (other than as required by said Section I-20-5, of the Milpitas Municipal Code). Provided, however, that if the appeal is taken from action on an application for a variance, conditional use or other permit, notice of the hearing of the appeal shall also be given in accordance with the provisions of Section XI-10-64.04, Public Hearing, of this Chapter.

3. Exception to Appeal Procedure: Provided, however, that the time for any appeal from action of the Planning Commission in granting, granting subject to condition or denying a Site Development Permit pending a Zoning Amendment (pursuant to the provisions of Section XI-10-57.04 in the same manner as a Conditional Use Permit) or in granting, granting subject to condition or denying a Conditional Use Permit pending a zoning amendment (pursuant to the provisions of Section XI-10-57.04) shall be extended so that said appeal may be taken at any time

within ten (10) days from the date that said City Council shall give second reading to the Zoning Ordinance amendment.

XI-10-64.06 Expiration of Permit or Approvals

Any Conditional Use, Site Development, Variance or other permit approval granted under the terms of this Ordinance shall expire (without notice to the grantee) eighteen (18) months after the date of approval, unless the approval is used or exercised before expiration.

1. Time Extension.

An extension of time not exceeding eighteen (18) months may be granted by the Planning Commission and no more than one (1) extension shall be granted. An extension is valid only if approved before the pending expiration date. New conditions may be imposed on an extension of time for any permit.

2. Use of Approvals.

For the purposes of this subsection, an approval is “used” or “exercised” if the applicant:

- a. Obtains a building permit and completes a foundation, or
- b. Dedicates any land or easement as required from the zoning action, or
- c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

3. Date of Approval.

Unless there is an appeal, the date of approval is the date on which the decision-making body votes on the motion of approval. When there is an appeal, the date of approval is the date of the administrative vote on the motion finally determining the appeal.

SECTION 3. 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 4. 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.

REGULAR

ATTACHMENT B

NUMBER: 230.1

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 20 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE RELATING TO CLARIFYING AND REORGANIZING THE CONVERSION OF MOBILE HOME PARKS TO OTHER USES

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

AYES:

NOES:

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 November 27, 2007, the City Council of the City of Milpitas directed staff to review the City’s Conversion of Mobile Home Parks to Other Uses Ordinance and to research the different compensation options for mobile home park residents when a mobile home park is closed; and

WHEREAS, the State Legislature amended California Government Code section 65863.7 to limit the steps that may be taken by a local government to mitigate adverse impacts on residents of mobile home parks when a park is closed or converted to payment of the reasonable costs of relocating the residents; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission recommend to the City Council to determine that this project is categorically exempt per Section 15061(b)(3) in that the project will not have the potential to cause a significant effect on the environment. 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, further defining terms and clarifying the procedure for an applicant to close or convert a mobile home park; and

WHEREAS, the Planning Commission held a duly noticed public hearing on April 8, 2009 and heard evidence prepared by staff and comments by the public and recommended approval of the amendments; 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, including General Plan Policy 2.a I-2 (promotion of rational and efficient in-fill development within the existing urban fabric) and Guiding Principle 2.a-G-1 (maintenance of land use program that balances regional and local housing and economic needs); and

WHEREAS, the City Council finds the proposed amendments will not adversely affect the public health, safety and welfare in that the project contemplates clarifying the Zoning Ordinance and the procedure for an applicant to close or convert a mobile home park, thereby ensuring a fair and transparent program for the relocation of mobile home park residents and the conversion of mobile home park sites to new uses; and

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

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 20

Chapter 20 of Title XI of the Milpitas Municipal Code (“Conversion of Mobile Home Parks to Other Uses”) is hereby amended to read as follows:

Section 1 Findings and Purpose

XI-20-1.01 Findings and Purpose

The City Council hereby does find and declare that the following conditions and circumstances exist within the City of Milpitas and that they make necessary the regulations contained in this chapter.

1.01-1 Available space in mobile home parks in Milpitas and in Santa Clara County is in very short supply.

1.01-2 Mobile home owners cannot move without great expense and the possible risk of damage to their home.

1.01-3 The majority of mobile home park residents are of low and very low income.

1.01-4 Due to the stated circumstances, spaces in mobile home parks in the City represent an important component of the housing stock, especially for senior citizens and persons of low and very low income.

1.01-5 Government Code Sections 65863.7 and 66427.4 require that, prior to a mobile home park conversion to other uses, or prior to closure of such park or cessation of use of the land as a mobile home park, or at the filing of a subdivision map for a subdivision to be created from any such conversion, the proponent of change of use must file a report on the impact of such change with the public agency having jurisdiction over the mobile home park and that such agency has the power to require measures to be undertaken to mitigate the adverse effect of the change upon the residents of such park who would be displaced by such change.

1.01-6 The City Council's purpose in enacting the ordinance codified in this chapter is to provide uniform procedures and standards for relocation benefits so that park owners and coach owners understand their rights and responsibilities and there is a minimum of disruption to all the parties concerned.

Section 2 Definitions

XI-20-2.00 Generally

As used in this chapter, the following words and phrases shall have the meanings set out in this section.

XI-20-2.01 Applicant

"Applicant" shall mean any person, firm, entity, or corporation applying for a Mobile Home Park Conversion Permit or the owner of a mobile home park whose mobile home park has been determined to be undergoing a change of use pursuant to Section 6 of this chapter. If the owner of the controlling interest in a mobile home park is not the applicant, then the applicant must provide evidence of the controlling owner's consent to the filing of the application.

XI-20-2.02 Change of Use

"Change of use" shall mean a use of a mobile home park for a purpose other than the rental, or the holding out for rent, of two or more mobile home sites to accommodate mobile homes for human habitation. "Change of use" includes, but is not limited to, a change of the park or any portion thereof to a condominium, stock cooperative, or any form of ownership wherein spaces within the park are to be sold, and the cessation of use of all or a portion of the park, whether immediately or on a gradual basis, or the closure of the park.

XI-20-2.03 City Manager's Designee

"City Manger's Designee" shall mean the City Manager or his or her designated representative.

XI-20-2.04 Commercial Coach

"Commercial coach" shall mean a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional or commercial uses, which is required to be moved under permit, and shall include a trailer coach as defined in Section 635 of the Vehicle Code.

XI-20-2.05 Comparable Housing

"Comparable housing" shall mean housing which is comparable in floor area and number of bedrooms to the mobile home to which comparison is being made, which housing meets the minimum standards of the Uniform Housing Code.

XI-20-2.06 Comparable Mobile Home Park

“Comparable mobile home park” shall mean any other mobile home park substantially equal in terms of park amenities, rent, and other relevant factors, such as proximity to public transportation and shopping, the job market where a displaced resident is gainfully employed, and proximity to schools if the resident has school-age children.

XI-20-2.07 Eligible Mobile Home Owner

“Eligible mobile home owner” shall mean a mobile home owner whose mobile home was located in a mobile home park or trailer park on the earlier of the following:

2.08-1 The date of application for a change of use;

2.08-2 The date of filing of a notice of determination that the park is undergoing a change of use pursuant to Section XI-20-6, if such notice was filed.

