

**REGULAR**

**NUMBER: 38.797**

**TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 10 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE FOR THE PURPOSE OF COMBINING THE TOWN CENTER SUB-DISTRICTS AND AMENDING CERTAIN USE CATEGORIES; AND AN AMENDMENT TO THE CITY’S ZONING SECTIONAL MAP, CHANGING THE ZONING DESIGNATION OF 50 ACRES FROM HEAVY INDUSTRIAL, HIGHWAY SERVICES AND INDUSTRIAL PARK TO TOWN CENTER**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of September 21, 2010, upon motion by Vice Mayor McHugh and was adopted (second reading) by the City Council at its meeting of \_\_\_\_\_, upon motion by Councilmember \_\_\_\_\_. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

**APPROVED:**

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

\_\_\_\_\_  
Robert Livengood, Mayor

**APPROVED AS TO FORM:**

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

**RECITALS AND FINDINGS:**

**WHEREAS**, on May 13, 2010, an application was submitted by Mike Black, representing a consortium of property owners, to amend the City’s Zoning Ordinance to combine the Town Center sub-districts, change certain use classifications and amend the City’s Zoning Sectional Map to change the designation of a 50-acre parcel from Heavy Industrial, Highway Services and Industrial Park with Site and Architectural Overlay to Town Center with Site and Architectural Overlay (TC-S); and

**WHEREAS**, on August 25, 2010, the Planning Commission held a duly noticed public hearing on the project's application and considered staff’s determination that on the basis of the whole record that there is no substantial evidence that the project will have a significant effect on the environment and that a negative declaration reflects the City’s independent judgment and analysis. A negative declaration was publicly circulated for 30 days from July 1, 2010 through July 30, 2010; and

**WHEREAS**, the proposed zoning text amendment is consistent with the General Plan in that the project encourages economic pursuits which will strengthen and promote development through stability and balance.

**WHEREAS**, the proposed zoning text amendment will not adversely affect the public health, safety and welfare in that the existing uses within the project site will be consistent with the Town Center district and the other uses that are inconsistent will be subject to the Zoning Ordinance’s Non-conforming provisions; and

**WHEREAS**, the proposed Sectional Zoning Map amendment will be consistent with the General Plan.

**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 5.01(E) (“Town Center (TC) Zone”) of Chapter 10 of Title XI of the Milpitas Municipal Code is hereby amended to read as follows:

**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.

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

Table 5.02-1, (“Commercial Zone Uses”) of Chapter 10 of Title XI of the Municipal Code is hereby replaced in its entirety to read as follows:

**Table 5.02-1  
Commercial Zone Uses**

Use	CO	C1	C2	HS	TC
<b>1. Commercial Uses</b>					
Alcoholic beverage sales	C <sup>6</sup>	C	C	NP	C
Art/photography studio or gallery	NP	P	P	P	P
Bookstore	NP	P	P	P	P

