

**REGULAR**

**NUMBER: 38.810**

**TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 10 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE RELATING TO ZONING**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of November 19, 2013, upon motion by Councilmember Montano 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:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

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

## **RECITALS AND FINDINGS:**

**WHEREAS**, the City Council of the City of Milpitas intends to amend the Milpitas Zoning Code to add provisions for Emergency Shelters, Single Room Occupancies, Supportive Housing, Transitional Housing and Reasonable Accommodations in accordance with state law; and

**WHEREAS**, pursuant to California Government Code Sections 65580 – 65589 (“Housing Element Laws”), each city is required to prepare and adopt a General Plan Housing Element that identifies adequate sites for a variety of housing types; and

**WHEREAS**, the City Council previously approved the Milpitas General Plan Housing Element in June 2010 in accordance with the State Housing Element Laws; and

**WHEREAS**, the City of Milpitas (“City”) is required to update its General Plan Housing Element by January 31, 2015; and

**WHEREAS**, on June 18, 2013, the City Council initiated the Housing Element Update and as part of the Update the City’s Zoning Code will need to be amended to include provisions for emergency shelters, single room occupancies, supportive housing, transitional housing and reasonable accommodations. These amendments will enable the City to take advantage of the streamlined review process to be conducted by the California Housing and Community Development for the General Plan Housing Element Update and to be compliance with the State Housing Element Laws; and

**WHEREAS**, the Negative Declaration has been completed in compliance with the California Environmental Quality Act (CEQA), the guidelines as promulgated by the State Secretary of Resources, and the procedures for review as set forth in the City of Milpitas Environmental Review Guidelines and an Initial Study has been prepared for the project which recommended adoption of a Negative Declaration; and

**WHEREAS**, on October 23, 2013, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

**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. ENVIRONMENTAL REVIEW**

A Negative Declaration has been completed in compliance with the California Environmental Quality Act (CEQA), the guidelines as promulgated by the State Secretary of Resources, and the procedures for review as set forth in the City of Milpitas Environmental Review Guidelines, and an Initial Study has been prepared for the project which recommended adoption of a Negative Declaration.

The City Council has reviewed the record and all other relevant information presented to it and has determined through its independent judgment to adopt the Negative Declaration. The City Council concurs that the City of Milpitas’ Housing Element proposes no policy changes and contains no substantial evidence in the record before it that the project will have a significant effect on the environment, and therefore would not require a Supplemental or Subsequent Mitigated Negative Declaration to be prepared.

### **SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE, TITLE XI, CHAPTER 10, SECTION 2.03**

Chapter 10, Section 2.03 “Definitions,” of Title XI of the Milpitas Municipal Code, is hereby amended to add the following definitions:

“**Emergency Shelter**” means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay as set forth in the California Health and Safety Code Section 50801(e), as may be amended.

“**Single Room Occupancy (SRO) Residence**” means a multi-tenant building consisting of single room dwelling units that are the primary residence of its occupants, containing either individual or shared kitchen and bathroom facilities. These units are small (generally less than 350 square feet), and provide a valuable source of affordable housing for individuals and can serve as an entry point into the housing market for formerly homeless people.

“**Supportive Housing**” means housing with no limit on length of stay, that is occupied by the target population as defined in Section 11302 of Title 42 of the United States Code, as may be amended, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community as defined in the California Health and Safety Code Section 50801(e), as may be amended.

“**Transitional Housing**” means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months as defined in the California Health and Safety Code Section 50801(e), as may be amended.

**SECTION 4. AMENDMENT OF MILPITAS MUNICIPAL CODE, TITLE XI, CHAPTER 10, SECTION 4.02**

Chapter 10, Table XI-10-4.02-1 “Residential Zone Uses” of Section 4.02 of Title XI of the Milpitas Municipal Code, is hereby amended to read as follows:

**Table XI-10-4.02-1  
Residential Zone Uses**

Use	R1	R2	R3	R4	R5
<b>1. Commercial</b>					
Commercial services <sup>1,2</sup>	NP	NP	C	C	C
<b>2. Professional Offices and related uses</b>					
Offices <sup>1,2</sup>	NP	NP	C	C	C
<b>3. Public/Quasi-Public and Institutional Uses</b>					
Child care center	C	C	C	C	P
Nursing home <sup>3</sup>	NP	C	C	C	C
Park, playground or community center (non-profit)	C	C	C	C	C
Parking lots	C	C	C	C	C