XI-20-2.08 In Place Value

“In place value” shall mean the market rate monetary value of the mobile home in its current location at the time an applicant files an application for rezoning of land use type or density, or for approval of a tentative map, or for a special development permit, or for a use permit for the purpose of a change of use of mobile home park or trailer park or any part thereof, or any change in the park’s status to a vacant use as determined pursuant to this chapter.

XI-20-2.9 Mobile Home

2.10-1 “Mobile home” shall mean:

(a) A structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35970 of the Vehicle Code;

(b) A mobile home, as defined in the Mobile Home Residency Law, Civil Code Section 798 *et seq.*, as now in effect or subsequently amended; or

(c) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

2.10-2 “Mobile home” does not include:

(a) A recreational vehicle, as defined in Section 799.24 of the Civil Code and Section 18010 of the Health and Safety Code;

(b) A commercial coach; or

(c) Factory-built housing, as defined in Section 19971 of the Health and Safety Code.

XI-20-2.10 Mobile Home Owner

“Mobile home owner” shall mean the registered owner or registered owners of a mobile home, regardless of the number of such owners or the form of such ownership. Any relocation assistance payable to an owner of a mobile home shall be deemed paid to all owners of that mobile home when paid to any one of them.

XI-20-2.11 Mobile Home Park

“Mobile home park” shall mean any area or tract of land where mobile home lots are rented or leased to accommodate mobile homes used for human habitation.

XI-20-2.12 Mobile Home Site

“Mobile home site” shall mean an area within a mobile home park shown as being occupied by or designated for occupancy by an individual mobile home.

XI-20-2.13 Mobile Home Tenant

“Mobile home tenant” shall mean a person who occupies a mobile home within a mobile home park pursuant to a bona fide lease or rental agreement and who, during his or her tenancy, was not the owner or member of the immediate household of the mobile home.

Section 3 Procedure for a Mobile Home Park Conversion Permit

XI-20-3.01 Pre-Application for a Mobile Home Park Conversion Permit

Prior to conversion of a mobile home park, the applicant shall file a preapplication request to provide an opportunity for the applicant to understand the requirements, procedures and steps that must be taken before a Mobile Home Park Conversion Permit may be approved. City staff shall conduct a preapplication work session with the applicant to discuss the City’s requirements and the project’s ultimate impact on the residential housing stock of the City prior to the preparation of plans and/or tentative tract maps in order to avoid the possible expenditure of substantial energy and expense in a manner not consistent with the guidelines for such projects, and also to allow the applicant to make changes, at an early stage, prior to the preparation and filing of entitlement applications.

XI-20-3.02 Application for a Mobile Home Park Conversion Permit

3.02-1 Any applicant desiring to convert a mobile home park to another use, close a mobile home park, or cease to use land as a mobile home park shall apply for a conversion permit by submitting a completed application to the City. The application shall be accompanied by the following:

- (a) An application fee in the amount specified by resolution of the City Council;
- (b) A list of the names and addresses of all owners, and mobile home tenants within the park as of the day of submitting the application;
- (c) The proposed timetable for conversion, closure, or cessation of use of the land as a mobile home park and obtaining other discretionary approvals;
- (d) A list of the other discretionary approvals required for the change of use, including but not limited to a General Plan Amendment, rezoning, or tentative or parcel map;
- (e) A conversion impact study report prepared in accordance with Section XI-20-5; and
- (f) Any other information which may be required by the City to ensure compliance with City policies and procedure, this division, the provisions of this Code, and requirements of state law.

3.02-2 Within thirty (30) days after receipt of an application for a conversion permit, the City shall determine if the application is complete. If the application is not complete, the City Manager’s Designee shall notify the applicant, in writing, of the deficiency or deficiencies. The applicant shall correct any deficiencies within sixty (60) days of mailing of the notice, unless extended by agreement; otherwise the application shall be deemed to have been abandoned.

3.02-3 Within ten (10) days after the City has deemed an application to be complete, the applicant shall notify the mobile home owners and tenants of the subject park of the application filed with the City and what the applicant is requesting.

XI-20-3.03 Applicant Financially Responsible

An applicant shall be entirely financially responsible for including, but not limited to, the housing specialists and the conversion impact report. Such financial responsibility shall not include the cost of an appraisal by the mobile home owner of their individual mobile home.

XI-20-3.04 Approval

No application for a Mobile Home Park Conversion Permit shall be approved unless and until the City Council shall have determined that the conversion impact report complies with the requirements of this chapter. The approval of an exemption from relocation assistance obligations shall have the effect of elimination of the requirement of such portion of the conversion impact report. If such conversion impact report is determined not to comply with the requirements of this chapter, the aforementioned permit shall not be considered further unless and until the report is revised, a public hearing upon appropriate notice is conducted thereon, and the report is determined to be in compliance with the requirements of this chapter.

Section 4 Maintenance of Housing Specialist List

XI-20-4.01 Duty of the City Manager's Designee to Maintain List of Housing Specialists--Required Qualifications

The City Manager's Designee shall compile and maintain a list of persons, firms and organizations with proven expertise in the fields of housing and relocation of persons displaced from housing. Those listed shall be qualified in assisting residents in locating replacement housing, rendering financial advice on qualifying for various housing types, explanation of the range of housing alternatives available, the ability to gather and present to persons needing housing relocation assistance, adequate information as to available housing, and the ability to transport persons unable to drive to housing alternatives.

Section 5 Conversion Impact Report

XI-20-5.01 Conversion Impact Study and Report

The City shall select a consultant to prepare a conversion impact study and the conversion impact report within thirty (30) days of the receipt of a written request from the applicant following the pre-application meeting between the applicant and the City.

I-20-5.02 Required Information

Each conversion impact report shall be tailored to address the specific problems and needs for each application and mobile home park and shall contain the following information:

5.02-1 The number of residents in the mobile home park, including their names and addresses, length of occupancy, and current lease or rental rates and terms. Information on household income, ages and physical disabilities, if any, of the residents shall also be included whenever possible. The list shall indicate whether each person included owns the mobile home or is a tenant, and shall clearly indicate the persons who are not residing in the park. Because the use of such a list has a significant effect on the privacy of the persons who may be identified therein, the City Manager's Designee shall maintain each such list as a confidential public record which shall not be disclosed to the public except pursuant to the judgment, order or decree of a court of competent jurisdiction issued pursuant to the California Public Records Act, Sections 6250 *et seq.*, of the Government Code.

5.02-2 The age, including date of manufacture, condition, and the size of each affected mobile home within such park, including the type of mobile home, width characteristics, size, and number identifying the mobile home site being occupied.

5.02-3 A list of all mobile home parks within a two hundred (200) mile radius of such park. The list shall identify if the parks are comparable mobile home parks, contain a schedule of site rental rates for each park, and list the criteria of the management of each park for acceptance of new tenants. The number of vacant spaces available in each park should be included, as well as the type of mobile home which can be accommodated (single or double wide).