Use	CO	C1	C2	HS	TC
Commercial services <sup>1</sup>	P	P	P	NP	P
Funeral home or mortician	NP	NP	C	C	NP
Furniture sales	NP	P	P	P	P
Grocery store (supermarkets)					
Within 1,000 ft. of residential zone	NP	C	C	C	C
Not within 1,000 ft. of residential zone	NP	P	P	P	P
Home improvement (hardware, blinds, interior decorating, etc.)	NP	P	P	C	P
Not fully enclosed operation	NP	C	C	C	C
Household appliance store	NP	NP	P	P	NP
Small appliance repair	NP	NP	C	P	NP
Large appliance repair	NP	NP	NP	P	NP
Janitorial services	NP	NP	P	P	NP
Newsstand					
Indoor	P	P	P	NP	P
Outdoor	C	C	C	NP	C
Nursery (flower or plant)					
Indoor	NP	NP	P <sup>2</sup>	P	P
Outdoor	NP	NP	C	P	NP
Office supply sales (stationary, equipment)	P	P	P	P	P
Paint and wallpaper stores	NP	NP	P	P	P
Pawnshops	NP	NP	C	NP	NP
Pet stores	NP	NP	P	P	P
Printing (newspaper, publishing)	NP	NP	P	P	P
Rentals (medical supplies, costumes, party equipment, office equipment)	NP	NP	P	P	P
Retail stores, general merchandise	NP	P	P	NP	P
Tanning salon	NP	NP	P	NP	P
Thrift store	NP	NP	P	P	P
Tobacco shop	NP	C	C	NP	C
<b>2. Entertainment and Recreation</b>					
Adult business <sup>3</sup>	NP	NP	NP	P	NP
Billiards	NP	C	C	C	C
Bowling alley	NP	NP	P	P	P
Commercial athletic facilities					
Indoor	NP	C	P	P	P
Outdoor	NP	NP	NP	C	NP
Internet access studio	C	C	C	C	C
Motion picture theater (See 7 below)					
Recreation or entertainment facility	NP	C	C	C	C
Shooting range, indoor	NP	NP	NP	C	NP
<b>3. Health and Veterinarian Uses</b>					
Animal grooming (no boarding)	NP	P	P	P	P
Hospital	C	NP	C	C	C
Kennel	NP	NP	C	NP	NP
Massage establishment	NP	NP	C	C	C
Medical and dental office	P	P	P	NP	P
Medical and dental clinic	P	C	C	NP	P
Medical support laboratories	P	C	P	P	P
Optician and optometrist shop	P	P	P	NP	P
Pharmacy or drug store	NP	P	P	P	P
Sauna and steam bath	NP	NP	NP	P	NP

Use	CO	C1	C2	HS	TC
Veterinary clinic	NP	NP	P	P	P
<b>4. Industrial Uses<sup>4</sup></b>					
Assembly from pre-processed materials	NP	NP	C	NP	NP
Commercial fueling facility	NP	NP	NP	C	NP
Commercial laboratory	NP	NP	C	P	NP
Contractor's yards and offices	NP	NP	C	C	NP
Disinfection and extermination business	NP	NP	C	P	NP
Dry cleaning plant	NP	NP	NP	P	NP
Food storage locker	NP	NP	NP	P	NP
Landscape contractor	NP	NP	C	P	NP
Lumberyards	NP	NP	C	C	NP
Mini-storage complex	NP	NP	C	C	NP
Plumbing, sheet metal or woodworking	NP	NP	C	C	NP
Research & development	NP	NP	C	NP	NP
Sign sales and fabrication (Electric and neon sign, sign painting)	NP	NP	C	P	NP
Warehousing and wholesale	NP	NP	C	NP	NP
<b>5. Lodging</b>					
Hotel and motel	NP	NP	C	C	C
<b>6. Professional Offices, Financial Institutions and Related Uses</b>					
Automatic Teller Machines (freestanding) <sup>5</sup>	NP	P	P	P	P
Financial institutions (banks, savings and loans, etc.)	P	P	P	P	P
General offices (administrative and business services, real estate, travel agencies, etc.)	P	P	P	P	P
<b>7. Public, Quasi-Public and Assembly Uses</b>					
Auction hall	NP	NP	C	C	C
Child care					
Child care center	C	C	C	C	C
Day care school	C	C	C	C	C
Large family child care home	NP	NP	NP	NP	C
Small family child care home	NP	NP	NP	NP	C
Club or social organization, religious assembly	C	C	C	C	C
Cultural center	NP	NP	C	C	C
Educational institutions					
School-elementary (K-8 Public or Private)	NP	NP	C	NP	C
School-secondary (9-12 Public or Private)	NP	NP	C	NP	C
Trade and vocational school	C	NP	P	P	C
Farmer's market (not including flea market)	NP	C	C	C	C
Instruction					
Group	C	C	C	C	C
Private	P	P	P	P	P
Library	NP	C	NP	NP	C
Motion picture theater					
Indoor	NP	C	C	C	C
Outdoor	NP	NP	NP	C	NP
Parking facility, storage garage	NP	P	P	C	C
Public utilities	C	C	C	C	C
Transportation facility (taxi, limousine, etc.)	NP	NP	C	C	C
<b>8. Restaurants or Food Service</b>					
Banquet hall	NP	NP	C	C	C
Bar or nightclub	NP	NP	C	C	C
Catering establishment	NP	NP	P	P	P