Public service structure	C	C	C	C	C
School (not trade or vocational)	C	C	C	C	C
Social hall, lodge, fraternal organization, club and religious assembly (non-profit)	C	C	C	C	C
<b>4. Residential Uses</b>					
Condominiums and condo conversions	NP	SFR: C Duplex: C	C	C	C
Duplex (Two dwellings)	NP	P	NP	NP	NP
Group dwelling	NP	NP	NP	C	C
Guest house	C	NP	NP	NP	NP
Manufactured home <sup>4</sup>	P	NP	NP	NP	NP
Multi-family dwellings (Three or more units)	NP	NP	P	P	P
Planned unit development <sup>5</sup>	P	P	P	P	P
Second residential dwelling unit <sup>6</sup>	P	SFR: P Duplex: NP	NP	NP	NP
Single family dwelling	P	P	NP	NP	NP
Single-room occupancy residences <sup>7</sup>	NP	NP	C	C	C
Transitional and supportive housing	P <sup>8</sup>	P <sup>8</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>
<b>5. Restaurants</b>					
Restaurants <sup>1,2</sup>	NP	NP	C	P/C	P/C
<b>6. Unclassified Uses</b>					
Agriculture <sup>10</sup>	P	P	P	NP	NP
Boarding house (three or more persons)	NP	C	C	C	C
Golf course <sup>11</sup>	C	C	C	NP	NP
Live work units <sup>12</sup>	NP	NP	C	C	C
Model home complex <sup>13</sup>	P	P	P	P	P

<sup>1</sup> Refer to Subsection XI-10-4.03(A), Residential Zone Special Uses, of this Chapter, for standards.

<sup>2</sup> Refer to Subsection XI-10-4.03(B), Residential Zone Special Uses, of this Chapter, for standards.

<sup>3</sup> Licensed nursing home serving more than six (6) persons, except when used primarily for contagious sickness, mental or drug alcohol addict cases.

<sup>4</sup> Refer to Subsection XI-10-13.07, Manufactured Homes, of this Chapter, for standards.

<sup>5</sup> Refer to Subsection XI-10-54.07, Planned Unit Developments, of this Title, for standards.

<sup>6</sup> In conjunction with an existing legal single-family dwelling. Refer to Subsection XI-10-13.08, Second Family Unit, of this Chapter, for standards.

<sup>7</sup> Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences, of this Chapter

<sup>8</sup> Permitted only in single family dwellings

<sup>9</sup> Permitted only in multi-family dwellings

<sup>10</sup> Except for the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises.

<sup>11</sup> Except for driving tee or range, miniature course and similar uses operated for commercial purposes.

<sup>12</sup> Allowed commercial uses to be specified through the Conditional Use Permit process.

<sup>13</sup> Refer to Subsection XI-10-13.11(E), Model Home Complexes and Sales Offices, of this Chapter for temporary tract offices.

## **SECTION 5. AMENDMENT OF MILPITAS MUNICIPAL CODE, TITLE XI, CHAPTER 10, SECTION 5.02**

Chapter 10, Section 5.02 A, B, and C “Commercial Use Regulations,” and Table XI-10-5.02-1 “Commercial Zone Uses” of Section 5.02, Title XI of the Milpitas Municipal Code, are hereby amended to read as follows:

### **XI-10-5.02 - Commercial Use Regulations.**

#### **A. Permitted and Conditionally Permitted Uses.**

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

P	Where the symbol "P" appears, the use shall be permitted.
MCS	Where the symbol "MCS" appears the use shall be permitted subject to the issuance of a Minor Conditional Use Permit by staff, in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
P/C	Where the symbol "P/C" appears the use may be permitted if certain criteria is met or otherwise a Conditional Use Permit shall be required, in accordance with Section XI-10-57.04, Conditional Use Permits, of this Chapter.
C	Where the symbol "C" appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
MC	Where the symbol "MC" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.