5.02-4 The average vacancy rate, mobile home lot lease rates, tenant rental rates, number of evictions, and the reason(s) for each eviction in the subject mobile home park for each of the three (3) years prior to the filing of the application for a conversion permit.

5.02-5 A designation of the names, addresses and telephone numbers of one or more housing specialists from the list compiled by the City Manager's Designee pursuant to Section 4, and the names, addresses and telephone numbers and fee schedules of persons qualified as mobile home movers and of persons who are qualified appraisers of mobile homes. There shall be included an explanation of the services which the housing specialists will provide. The applicant may designate other housing specialists, mobile home movers, and appraisers; provided, however, that use of any such persons pursuant to this chapter shall be subject to approval by the City Manager's Designee after an investigation into the qualifications of any such persons.

5.02-6 A relocation plan, which will include a timetable for implementation of the physical relocation of mobile homes, implementation of relocation assistance, and conversion of the park to one or more other uses. The plan shall also include the estimated reasonable cost of relocating the mobile homes identified as able to relocate to a comparable mobile home park within the study area. The costs of relocating shall include the costs of dismantling, packing, moving, reassembling, rebuilding, and unpacking, as necessary, the mobile home, all personal property, skirting, tiedowns, and other foundation and stabilizing materials, and all other associated structures and property. Provision shall be made for those mobile home owners who have a demonstrated urgent need to relocate prior to the date set forth in the impact report. Such provision shall be limited to payments of a reasonable approximation of the in-place value as determined by the Council.

5.02-7 A specification of relocation assistance, which shall comply with the requirements of Section 9.

5.02-8 A description of the proposed new use.

5.02-9 A legal description of the park.

5.02-10 Any other information which the City determines is needed to address the specific issues raised by the application, the conversion impact study, and in order to implement this section.

Section 6 Determination of Reduced Occupancy

XI-20-6.01 Occupancy of Park Below 85%--Filing of Notice

6.01-1 Whenever fifteen percent (15%) or more of the total number of mobile home sites of a mobile home park are uninhabited, the owner of such park shall file with the City Manager's Designee a written notice to such effect. For purposes of this chapter, a mobile home site is "uninhabited" when it is either:

- (a) Unoccupied by a mobile home, or
- (b) Occupied by a mobile home in which no persons reside.

The existence of the condition described by this Subsection shall be deemed a "change of use" for purposes of this chapter.

6.01-2 If a resident believes that less than eighty-five percent (85%) of the mobile homes are inhabited, the resident may file a written statement to that effect with the City Manager's Designee. Such statement shall indicate the particular sites which the resident believes to be uninhabited. Upon receipt of such statement the City Manager's Designee shall transmit to the owner of the mobile home park a written notice by certified mail, return receipt requested, or by personal service, which shall state that such statement has been filed and the City will conduct an investigation. The City Manager's Designee shall cause an investigation and inspection to be conducted as to the correctness of such statement.

6.01-3 Upon completion of the investigation and inspection, the Planning Commission shall conduct a public hearing as to the correctness of the statement upon not less than thirty (30) days written notice to the owner and

the residents of the mobile home park, and any resident thereof may present evidence as to the correctness of the statement. At the conclusion of the hearing the Planning Commission shall make a determination as to whether the statement is or is not correct. Written notice of the Planning Commission's determination shall be given to the owner of the mobile home park and the resident who filed the statement. A copy of such notice shall be filed with the City Clerk.

6.01.4 If the Planning Commission determines that the mobile home park is undergoing a change of use, the notice of determination shall also direct the owner to apply for a Mobile Home Park Conversion Permit pursuant to this chapter, and the City Manager's Designee shall establish a reasonable period of time for the preparation of the conversion impact report. The City Manager's Designee shall also schedule public hearings before the Planning Commission and City Council regarding granting the Mobile Home Conversion Permit if such permit is required. Such hearings shall be scheduled so as to allow adequate time for notice and distribution of the conversion impact report to mobile home owners and tenants and the scheduling of informational meetings pursuant to Section 7.

XI-20-6.02 Appeal of Planning Commission Determination

The determination of the Planning Commission pursuant to Subsection 6.01-2 may be appealed by the resident who filed the statement, by the owner of the mobile home park, or by any other resident thereof by filing a written notice of appeal with the City Clerk not more than fifteen (15) calendar days after the date of the notice of determination. The City Council shall conduct a public hearing on the appeal, and not less than thirty (30) days notice thereof shall be given by the City Manager's Designee to the owner of the mobile home park and the residents thereof. At the public hearing the City Council shall consider the investigation and inspection report of the City Manager's Designee, the evidence presented by the owner of the mobile home park and any resident thereof as to the correctness of the statement, and at the conclusion thereof the City Council shall render a decision on the correctness of the statement.

XI-20-6.03 Failure to File Conversion Impact Report-Nuisance-Abatement

The failure of the owner of a mobile home park to prepare a conversion impact report within the time required by the City Manager's Designee pursuant to Subsection 6.01-3 is hereby determined to have a severely adverse economic effect upon mobile home tenants and eligible mobile home owners due to the delay in providing necessary relocation assistance which would result from such failure. Such failure is hereby determined to be a public nuisance. If the owner of the mobile home park fails to prepare or cause to be prepared a conversion impact report within such required time, the City Manager's Designee shall cause such report to be prepared. Upon completion of such report the City Manager's Designee shall cause a statement of the cost of preparation of such report to be sent to the owner of the mobile home park. If the owner of the mobile home park fails to reimburse the City for such cost within thirty (30) calendar days after presentation of such statement, the City Manager's Designee shall prepare an expense statement and file it with the City Clerk. The City Clerk shall thereupon submit written notice to the mobile home park owner of the time and place when the City Council shall receive and consider such expense statement and give the mobile home park owner not less than thirty (30) days written notice thereof by certified mail.

6.03-1 Abatement - Expense Statement - Hearing and Confirmation.

(a) At the time and place fixed for receiving and considering such expense statement, the City Council shall hear the same together with any objections which may be raised by any of the property owners liable to be assessed for the costs of preparing the same, and the City Manager's Designee shall attend such meeting with his report and expense statement; and upon such hearing, the Council may make such modifications in the proposed report and costs of preparing said report and assessment thereof as it may deem necessary, after which said report and statement shall be confirmed by resolution.

(b) The amount of the cost of preparing said report shall constitute special assessment(s) against the respective lot(s) or parcel(s) of land which are the subject of the report and, after thus made and confirmed, shall constitute a lien on such property for the amount of such assessment until paid.

6.03-2 Assessment - Collection. The Director of Finance shall cause the amount of the assessment to be entered on the City assessment roll opposite the description of the particular property, and the amount shall be collected together with all other taxes thereon upon the property. Thereafter, such amounts shall be collected at the same time and in the same manner as general City taxes are collected and shall be subjected to the same penalties and interest, and the same procedure and sale in case of delinquency as provided for City taxes. All laws and ordinances applicable to the levy, collection and enforcement of City taxes are hereby made applicable to such special assessment.