Use	CO	C1	C2	HS	TC
Restaurants	C <sup>6</sup>	P	P	P	P
With live entertainment/dancing	NP	NP	C	C	C
With drive-in or drive-through	NP	C	C	C	C
<b>9. Residential Uses</b>					
Caretaker (in conjunction with contractor's yard)	NP	NP	C	C	NP
Residential dwellings (between 1 and 40 d.u. per gross acre)	NP	NP	NP	NP	C
<b>10. Vehicle Related Uses</b>					
Auto repair (tire, oil change, smog check, etc.)	NP	NP	C	C	NP
Auto sales and rental, outdoor (new and used cars, RV and truck)	NP	NP	C	C	NP
Auto broker (wholesale, no vehicles on site)	C	C	C	C	C
Car wash	NP	NP	C	C	NP
Service stations (with or without repair or retail) <sup>7</sup>	C	C	C	C	C
Vehicle-oriented window service facility	NP	C	C	C	C
<b>11. Unclassified Uses</b>					
Accessory structures <sup>8</sup>	P	P	P	P	P
Agriculture <sup>9</sup>	P	NP	NP	NP	NP
Model home complex <sup>10</sup>	NP	NP	NP	NP	P
Mortuary or crematory	NP	NP	NP	C	NP
Radio or television station	NP	NP	C	P	NP
Temporary seasonal sales <sup>11</sup>	NP	P	P	P	P

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

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

<sup>3</sup> In accordance with Title III, Chapter 4, Adult Business Ordinance and Subsection 13.04, Adult Businesses, of this Chapter.

<sup>4</sup> For conditionally permitted uses, refer to Subsection 57.04(C) (9), Certain Industrial Uses within Commercial Districts, of this Chapter.

<sup>5</sup> Refer to Subsection 57.03, Site Development Permits and Minor Site Development Permits, of this Chapter.

<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> Not including warehouses on the same site as the permitted use.

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

<sup>10</sup> Reserved.

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

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

Table 5.03-1, ("Commercial Zone Development Standards") of Chapter 10 of Title XI of the Milpitas Municipal Code is hereby replaced in its entirety to read as follows:

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

Standard	CO	C1	C2	HS	TC
Lot Area, minimum	None	None	10,000 s.f.	Fronting	None

Standard	CO	C1	C2	HS	TC
				major street (4 or more lanes): 1.5 ac.  Fronting all 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
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.
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
Street Side Yard Setback, minimum	10 ft.	0 ft.	0 ft.	0 ft.	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
Building Height, maximum					
Primary building	35 ft. or 3 stories	35 ft. or 2.5 stories	None	None	None <sup>1</sup>
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

<b>Standard</b>	<b>CO</b>	<b>C1</b>	<b>C2</b>	<b>HS</b>	<b>TC</b>
Floor Area Ratio	0.50	0.35	0.50	0.50	0.85
Landscaping	None	None	None	25% of front yard setback	All required setback areas and the ends of each parking aisle <sup>2</sup>

<sup>1</sup> Refer to Subsection 57.04(C)(1), Applicability, of this Chapter for additional requirements.

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

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

Section 5.04(B) (“TC Zone”) of Chapter 10 of Title XI of the Milpitas Municipal Code is hereby added to read in its entirety as follows:

**B. TC Zone**

1. Setbacks for Residential Projects. Except for the Calaveras Boulevard setback, all other setbacks shall be determined through a Site Development Permit.

**SECTION 6. AMENDMENT OF THE CITY OF MILPITAS ZONING SECTIONAL MAP**

The Zoning Map of the City of Milpitas, which was adopted as part of Ordinance No. 38, enacted as Chapter XI-10 (Zoning, Planning and Annexation) of the Milpitas Municipal Code of said City, is hereby amended by adding a new Section District No. 579, a copy of which is attached hereto and incorporated herein as Exhibit 1. This Zoning Map shall be kept in uncodified form and shall be made available upon request from the Director Planning & Neighborhood Services.