O	Where the symbol "O" appears, the use is subject to an alternative review process described in a subsequent footnote.
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B. Prohibited Uses. The following uses are prohibited:

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

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

**Table XI-10-5.02-1  
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
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 <sup>2</sup>	NP	NP	P	P	NP
Small appliance repair	NP	NP	MCS	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
Bowling alley	NP	NP	P	P	P
Commercial athletic facilities					
Indoor	NP	C	P	P	P
Outdoor	NP	NP	NP	C	NP
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	C	C	C
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
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, metalworking, glassworking 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)	P	P	P	P	P

agencies, etc.)					
<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					
Schools, private (-elementary, middle, high)	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 <sup>7</sup>	MCS	MCS	MCS	MCS	MCS
Private	P	P	P	P	P
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
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
With ancillary on-premise beer & wine with no separate bar	NP	MC	PMC	MC	MC
<b>9. Residential Uses</b>					
Caretaker (in conjunction with contractor's yard or mini-storage complex)	NP	NP	C	C	NP
Emergency shelters <sup>8</sup>	NP	NP	NP	P/C	NP
Residential dwellings (between 1 and 40 d.u. per gross acre)	NP	NP	NP	NP	C
Single-room occupancy residences <sup>9</sup>	NP	NP	NP	C	NP
<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)	MCS	MCS	MCS	MCS	MCS
Car wash	NP	NP	C	C	NP
Service stations (with or without repair or retail). <sup>10</sup>	C	C	C	C	C
Drive through uses (restaurants, pharmacies, etc.)	NP	C	C	C	C
<b>11. Unclassified Uses</b>					
Accessory structures <sup>11</sup>	P	P	P	P	P
Model home complex <sup>12</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>13</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 the 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> Refer to Subsection 5.02-1, Commercial Zone Special Uses, of this Section.

<sup>8</sup> Refer to XI-10-13.14, Special Uses, Emergency Shelters, of this Chapter.

<sup>9</sup> Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences, of this Chapter.

<sup>10</sup> Refer to Subsection XI-10-6.02-2, Special Uses, of this Chapter, for standards. Service stations shall follow the "General development policy: Gasoline service stations, and automotive service centers" adopted by the City Council on December 19, 1995.

<sup>11</sup> Not including warehouses on the same site as the permitted use.

<sup>12</sup> No tract sign shall be permitted within 600 feet of a Santa Clara County Expressway.

<sup>13</sup> Refer to Section 13.11, Temporary Uses and Structures, of this Chapter.

**SECTION 6. AMENDMENT OF MILPITAS MUNICIPAL CODE, TITLE XI, CHAPTER 10, SECTION 6.02**

Chapter 10, Section 6.02 A, B and C “Mixed Use Regulations,” and Table XI-10-6.02-1 “Mixed Use Zone Uses” of Section 6.02, Title XI of the Milpitas Municipal Code, are hereby amended to read as follows:

**XI-10-6.02 - Mixed Use Regulations**

A. Permitted and Conditionally Permitted Uses.

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

P	Where the symbol "P" appears, the use shall be permitted.
MCS	Where the symbol "MCS" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit by staff, in accordance with Section 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
P/C	Where the symbol "P/C" appears the use may be permitted if certain criteria is met or otherwise a Conditional Use Permit shall be required, in accordance with Section XI-10-57.04, Conditional Use Permits, of this Chapter.
C	Where the symbol "C" appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Section 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
MC	Where the symbol "MC" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit, in accordance with Section 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
O	Where the symbol "O" appears, the use is subject to an alternative review process described in a subsequent footnote.

2. Accessory Uses.

a. Massage Services. Massage services may be allowed as an accessory use to any permitted or conditionally permitted medical office, medical clinic, chiropractor practice, acupuncture practice, physical therapist, fitness and athletic facility, health care facility (such as hospitals, nursing homes and sanitariums), and accredited school, college, and university. Massage services, limited to massage of the head, neck, shoulders, hands and feet may be allowed as an accessory use to any permitted or conditionally permitted beauty salon, barbershop, and healing art

practices. This section shall not exempt any person or business from complying with all the provisions of Title III, Chapter 6.

B. Prohibited Uses. The following uses are prohibited:

1. Uses where the symbol "NP" appears within Table 6.02-1.
2. The following uses are not permitted in any mixed use zone:
  - a. Adult Businesses as defined in Subsection 13.04, Adult Businesses, of this Chapter.
  - b. Disinfecting and extermination business.
  - c. Ground level residential in the Ground Level Commercial Area as shown on the Midtown Specific Plan Land Use Map, Figure 3.1 and Zoning Map.
  - d. Outdoor storage of vehicles.
  - e. Private self-storage facilities
  - f. Single family detached dwellings
  - g. Two family dwelling units
  - h. Drive through uses (restaurants, pharmacies, etc.)