XI-20-6.04 Applicability

The provisions of this section shall not be applicable if an application for a Mobile Home Park Conversion Permit has been filed pursuant to this chapter prior to the filing of a notice pursuant to Section 6.01-1, or of a written statement pursuant to Section 6.01-2, where such application is pending.

Section 7 Notice - Public Hearing

XI-20-7.01 Notice and Distribution to Mobile Home Owners and Residents

7.01-1 Not less than thirty (30) days prior to the scheduled public hearing before the Planning Commission on the Mobile Home Park Conversion Permit, the applicant shall transmit to the owner or the occupant of each mobile home occupying a mobile home site within the park, and to all other persons described in Section 5.02, a copy of the conversion impact report, a notice of the public hearing on the Mobile Home Park Conversion Permit, and notice of the information meeting(s) required to be held pursuant to Subsection 7.01-4.

7.01-2 The copies of the conversion impact report and this chapter, and notices of the public hearing and the information meetings, shall be transmitted either by certified mail, return receipt requested, or by personal service. When personal service is made, a written certificate of proof of service shall be filed with the City. Where more than one (1) person occupies a mobile home, notice need only be sent to the person or persons whose name or names appear(s) on the rental agreement pertaining to that mobile home site.

7.01-3 Not less than fifteen (15) days prior to the date of the public hearing, the applicant shall cause to be filed with the City a verification that he or she has complied with the requirements of this section pertaining to transmittal of copies of the conversion impact report and of this chapter and of the notices of the public hearing on the Mobile Home Park Conversion Permit and on the informational meeting or meetings. Where such transmittal has been by certified mail, copies of return receipts shall be filed with the City. When such transmittal has been by personal service, a list shall be filed with the name of each person served and the date of service.

7.01-4 Not later than fourteen (14) days prior to the scheduled public hearing before the Planning Commission on the Mobile Home Park Conversion Permit, the applicant shall conduct not less than one (1) informational meeting for the residents of the mobile home park regarding the status of the application for Mobile Home Park Conversion Permit, the timing of proposed relocation of residents, relocation benefits available, and the contents of the conversion impact report. The meeting shall be conducted on the premises of the mobile home park. The applicant may conduct a series of meetings of groups of residents if a sufficient number are scheduled to accommodate all of the residents. The housing specialist or specialists designated in the conversion impact report shall be present at such meeting or meetings.

7.01-5 Not less than five (5) days prior to the public hearing on the Mobile Home Park Conversion Permit, the applicant shall file with the City a statement made under penalty of perjury that he has complied with the requirements of Subsection 7.01-4. Such statement shall state the date, time and place where such meeting(s) was or were conducted.

7.01-6 The City shall publish notice of the public hearing in accordance with the provisions of Section 2.05 of Chapter 20 of Title I of the Milpitas Municipal Code.

7.01-7 When an application for a Mobile Home Park Conversion Permit has been filed with the City, or when the City Manager's Designee has transmitted notice pursuant to Section XI-20-6 that a mobile home park is undergoing a change of use, the owner of such park shall advise each person who commences occupancy of a

mobile home of such notice in writing, prior to commencement of such occupancy, that such determination has been made, and that the occupant may not be entitled to any relocation assistance pursuant to Section 9 of this chapter. The owner of such park shall obtain a signed acknowledgment of each such occupant indicating receipt of such information.

XI-20-7.02 Public Hearing

7.02-1 Within sixty (60) days following the receipt of a completed application for a Mobile Home Park Conversion Permit, including the notices and verifications of notice required by section 7.01 of this chapter, the application shall be set for public hearing before the Planning Commission. The public hearing shall be opened, conducted, and closed with the sixty (60) day period. However, an extension or extensions cumulatively totaling no more than sixty (60) additional days may be granted if mutually agreed to by the approving body and the applicant.

7.02-2 At the public hearing, or any continuation of it, all interested parties will be allowed to present evidence to the Planning Commission on any aspect of the application. The evidence may include, but not be limited to, justification for the payment of relocation costs, evidence of why a mobile home cannot be relocated to a comparable park, and similar information.

7.02-3 In addition to the information/testimony received at the public hearing, the Planning Commission shall consider the information set forth in the application.

7.02-4 The Planning Commission shall recommend that the City Council make findings as set forth in Section 8 of this chapter on the Mobile Home Park Conversion Permit application, including any application for exemption from relocation assistance obligations.

Section 8 Findings and Determination by City Council

XI-20-8.01 City Council Action

The City Council may approve, conditionally approve, or deny a Mobile Home Park Conversion Permit involving a proposed change of use (other than simple closure of the park or cessation of the use of the land as a mobile home park) pursuant to its inherent, implied, and express local land use authority under both state and local law. The City Council shall not deny, but may approve or conditionally approve, a conversion permit involving the simple closure of the park, or cessation of the use of the land as a mobile home park, with no intended new use of the land as a mobile home park, with no intended new use other than the closure or cessation, provided the applicant has properly complied with the requirements of this chapter and there is no evidence that the applicant or owner(s) have attempted to evict or otherwise cause the removal of residents for the purpose of avoiding or reducing payment of relocation assistance.

XI-20-8.02 Findings

8.02-1 The City Council, in considering an application for a Mobile Home Conversion Permit, shall accept and hear evidence, shall consider such evidence, and shall make written findings based on such evidence regarding each of the following factors and any other factors as it deems appropriate:

(a) Whether the information submitted with the permit application indicates that the proposed conversion, closure, or cessation of use will have an adverse impact upon the residents of the mobile home park;

(b) Whether there will exist, at the time of the conversion, closure, or cessation of use, sufficient, available mobile home lots within the city and/or within the area surveyed in the impact study to accommodate the mobile homes to be displaced;

(c) Whether the age, type, condition, and style of mobile homes within the park proposed for conversion, closure, or cessation of use are such that the mobile homes are able to be moved and accepted into other parks within the city or within the area surveyed in the impact study;

(d) Whether the homeowner cannot relocate to a comparable mobile home park within the impact study area and justification for that conclusion;

(e) Determination of reasonable costs of relocation based on Section 9 of this chapter;

(f) If the proposed conversion is to another residential use, whether the residents of the mobile home park will have an opportunity to purchase, if for sale, or rent the new units, and whether the construction schedule will result in unreasonably long-term displacements;

(g) Whether the proposed conversion is consistent with the City's General Plan, any applicable specific plan and/or zoning ordinances;

(h) Whether the proposed conversion will be detrimental to the public health, safety, and general welfare; and

(i) Whether all reports and notices required by law have been properly prepared and properly served.