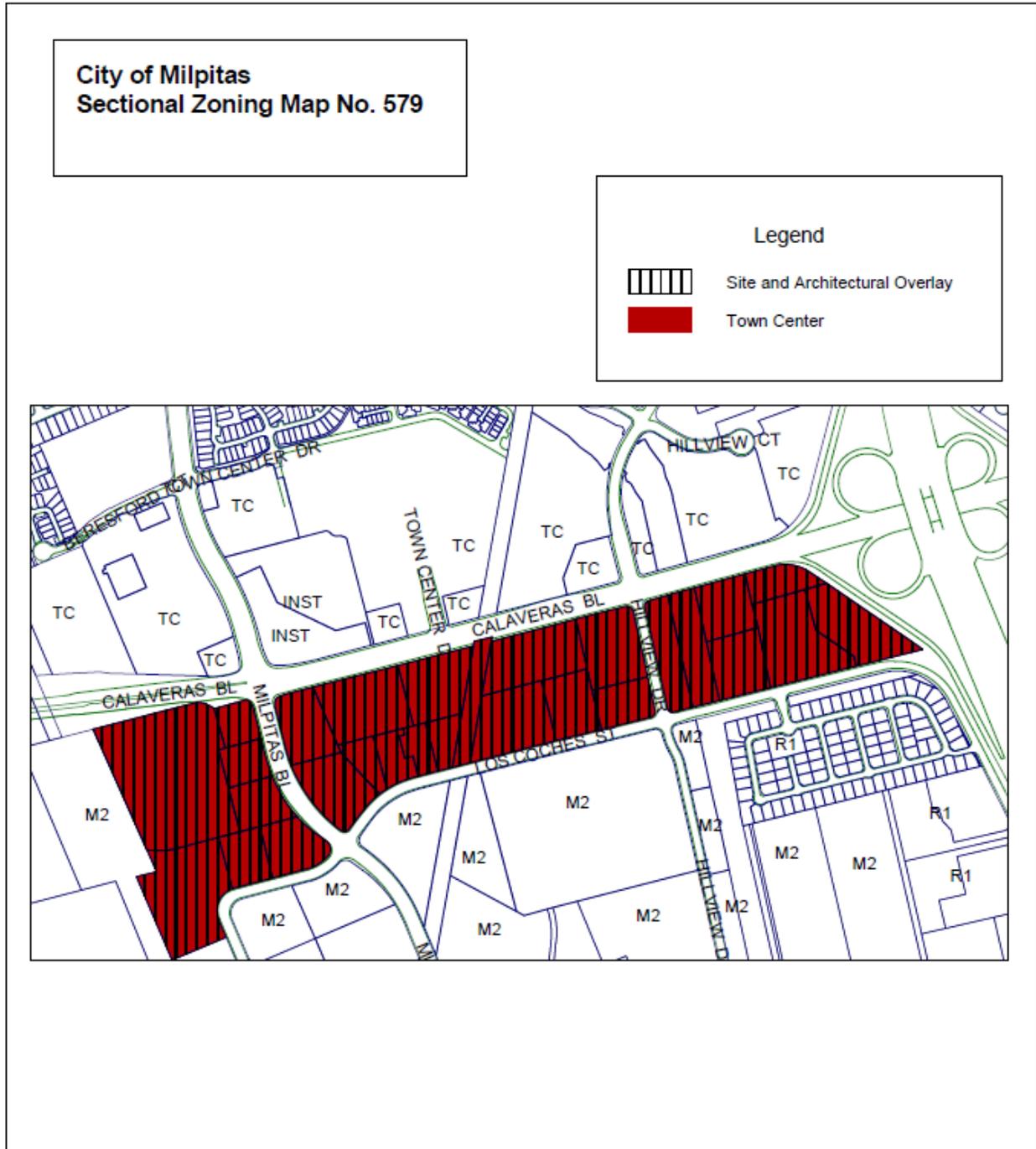
**SECTION 7. SEVERABILITY**

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 8. 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.

Exhibit 1 Zoning Sectional Map No. 579<sup>a</sup>



<sup>a</sup> This Sectional Map is kept shall be kept in uncodified form and shall be available upon request from the Director Planning & Neighborhood Services.