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

**Table XI-10-6.02-1  
Mixed Use Zone Uses**

Use	MXD	MXD2		MXD3
		Ground Level (Facing Retail street)	Upper Floor	
<b>1. Commercial Uses</b>				
Alcohol beverage sales	C	C	C	C
Commercial services <sup>1</sup>	MCS	MCS	MCS	MCS
Grocery stores (supermarkets)	C	C	C	C
Pawnshops <sup>2</sup>	C	C	C	C
Pet shops	C	NP	NP	NP
Retail stores, general merchandise <sup>3</sup>	MCS	MCS	MCS	MCS
Tanning salons	P	P	P	P
Thrift shops (used merchandise)				
Retail	P	P	P	P

With collections	C	C	C	C
<b>2. Entertainment and Recreation</b>				
Commercial athletic facilities	P	P	P	P
Motion picture theater (see 6 below)				
Recreation or entertainment facility	C	C	C	C
<b>3. Health and Veterinarian Uses</b>				
Animal grooming (no boarding)	P	P	NP	P
Hospitals or sanitariums <sup>4</sup>	C	C	C	C
Massage establishment	C	C	C	C
Medical or dental offices and clinics	P	NP	P	P
Medical support laboratories	P	P	P	P
Optician and optometrist shop	P	P	P	P
Pharmacy or drug store	P	P	P	P
Veterinarian clinic	P	P	P	P
<b>4. Lodging</b>				
Bed and breakfast	P	P	NP	NP
Boarding houses (3 or more persons)	C	C	C	C
Group dwellings	C	C	C	C
Hotels	C	P	P	P
Motels	C	C	C	C
<b>5. Professional Offices, Financial Institutions and Related Uses<sup>4</sup></b>				
Financial institutions (banks, savings and loans, etc.)	MCS	NP	MCS	P
Offices <sup>3</sup>	MCS	NP	MCS	P
<b>6. Public/Quasi Public and Assembly Uses</b>				
Child care				
Child care center	C	P	C	P
Day care school	C	C	C	
Large family child care home	P	P	C	P

Small family child care home	P	P	P	P
Instruction				
Group <sup>13</sup>	P	NP	NP	NP
Private	P	P	P	P
Park, playground or community center <sup>5</sup>	O	O	O	O
Places of assembly <sup>4</sup>	C	C	C	C
Public utilities	C	C	C	C
Schools, private (elementary, middle and high) <sup>4</sup>	C	C	C	C
Theaters (Indoor)	C	C	C	C
Trade and vocational schools <sup>4</sup>	C	C	C	C
Transportation facilities <sup>2</sup>	C	C	C	C
<b>7. Residential Uses</b>				
Multi-family housing <sup>7</sup>	P	NP	P	P
<b>8. Restaurants or Food Service</b>				
Bar or nightclub	C	C	C	C
Brewery/Eateries <sup>10</sup>	MCS	MCS	NP	MCS
Catering establishments	C	C	C	C
Restaurants <sup>2</sup>	P/C	P/C	NP	P/C
With dancing and entertainment	C	C	C	C
With ancillary on-premise beer & wine with no separate bar	P	P	P	P
<b>9. Unclassified Uses</b>				
Artisan Studios & Live-work units, woodworking or glassworking, plumbing or metalworking and sign shops <sup>2</sup>	MCS	MCS	MCS	MCS
Lobbies and entries for upper floor uses	P	P	NP	P
Model home complex <sup>11</sup>	P	P	P	P
Mixed use developments <sup>12</sup>	P	P	P	P
Planned Unit Development <sup>13</sup>	P	P	P	P

Temporary seasonal sales <sup>14</sup>	P	P	P	P
<b>10. Vehicle-Related Repair, Sales and Services</b>				
Auto sales and rental <sup>15</sup>	C	C	C	C
Auto broker (wholesale, no vehicles on site) <sup>2</sup>	MCS	MCS	MCS	MCS
Vehicle service uses <sup>16</sup>	C	NP	NP	C

<sup>1</sup> Refer to Subsection XI-10-6.02-1(B), Performance standards for certain uses, of this Chapter, for standards.

<sup>2</sup> Refer to Subsection XI-10-6.02-1, Special Uses, of this Chapter, for standards.

<sup>3</sup> Refer to Subsection XI-10-6.02-1(B) Performance standards for certain uses, of this Chapter.

<sup>4</sup> Refer to Subsection XI-10-6.02-2, Quasi-Public Uses, of this Chapter, for standards.