8.02-2 Where an exemption from relocation assistance has been applied for based upon the impact of such assistance upon the reasonable use of the property pursuant to Section 10.02-1, the City Council shall make one of the following findings:

(a) That the applicant shall not be exempt from relocation assistance obligations because sufficient evidence has not been shown that both of the following are true: that the continued use of the property as a mobile home park would eliminate substantially all reasonable use of such property, and that the cost of relocation assistance benefits which would otherwise be required by this chapter for alternative uses would eliminate substantially all reasonable use or economic value of the property for such uses;

(b) That the applicant or owner shall be exempt from relocation assistance obligations, in whole or in part, because he or she has shown sufficient evidence that continued use of the property as a mobile home park would eliminate substantially all reasonable use or economic value of such property, and that imposition of such obligations, in whole or in part, would eliminate substantially all reasonable alternate use or economic value of the property. In making such determination the City Council may take into account the financial history of the mobile home park, its condition and the condition of amenities and improvements thereon, the cost of any necessary repairs, improvements or rehabilitation of such park, the estimated cost of relocation assistance benefits, the fair market value of the property for the proposed alternative use, the fair market value of the property for continued use as a mobile home park, and other pertinent evidence presented. In rendering its decision, the City Council shall have the power to eliminate or waive all or portions of any type of benefit which would otherwise be applicable and shall expressly indicate in its decision any such waiver or elimination and the degree thereof.

8.02-3 Where an exemption from relocation assistance has been applied for based upon bankruptcy proceedings pursuant to Section 10.02-2, the City Council shall make one of the following findings:

(a) That the application or project shall be exempt from relocation assistance obligations, in whole or in part, because a court of competent jurisdiction has determined in connection with a proceeding in bankruptcy that the closure or cessation of use of said property as a mobile home park is necessary, and because such court has taken further action which would prohibit or preclude payment of such benefits, whether in whole or in part. In rendering its decision, the City Council shall have the power to eliminate or waive all or portions of any type of benefit to the extent necessary to comply with the judgment, order or decree of the court;

(b) That the applicant shall not be exempt from any relocation assistance obligations based upon any actions of a court of bankruptcy, because sufficient evidence has not been shown that any such court has ordered the closure or cessation of use of said property as a mobile home park, or that such court has prohibited or precluded the payment of any such benefits, or both.

Section 9 Conditions

XI-20-9.01 Applicant to Provide-Exceptions

The applicant shall include within the impact report relocation assistance which complies with the requirements of this section, and shall be responsible for providing such relocation assistance where the City Council determines that the conversion impact report complies with the requirements of this chapter and such assistance is a necessary permit condition to mitigate the adverse impact of the conversion of the mobile home park, except where and to the extent that any such applicant shall have been exempted from any such requirement pursuant to Section 10. As stated in Section 3, the applicant will be responsible for all relocation costs as well as administrative costs associated with the preparation of the conversion impact report by the housing specialists.

XI-20-9.02 Conditions

In approving a Mobile Home Park Conversion Permit, the City may attach reasonable conditions in order to mitigate the impacts associated with the conversion, closure, or cessation of use. Such conditions may include, without limitation, the following:

- (a) An effective date of termination of tenancy of not less than six (6) months from the date of the approval of the Mobile Home Park Conversion Permit (as required by Civil Code § 798.56(f)) so as to provide sufficient time for the relocation of the mobile homes to other parks;
- (b) Payment of relocation assistance to each resident who resided in the park at the time of, or subsequent to, the filing of the Mobile Home Park Conversion Permit application;
- (c) Time for payment of relocation assistance, including payment to residents who relocate within thirty (30) days of approval of the Mobile Home Park Conversion Permit;
- (d) Full payment to each park resident of the resident's reasonable costs of relocation, which may include:
 - (i) For homeowners who are unable to relocate, a determination of a fair price for their mobile homes based on information contained in the impact study and received at the public hearing;
 - (ii) For homeowners who relocate within fifty (50) miles of the subject mobile home park, the actual costs of dismantling, moving, reassembling, and rebuilding, as necessary, the mobile home, skirting, tiedowns, and other foundation and stabilizing materials, and all other associated structures and property; packing, moving, and unpacking all personal property; and costs for meals, lodging, and gas while the mobile home is dismantled, moved and reassembled;
 - (iii) For homeowners who relocate their mobile home to a mobile home park further than fifty (50) miles of the subject mobile home park, or to a location other than a mobile home park, assistance may consist of the estimated cost they would have incurred had they relocated to the closest mobile home park which would accept their mobile home, as determined by the impact study;
 - (iv) For tenants, the costs may include all reasonable expenses incurred in moving to a new location, up to a maximum distance of fifty (50) miles.
 - (v) For those residents who qualify as low or very low income persons or families, as defined by HUD or who are receiving supplemental Social Security benefits, a lump sum based on consideration of the difference between higher rent at the new park for two years and the park that is closing.
 - (vi) For those residents who are handicapped or disabled, a lump sum based on consideration of the cost of obtaining any assistance necessary to move, such as help with packing or other physical tasks that the resident cannot perform without assistance, and to offset the cost of replacing any special equipment that cannot be moved and is used because of the resident's disability.

XI-20-9.03 Acceptance of Conditions Required

The City's approval of a Mobile Home Park Conversion Permit shall not be valid and effective until the applicant has filed a certificate of acceptance of the conditions of approval with the City.

XI-20-9.04 Agreement Between the Owner/Tenant and Applicant

In order to facilitate a proposed conversion, closure, or cessation of use of a mobile home park, the residents and applicant(s) may agree to mutually satisfactory conditions. To be valid, however, such an agreement shall be in writing, shall include a provision stating that the resident is aware of the provisions of this section, shall include a copy of this section as an attachment, shall include a provision in at least ten-point type which clearly informs the resident that he has the right to seek the advice of an attorney of his choice prior to signing the agreement with regard to his rights under such agreement, shall be drafted in the form and content otherwise required by applicable state law and shall be approved by the City Council.

XI-20-9.05 Services of Housing Experts

All eligible mobile home owners, except for those not occupying mobile homes within the mobile home park, and all mobile homes within the mobile home park, and all mobile home tenants of eligible mobile home owners, shall be provided with the services of one or more housing experts to assist them in relocating to available and appropriate housing upon their request. Any such experts shall be familiar with the housing market, individual needs for housing types, and income and loan requirements of various types of housing. Such assistance shall include financial advice, the explanation of the various housing alternatives available, and transportation of residents who are unable to operate motor vehicles to the various housing alternatives. Any housing experts selected by the applicant shall be subject to the approval of the City Manager's Designee.

XI-20-9.06 Right of First Refusal--Housing on Site

All eligible mobile home owners and all mobile home tenants of eligible mobile home owners shall be provided with a right of first refusal to purchase housing to be constructed for sale on the site of the mobile home park, or to lease or rent rental housing to be constructed for lease or rental on such site.

No waiver by an eligible mobile home owner of any of his or her rights pursuant to this section shall be valid or effective for any purpose.

