

**REGULAR**

**NUMBER: 38.835**

**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 SHORT-TERM RENTALS AND MAKING FINDINGS OF CEQA EXEMPTION**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of February 18, 2020, 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

\_\_\_\_\_  
Rich Tran, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher J. Diaz, City Attorney

**RECITALS AND FINDINGS:**

**WHEREAS**, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, the growing popularity of “home-sharing” and other short-term rentals, through the use of websites such as Airbnb and HomeAway, allow homeowners, landlords, and tenants to list homes, apartments, and rooms for rent at the price and duration of their choosing; and

**WHEREAS**, short-term rentals may reduce the supply of permanent housing stock and negatively impact the character of residential neighborhoods due to excessive noise, disorderly conduct, overcrowding, traffic congestion, illegal parking, the accumulation of refuse, and other effects that are a threat to the public health, safety, or welfare; related the City has a legitimate interest in preserving the long-term housing stock of the City and maintaining the character of its residential neighborhoods; and

**WHEREAS**, the City prohibits any uses that have been excluded from the “use tables” found throughout Chapter 10 “Zoning” of Title XI “Zoning, Planning, and Annexation” of the Milpitas Municipal Code; and

**WHEREAS**, short-term rentals are not expressly permitted or conditionally permitted by the City’s zoning ordinance in any district, so they are currently prohibited in accordance Chapter 10 “Zoning” of Title XI “Zoning, Planning, and Annexation” of the Milpitas Municipal Code; and

**WHEREAS**, the City Council intends to adopt a zoning ordinance permitting short-term rentals in zoning districts where residential uses are allowed, subject to the regulations contained in Chapter 10 “Zoning” of Title XI “Zoning, Planning, and Annexation” of the Milpitas Municipal Code; and

**WHEREAS**, the City has prepared a Zoning Amendment (“Amendment”) to Section 2 “Definitions,” Section 4 “Residential Zones and Standards,” Section 6 “Mixed Use Zones and Standards,” Section 13 “Special Uses,” and Section 53 “Off-Street Parking Regulations” of the Zoning Code (Title XI of the Municipal Code); and

**WHEREAS**, on June 26, 2019, the Planning Commission of the City of Milpitas held a lawfully-noticed public hearing to consider the proposed Amendment and adopted Resolution No. 19-020 recommending that the City Council adopt the proposed Amendment; and

**WHEREAS**, on January 29, 2020, the Planning Commission of the City of Milpitas held a second lawfully-noticed public hearing to consider the proposed Amendment and adopted Resolution No. 20-002 recommending that the City Council adopt the proposed Amendment.

**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. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Based on its review of the entire record, including the staff report, public comments and testimony presented to the Planning Commission and City Council, and the facts outlined below, the City Council hereby finds and determines that the introduction and adoption of this Ordinance is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). Section 15183 of the CEQA Guidelines provides that projects that are consistent with a Community Plan, General Plan or Zoning for which an EIR has been certified “shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its

site.” The proposed Amendment to permit and regulate short-term rentals is consistent with the Milpitas General Plan because it provides clear provisions for Milpitas residents to generate ancillary income from short-term rentals and ensures the appropriate collection of transient occupancy taxes. Both of these outcomes are consistent with Land Use Element 2.a-I-5 ([m]aintain policies to promote a strong economy and provide economic opportunities for all Milpitas residents within existing environmental, social fiscal and land use constraints). The Amendment is also consistent with Housing Element Goal B-1 (Maintain High Quality Residential Environments) and Housing Element Goal B-2 (Preserve Housing Resources) because the Amendment aims to preserve the residential character of neighborhoods by establishing operating standards to reduce potential noise, parking, traffic, property maintenance and safety impacts on adjacent neighbors. Further, the Amendment limits short-term rentals to single-family, two-family, and multi-family uses, thereby maintaining and preserving existing housing resources, including both senior housing units and below market units, while providing opportunities for additional income to property owners. Therefore, the proposed Amendment is consistent with the General Plan and is exempt from CEQA pursuant to Section 15183 of the CEQA Guidelines.

The introduction and adoption of this Ordinance is also exempt under CEQA Guideline 15308 (Actions by Regulatory Agencies for Protection of the Environmental). The Ordinance does not authorize any new construction, nor does it relax any standard resulting in environmental degradation, but rather imposes standards on short-term rentals to assure the maintenance, enhancement, and protection of the environment in the city.