<sup>5</sup> For parks, playgrounds or community center owned and operated by a government agency or a nonprofit community organization.

<sup>6</sup> Refer to XI-10-13.14, Special Uses, Emergency Shelters, of this Chapter

<sup>7</sup> Ground level residential is prohibited in the Ground Level Commercial Area as shown on the Midtown Specific Plan Land Use Map, Figure 3.1.

<sup>8</sup> Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences, of this Chapter

<sup>9</sup> Uses serving upper-floor residential uses, such as common gathering space, lobby, and resident services, may be allowed as ground floor uses where residential uses would otherwise not be permitted.

<sup>10</sup> Reserved

<sup>11</sup> Refer to Subsection XI-10-13.11(E), Model Home Complexes and Sales Offices, of this Chapter for temporary tract offices.

<sup>12</sup> Which include only permitted uses.

<sup>13</sup> Refer to Section XI-10-54.07, Planned Unit Developments, of this Chapter, for standards.

<sup>14</sup> Refer to Section XI-10-13.11(D), Temporary Seasonal Sales, of this Chapter.

<sup>15</sup> New and used auto, recreational vehicle and boat sales, excluding commercial vehicles, trucks, buses, vans, and farm equipment, with accessory repairs and services, only allowed if fully enclosed within a building. Bicycle and auto rental agency, excluding commercial vehicles, trucks, buses, vans, boats and RV rentals, only if fully enclosed within a building.

<sup>16</sup> Refer to Subsection XI-10-6.02-2, Special Uses, of this Chapter, for standards. Service stations shall follow the "General development policy: Gasoline service stations, and automotive service centers" adopted by the City Council on December 19, 1995.

**SECTION 7. AMENDMENT OF MILPITAS MUNICIPAL CODE, TITLE XI, CHAPTER 10, SECTION 13**

Chapter 10, Section 13 “Special Uses,” of Title XI of the Milpitas Municipal Code, is hereby amended to add subsections 13.12 and 13.13 to read as follows:

**XI-10-13.12 Single Room Occupancy Residences**

A. Purpose and Intent. The purpose of this Section is to provide for multi-tenant housing that is affordable to low-income individuals. Single Room Occupancy (SRO) residences house one to two persons in individual rooms, typically sharing bathrooms and/or kitchens. Units may, but are not required to, include full or partial kitchens and bathrooms.

B. Applicability. Standards for SRO residences contained in this section apply to all SRO residences where permitted by this Chapter.

C. Minimum Standards.

1. An SRO shall be located:

a. At least ¼ mile away from schools, parks, day care centers, adult businesses and concentrations of two or more bars and/or liquor stores; and

b. Within ½ mile of fixed rail or buses with 30 minute minimum headways; and

c. At least 1,000 feet from other SROs.

2. Each SRO unit shall:

a. Be a minimum of 150 square feet without individual kitchen or bathroom facilities, or a minimum of 300 square feet with full kitchen and bathroom facilities.

b. Not exceed 400 square feet.

c. Contain a closet and storage area within the unit.

3. An SRO facility shall meet the following standards:

a. If an individual full bath is not provided in each unit, common bath facilities shall be provided that adequately serve the residents of the SRO facility.

b. If an individual full kitchen is not provided in each unit, common kitchen facilities shall be provided that adequately serve the residents of the SRO facility.

c. Laundry facilities shall be provided in a separate room at the ratio of one washer, dryer and laundry tub with hot and cold running water for every twenty (20) units, with at least one washer, dryer and laundry tub per floor.

d. A minimum of two hundred (200) square feet of interior useable common space shall be provided, excluding janitorial storage, laundry facilities and hallways.

e. A management plan shall be submitted to the City Planning Division for review and approval prior to issuance of an occupancy permit. Management plans shall be resubmitted to City Planning Division on an annual basis for review and approval. A facility with ten (10) or more units shall provide on-site management.

### **XI-10-13.13 Emergency Shelters**

A. Purpose and Intent. The purpose of this Section is to comply with California Government Code Section 65583(a)(4), as may be amended, which requires that emergency shelters be permitted by-right in at least one zone with sufficient capacity to accommodate the local need for emergency shelter.

B. Applicability. Standards for Emergency Shelters contained in this Section shall apply to all Emergency Shelters where permitted by this Chapter.