XI-20-9.07 Urgent Need to Relocate

Provisions shall be made for those mobile home owners who have a demonstrated urgent need to relocate, as determined by the Council, prior to the date set forth in the impact report. Such provisions shall be limited to payments of a reasonable approximation of the in-place value as approved by the Council.

Section 10 Application for Exemption from Relocation Assistance Obligations

XI-20-10.01 Filing--Notice

10.01-1 Any person who files an application for a Mobile Home Park Conversion Permit may, simultaneous with such application, file an application for total or partial exemption from the obligation to provide relocation assistance pursuant to Section 9. The owner of a mobile home park as to whom the City Manager's Designee has made a determination pursuant to Section 6.01-2 may also file such an application for exemption not later than thirty (30) days from the date of transmittal of the notice of determination by the City Manager's Designee pursuant to Section 6.01-3.

10.01-2 If such application is filed, notice of such application, with the information contained therein, and distribution thereof to the owners and occupants of the mobile home park shall be accomplished pursuant to Sections 7.01-1 and 7.01-2.

XI-20-10.02 Basis for Exemption Application

Any such exemption application shall state that it is made on either or both of the following bases:

10.02-1 That imposition of the full relocation obligations would eliminate substantially all reasonable use or economic value of the property. Such basis may only be established if it is demonstrated that the imposition of

such obligations would eliminate the reasonable use or economic value of the property for alternate uses, and that continued use of the property as a mobile home park would eliminate substantially all reasonable use or economic value of the property.

10.02-2 That a court of competent jurisdiction has determined in connection with a proceeding in bankruptcy that the closure or cessation of use of said property as a mobile home park is necessary, and that such court has taken further action which would prohibit or preclude payment of relocation assistance benefits, in whole or in part.

XI-20-10.03 Application--Contents

Any such application made pursuant to Subsection 10.02-1 shall contain, at a minimum, the following information:

10.03-1 Statements of profit and loss from the operations of the mobile home park for the most recent five (5) year period of the date of the application or request, certified by a certified public accountant.

10.03-2 If the applicant contends that continued use of the property as a mobile home park necessitates repairs or improvements or both, and that the cost thereof makes continuation of the park economically infeasible, a statement made under penalty of perjury by a general contractor licensed as such pursuant to the laws of the State of California, certifying that such contractor has thoroughly inspected the entire mobile home park; that such contractor has determined that certain repairs and improvements must be made to the park to maintain the park in a decent, safe and sanitary condition; the minimum period of time in which such improvements or repairs must be made; an itemized statement of such improvements and repairs; and the estimated cost thereof. The applicant shall also submit a statement verified by a certified public accountant as to the necessary increase in rental rates of mobile home sites within the park within the next five (5) years necessary to pay for such repairs or improvements.

10.03-3 The estimated total cost of relocation assistance which would otherwise be required to be provided pursuant to this chapter, which shall be based upon documented surveys included with the application of the available mobile home sites within two hundred (200) miles of the mobile home park, residents of the park who would elect to relocate and those who would elect to sell their mobile homes, and the value of the mobile homes in the park based upon recent sales of representative mobile homes in the park.

10.03-4 An estimate of the value of the mobile home park by a qualified real estate appraiser if the park were permitted to be developed for the use proposed in the application for redevelopment of the park, and an estimate of the value of such park by such appraiser if use of the property as a mobile home park is continued.

10.03-5 Such other information which the applicant believes to be pertinent, or which may be required by the City Manager's Designee.

XI-20-10.04 Required Documentation

Any such application filed pursuant to Subsection 10.02-2 shall be accompanied by adequate documentation as to the title, case number, and court in which the bankruptcy proceeding was held, and copies of all pertinent judgments, orders and decrees of such court.

Section 11 Obligations of Applicant or Mobile Home Park Owner After Approval of Conversion Impact Report

XI-20-11.01 Applicant Obligations--Time Limits

After the date of the City Council's decision on the Mobile Home Park Conversion Permit, the applicant shall undertake or be responsible for performance of the following obligations, except to the extent that the City Council may have exempted the application therefrom pursuant to Section XI-20-18:

11.01-1 Not later than thirty (30) days from the date of the City Council's decision, the housing specialist or specialists shall make personal contact with each resident of the mobile home park and commence consultations

to determine the proper relocation assistance to be provided. The housing specialist or specialists shall give each resident and former resident eligible to receive relocation assistance written notice of his or her relocation assistance and benefit options, the time limits within which he or she must select the desired option, one (1) or more copies of a standard form to be used for the resident to make his or her selection, and a designation of the person and place to whom and to which completed forms must be submitted.

11.01-2 Not later than four (4) months from the date of the City Council's decision, residents who are entitled to make elections between alternate benefits shall make such selection in writing. Such selection shall be submitted to the park owner or applicant, as the case may be, on a form provided by the housing specialist.

11.01-3 Not less than thirty-five (35) days prior to the date any resident is required to vacate the mobile home park, any cash or monetary relocation assistance shall be paid to such resident, to any former resident eligible for such assistance, or to any person, firm or corporation performing relocation-related services for the resident, as the resident may direct.

11.01-4 Not more than six (6) months from the date of the City Council's decision, any required appraisals of mobile homes shall be completed. If any such appraisal is incomplete due to any act or omission of the mobile home park owner or applicant, the otherwise required time for vacation of the mobile home park by the residents affected by such delay shall be extended by ninety (90) days. If any such appraisal is incomplete due to any act or omission of a mobile home owner, the owner of the mobile home park or the applicant, as the case may be, shall give the owner of the mobile home a written notice of such deficiency, which shall state that if the appraisal is not completed within thirty (30) days of the notice, the appraisal of the mobile home park owner or applicant, as the case may be, shall govern. If the owner of such mobile home does not complete such appraisal within such period, the required valuation of the mobile home shall be based upon the appraisal of the mobile home park owner or applicant, as the case may be. In addition, not more than six (6) months from the date of the City Council's decision, the applicant or owner of the mobile home park, as the case may be, shall enter into contracts with moving contractors necessary for the relocation of mobile homes or personal property, or both.

11.01-5 The date upon which any resident of the mobile home park is required to vacate such park, or upon which the owner of any mobile home is required to be removed from the mobile home park, shall be not less than six (6) months from the date of notice of termination of tenancy and not less than thirty-five (35) days from the date of payment of any required relocation benefits.

11.01-6 If the owner of the mobile home park or the applicant, on such application, specifically requests that any of the time limitations required by this section be modified, the City Council shall consider any such modification and evidence relating to the need therefore at the public hearing on the Mobile Home Park Conversion Permit. The City Council shall have the power to make modifications in such time limits, both in response to a request and on its own motion, in conjunction with any approval of a Mobile Home Park Conversion Permit, as the City Council may deem just and reasonable. (Ord. 230 (part), 6/21/88)

Section 12 Payment of Relocation Assistance Benefits-Prerequisite to Issuance of Building Permit to Redevelop Park

XI-20-12.01 Verified and Itemized Payment Statement Required

No building permit shall be issued for the development of any real property which has been, or is being, converted from a mobile home park pursuant to this chapter unless and until the applicant or the owner of the property, as the case may be, who is responsible for payment of any required monetary relocation assistance, shall have filed with the City Manager's Designee a verified statement made under penalty of perjury that relocation assistance payments required as conditions of the Mobile Home Park Conversion Permit pursuant to this chapter have been paid. Such statement shall specify in itemized form each payee, the amount paid, the date of payment, and the type of relocation or other assistance for which each such payment was made.