C. Minimum Standards.

1. A management plan shall be submitted to the City Planning Division for review and approval prior to issuance of an occupancy permit. Management plans shall be resubmitted to City Planning Division on an annual basis for review and approval.

2. The number of beds for each Emergency Shelter shall be limited to thirty (30).

3. Parking requirements shall be either one space per three hundred (300) square feet of habitable floor area, or sufficient to serve the parking demand determined in a study prepared by the applicant and approved by the Planning Division.

4. The size of outdoor waiting areas on private property shall be sufficient to accommodate the expected number of clients without infringing upon the public right-of-way.

5. Onsite management shall be provided during the hours that the emergency shelter is in operation.

6. An emergency shelter shall not be located within 300 feet of other emergency shelters.
7. The length of stay for each individual at any emergency shelter shall not exceed 90 days, unless the management plan approved by City provides for longer residency by those enrolled and regularly participating in a training or rehabilitation program.
8. Exterior lighting of the property shall be designed to provide a minimum maintained horizontal illumination of at least one foot candle of light on parking surfaces and walkways that serve the facility. Illumination shall not extend across property lines to an adjacent property.
9. Security shall be provided during the hours that the emergency shelter is in operation. Security plans shall be submitted to City staff for review and approval prior to issuance of an occupancy permit. Security plans shall be resubmitted to City staff on an annual basis for review and approval.



objective minimum standards consistent with California Government Code Section 65583(a)(4)(A), as may be amended. Any such administrative standards adopted by the Director of Planning and Neighborhood Services shall be published on the Planning Division's website.

## **SECTION 8. AMENDMENT OF MILPITAS MUNICIPAL CODE, TITLE XI, CHAPTER 10, SECTION 62**

Chapter 10, Section 62 “Reasonable Accommodations,” of Title XI of the Milpitas Municipal Code, is hereby added to replace the previous “Reserved” text, to now read as follows:

### **Section 62 Reasonable Accommodation**

#### **XI-10-62.01 Purpose**

This Section establishes a procedure for requesting Reasonable Accommodation for persons with disabilities seeking equal access to housing. A Reasonable Accommodation is typically an adjustment to physical design standards to accommodate the placement of wheelchair ramps or other exterior modifications to a dwelling in response to the needs of a disabled resident.

#### **XI-10-62.02 Applicability**

A. **Eligible Applicants.** A request for Reasonable Accommodation may be made by any person with a disability, their representative, or any entity, when the application of the Zoning Ordinance or other land use regulations, policy, or practice acts as a barrier to fair housing opportunities.

B. **Definition.** A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment as further defined under Section 12102 of the Americans with Disabilities Act and applicable State law, as may be amended.

C. **Eligible Request.** A request for Reasonable Accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

#### **XI-10-62.03 Review Authority**

A. The Planning Division shall take action on all Reasonable Accommodation applications.

B. The Planning Division may choose to refer any Reasonable Accommodation application to the Planning Commission for review and final decision.

#### **XI-10-62.04 Application Submittal and Review**

An application for Reasonable Accommodation shall be filed and processed in the same manner as required for a Minor Site Development permit, as described in sections 10-57 (Applications) and 10-64 (Development Review Process).

#### **XI-10-62.05 Criteria for Decision**

The Planning Division shall make a written decision and either approve, approve with modifications, or deny a request for Reasonable Accommodation based on consideration of all of the following factors:

- A. Whether the housing which is the subject of the request will be used by an individual with a disability thereunder;
- B. Whether the request for Reasonable Accommodation is necessary to make specific housing available to an individual with a disability;
- C. Whether the requested Reasonable Accommodation would impose an undue financial or administrative burden on the City;
- D. Whether the requested Reasonable Accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning;
- E. Potential impacts on surrounding uses;
- F. Physical attributes of the property and structures; and
- G. Other Reasonable Accommodations that may provide an equivalent level of benefit.

#### **XI-10-62.06 Conditions of Approval**

In approving a request for Reasonable Accommodation, the Planning Division may impose conditions of approval deemed reasonable and necessary to ensure that the Reasonable Accommodation will comply with the criteria required by Section 10-62.05 (Criteria for Decision).

#### **XI-10-62.07 Post-Decision Procedures**

The procedures and requirements relating to notices of decision, effective dates, permit expiration, permit revocation, and changed plans shall apply to Reasonable Accommodations as provided in Section 64 (Development Review Process).

### **SECTION 9. 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 10. 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.