Section 13 Enforcement

XI-20-13.01 Enforcement

Enforcement of this chapter shall be pursuant to Milpitas Municipal Code section XI-10-63.

Section 14 Severability

XI-20-14.01 Severability

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

Section 15 Effective Date

XI-20-15.01 Effective Date

The ordinance codified in this chapter shall become effective thirty (30) days from and after the date of its adoption.

Section 16 Exemption from CEQA

XI-20-16.01 Exemption Findings

The City Council finds, pursuant to Title 14 of the California Administrative Code, Section 15061, that this chapter is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project as provided for under Title 14, California Administrative Code, Section 15061(b)(1), in that it does not have a potential for resulting in a physical change in the environment, directly or ultimately, as provided in Title 14, California Administrative Code, Section 15378(a), and that it is further exempt under the definition of Project in Section 15378(b), in that it concerns general policy and procedure making; and the Council directs that Notice of Exemption be filed with the County Clerk and with the Secretary for Resources.

Section 16 Posting and Publication

XI-20-16.01 Posting and Publication-Time Limit

The City Clerk is directed to cause copies of the ordinance codified in this chapter to be posted and to cause publication once in the Milpitas Post, the official newspaper of Milpitas, of a notice setting forth the date of the adoption and the title of the ordinance codified in this chapter, within fifteen (15) days after adoption of the ordinance codified in this chapter.

SECTION 3. 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 4. 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.

ATTACHMENT C

Chair Williams stated Item No. 5 was a 60-Day Review and not a public hearing.

Motion to Note, receipt and file the report.

M/S: Mandal, Sandhu

AYES: 6

NOES: 0

ABSENT: 2 (Larry Ciardella and Noella Tabladillo)

ABSTAIN: 0

X. OLD BUSINESS

***5 SIXTY-DAY COMPLIANCE REVIEW FOR CONDITIONAL USE PERMIT AMENDMENT NO. UA08-0010:** Review of the approval, which allows seating on the dance floor during restaurant/dining hours and allows the service of a full range of alcoholic beverages for the existing restaurant located at 78 Dempsey Road. (APN: 088-04-001), zoned Neighborhood Commercial with Site and Architectural Overlay (C1-S). Applicant: Maria De Jesus Zauala. Staff Contact: Tiffany Brown (408) 586-3283. (*Recommendation: Note, receipt and file the report*)

IX. PUBLIC HEARING

1. ZONING ORDINANCE AMENDMENT NO. ZA09- 0001, CONVERSION OF MOBILE HOME PARKS TO OTHER USES

Felix Reliford, Principal Housing Planner, presented a request to amend the City of Milpitas Zoning Ordinance Title XI, Chapter 20 regarding the conversion of mobilehome parks to other uses and Title XI, Chapter 10-64 establishing mobilehome park conversion permit process. The section would affect existing mobilehome parks within the City. The proposed changes would affect the requirements to convert, close or cease to use land as a mobilehome park. Mr. Reliford recommended adopting Resolution No. 09-017 recommending approval of the amendments to the City Council.

Mr. Reliford stated that State law no longer permits payment of a set monetary amount for relocation costs. The City can only require the mobilehome park owner to pay reasonable costs as it relates to relocation for residents. Since 1992 Mobilehome Parks have been govern by rent control adopted by the City Council. The City feels the property owner should pay for all reasonable costs such as dismantling, packing, moving, reassembling, rebuilding, unpacking, moving all personal property, skirting, tie downs, meals, lodging, gas, while mobilehome is dismantled, moving and reassembling to compensate the residents and making the transition as easy as possible for the residents.

Commissioner Ali asked if there is a cap, minimum or maximum, for relocating. Mr. Reliford stated there is nothing in the law in regards to minimum or maximum it only speaks in terms of reasonable costs.

Vice-Chair Mandal asked how many residents are there that need to be moved at this time. Mr. Reliford stated no one will be moving, all the City is doing is updating the ordinance from 1988 to present.

Chair Williams opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

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Planning Commission Minutes

April 8, 2009

M/S: Mandal, Sandhu

AYES: 6

NOES: 0

ABSENT: 2 (Larry Ciardella and Noella Tabladillo)

ABSTAIN: 0

Chair Williams thanked staff for working on the ordinance especially in protecting the residents of Milpitas.

Motion to Adopt Resolution No. 09-017 recommending approval of the amendments to the City Council.

M/S: Mandal, Sandhu

AYES: 6

NOES: 0

ABSENT: 2 (Larry Ciardella and Noella Tabladillo)

ABSTAIN: 0

**2. CONDITIONAL USE
PERMIT NO. UP08-0019
and ENVIRONMENTAL
ASSESSMENT NO. EA09-
0007**

Judie Gilli, Associate Planner, presented a request to operate a religious services facility and to allow joint use parking. A new exit door is proposed in the rear with no other exterior changes to the site or building being proposed. An Environmental Assessment was prepared for this project. An Initial Study dated March 2, 2009; a Notice of Intent and Mitigated Negative Declaration were prepared and circulated. The proposed project, once mitigated, will not have a significant effect on the environment. The project is located at 513 Los Coches Street. Ms. Gilli recommended adopting Resolution No. 09-016 approving the project and the Mitigated Negative Declaration, subject to the conditions of approval.

Chair Williams asked if staff had any discussions with the applicant regarding worst case scenario. Ms. Gilli stated she has had discussions with the applicant. The applicant has the flexibility to host events midweek.

Vice-Chair Mandal stated the management of this facility has given him an update on the project. There are really great and nice people involved in this project.

Commissioner Ali asked how long the lease on the parking is. Ms. Gilli stated all the leases are required as part of the conditional use permit. As long as the conditional use permit is valid the parking contracts must be valid.

Chitra Hariharan, 928 Huntington Drive, Duarte, CA, is representing the applicant Nithyananda Dhyanaapeetam of San Jose. They intend to use the facility as a vedic temple. The temple will promote global peace and harmony.

Chair Williams asked the number of members and growth rate. Mr. Hariharan stated there are no members. It is not based on certain hours. People come to the temple to pray for a few minutes and then leave. Chair Williams asked the number of participates or occupants coming to the facility at one time. Mr. Hariharan stated about 60-70 people on the weekends. Chair Williams asked what are the facility's plans to address the parking situation. Mr. Hariharan said they would use volunteers to monitor the occupancy use and the parking use.

APPROVED

Planning Commission Minutes

April 8, 2009



ATTACHMENT D

MILPITAS PLANNING COMMISSION AGENDA REPORT

NEW BUSINESS

Meeting Date: April 8, 2009

APPLICATION

SUMMARY:

Proposed Amendments to the Zoning Ordinance-Title XI, Chapter 20 Regarding the Conversion of Mobilehome Parks to Other Uses and Title XI, Chapter 10-64 establishing Mobilehome Park Conversion Permit

LOCATION:

Citywide-Mobilehome Parks

RECOMMENDATION:

Staff recommends the Planning Commission adopt Resolution No. 09-018 approving the proposed amendments of the Conversion of Mobilehome Park to Other Uses Ordinance and recommends approval to the City Council

PROJECT DATA:

N/A

General Plan/

Zoning Designation:

Mobilehome Park/Mobilehome Park Overlay

Overlay District:

“MHP”-Mobile Home Park Overlay District

Specific Plan:

None

PREPARED BY:

Felix Reliford

ATTACHMENTS:

Proposed Amendments to the Ordinance
Existing Mobile Home Park Ordinance
Letter to Mobilehome Park Owners and Tenants-March 30, 2009
Summary of Comparison Existing Ordinance and Proposed Amendments

BACKGROUND

At its meeting on October 24, 2007, the Planning Commission recommended approval of the Mobilehome Park Conversion Impact Report to the City Council for the closure of the South Main Street Mobilehome Park located at 1526 S. Main Street. On November 27, 2007, the City Council approved the Conversion Impact Report which established a 6-month time period to relocate the mobilehome park owners and tenants with financial assistance. At the time of the City Council public hearing, the Conversion of Mobilehome Parks to Other Uses Ordinance had not been amended since its original adoption in 1988. The Council directed staff to amend the ordinance after obtaining community input and comments from the residents of the three (3) existing mobilehome parks and return to the Council with the proposed amendments to update the ordinance.

The three (3) existing mobilehome park has a General Plan classification of “Mobilehome Park” and a special Zoning Ordinance designation as “Mobilehome Park Overlay District”. Since 1992, the mobilehome parks have been govern by rent control adopted by the City Council. There are approximately 521 mobilehome parks units located within the three parks.

Community Meetings at Mobilehome Parks

As directed by the Council, Staff held a several of three (3) community meetings at the three existing mobilehome parks to obtain input and comments from the residents. The meetings were held on the following dates:

- Pioneer Mobilehome Park-September 24, 2008 at 7:00 p.m.
- Mobilodge of Milpitas-October 4, 2008 at 1:00 p.m.
- Friendly Village of Milpitas- October 22, 2008.

Several issues were raised at the community meetings, specifically:

- Appropriate and fair relocation assistance
- Increasing the distance from 20 miles to relocate mobile home coach
- Increasing the in-place value of the mobile home from 95% to 100%
- Allowing “ Right of First Refusal” for any new residential development that may be built on the site
- Addressing the issue of increased costs to relocate to new mobile home park
- Protecting the rights of the mobile home park residents

On March 30, 2009, Staff provides copies summarizing the proposed ordinance amendments and comparison to the existing ordinance to all three mobilehome park managers, owners and tenants in advance of the public hearing. Staff believes the proposed ordinance changes address the majority of these issues. Since the mobilehome park ordinance has not been amended since its adoption in 1988, it should be noted that State law no longer permits the City to require the payment of a set monetary amount for relocation costs. The City can only require the mobile home park property owner to pay “reasonable costs” as it relates to the relocation of residents.

Proposed Ordinance Amendments

New Application Process for Mobilehome Park Conversion Permit-Any applicant desiring to convert a mobilehome park to another use, close a mobilehome park or cease to use land as mobilehome park will be required to submit an application to apply for a conversion permit, the conversion permit would require the following:

- Pre Application meeting with Staff to apply for Mobilehome park Conversion Permit
- Establishing separate application fee
- Applicant to specify other discretionary land use approvals required
- Notification to Mobilehome Park Owners and Tenants 10-Days after report is deemed complete
- Approval of Mobilehome Park Conversion Permit by Planning Commission and City Council (public hearing)

Within 30 days after receipt of a Mobilehome Park Conversion Permit Application, The City shall determine if the application is complete. If the application is not complete, the applicant shall be notified in writing of the deficiency and have 60 days to correct the deficiencies. The City reserves the right to extend the 60 days, otherwise the application shall be deemed to have been abandoned.

Requirements of Mobilehome Park Conversion Impact Report-Staff is recommending additional information and requirements to be submitted with the Conversion Impact Report to make sure the City has enough information to justify the relocation assistance provided and to protect the right of the mobilehome park owners and tenants. The amendments includes:

- Filing of Conversion Impact Report 30-days from receipt of written request from applicant following pre-applicant meetings
- Additional information requested regarding vacancy rates (average vacancy rates, lot lease and rental rates, number of evictions and reasons for evictions the past 3 years)
- Additional information regarding status of mobilehome coach to be relocated (condition and size of each affected mobilehome within the park)
- Relocation Plan and Assistance-establishing was is reasonable costs to relocate to a comparable mobilehome park
- In Place Value of Mobilehome-increasing the in-place value from 95% to 100%
- Deletion of set monetary costs of \$1,500 Housing Allowance (prohibit by State Law)
- Increasing the Distance to Relocate from existing 20 miles to 50 miles
- Required the Mobilehome Park Property Owner to pay the different between higher rents at new park and the rent paid at park that is closing for a period of 2-years for very low and low-income households and families defined by HUD or receiving Supplemental SS (Milpitas mobilehome parks have been govern by rent control since 1992).
- Require any additional costs to relocate handicapped or disabled persons (physical improvements and equipment)

Community Development Director Responsibilities and Duties-Since the ordinance has not been amendments since 1988, the existing ordinance provide the responsibilities and duties for implementing the provisions of the ordinance to the Community Development Director. This position no longer exists in the City's Human Resources Department. Therefore, these sections in the ordinance, which stated

Community Development Director, have been amended to reflect the City Manager's Designee. This allows the City Manager to assign the appropriate staff member to be responsible for the implementation of the ordinance.

Definitions-To comply with State Law, several definitions in the existing ordinance require amendments, specifically reference to housing allowance (\$1,500 adjusted for inflation), which is no longer allowed, specific section of the Mobilehome Residency Law which governs mobilehome park conversions and definition of applicant in establishing who's eligible to apply for the Mobilehome Park Conversion Permit.

The remaining proposed amendments to the ordinance are minor revisions and changes to provide a better format

Included in the Commission's agenda packet are copies of the proposed and existing ordinance, letter sent to mobilehome park managers, owners, and tenants along with the comparison chart of the existing and proposed ordinance amendments.

STAFF RECOMMENDS THAT

- 1) Open the public hearing and take testimony
- 2) Closed the public hearing
- 3) Adopt Resolution No. 09-018 recommending approval of the proposed amendments to the Conversion of Mobilehome Park to Other Uses Ordinance to the City Council.