None of the exceptions under CEQA Guidelines Section 15300.2 apply to the exemptions because the proposed ordinance will not result in a cumulative impact from successive projects of the same type in the same place, over time. The proposed ordinance is not an activity wherein there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances; the ordinance will not result in damage to scenic resources, including trees, historic buildings, rock outcroppings, or similar resources; the proposed ordinance will not apply to sites located on a hazardous resources; and the proposed ordinance will not cause a substantial change in the significance of a historical resource.

Finally, this Ordinance is exempt from CEQA under CEQA Guidelines, § 15061(b)(3), also known as the “common sense exemption,” which exempts from CEQA any project where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. A “significant effect on the environment” means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project. This Ordinance would create new zoning requirements for a use that is not currently allowed in Milpitas (short-term rentals) for the purpose of protecting environmental quality, public health, and public safety. Therefore, it can be seen with certainty that there is no possibility that this Ordinance would have a significant effect on the environment.

Accordingly, this Ordinance is exempt from CEQA review pursuant to Sections 15061(b)(3), 15183, and 15308 of the CEQA Guidelines, each as a separate and independent basis.

### **SECTION 3. GENERAL PLAN CONSISTENCY**

The proposed Amendment supports several of the guiding principles and policies of the General Plan. First, the Amendment is consistent with Land Use Element 2.a-I-5 ([m]aintain policies that promote a strong economy which provides economic opportunities for all Milpitas residents within existing environmental, social fiscal and land use constraints) because it provides clear provisions for residents in Milpitas to have opportunities for ancillary income generation from short-term rentals and ensures the appropriate collection of transient occupancy taxes. Second, the Amendment is consistent with Housing Element Goal B-1 (Maintain High Quality Residential Environments) and Housing Element Goal B-2 (Preserve Housing Resources) because the Amendment aims to preserve the residential character of neighborhoods by establishing operating standards to reduce potential noise, parking, traffic, property maintenance and safety impacts on adjacent neighbors. Further, the Amendment limits short-term rentals to single-family, two-family, and multi-family uses, thereby maintaining and preserving existing housing resources, including both senior housing units and below market units, while providing opportunities for additional income to property owners. Therefore, the proposed Amendment is consistent with the General Plan.

### **SECTION 4. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 2**

Title XI, Chapter 10, Section 2 “Definitions,” Subsection XI-10-2.03 “Definitions” of the Milpitas Municipal Code is hereby amended to add the following definition to read as follows:

“Short-Term Rental Unit” or “Short-Term Rental” or “STR” means the use of a dwelling unit, including, without limitation, a single-family, two-family, or multiple-family dwelling unit, mobile home, or any portion of such dwellings, rented for occupancy for dwelling, lodging, or sleeping purposes for a period of 30 or fewer calendar days, counting portions of days as full calendar days.

**SECTION 5. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 4**

Title XI, Chapter 10, Section 4 “Residential Zones and Standards,” Subsection XI-10-4.02 “Residential Use Regulations,” Table XI-10-4.02-1 “Residential Zone Uses,” Section 6. Unclassified Uses, 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>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
Short-Term Rentals <sup>14</sup>	P	P	P	P	P

- 1 Refer to Subsection XI-10-4.03(A), Residential Zone Special Uses, of this Chapter, for standards.
- 2 Refer to Subsection XI-10-4.03(B), Residential Zone Special Uses, of this Chapter, for standards.
- 3 Licensed nursing home serving more than six persons, except when used primarily for contagious sickness, mental or drug alcohol addict cases.
- 4 Refer to Subsection XI-10-13.07, Manufactured Homes, of this Chapter, for standards.
- 5 Refer to Subsection XI-10-54.07, Planned Unit Developments, of this Title, for standards.
- 6 In conjunction with an existing or proposed legal single-family dwelling or duplex. Refer to Subsection XI-10-13.08, Accessory Dwelling Units, of this Chapter, for standards.
- 7 Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences, of this Chapter
- 8 Permitted only in single family dwellings
- 9 Permitted only in multi-family dwellings
- 10 Except for the raising of animals or fowl for commercial purposes, or the sale of any products at retail on the premises.
- 11 Except for driving tee or range, miniature course and similar uses operated for commercial purposes.
- 12 Allowed commercial uses to be specified through the Conditional Use Permit process.
- 13 Refer to Subsection XI-10-13.11(E), Model Home Complexes and Sales Offices, of this Chapter for temporary tract offices.
- 14 Subject to the requirements of Subsection XI-10-13.16, Short-Term Rentals, of this Chapter.

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

Title XI, Chapter 10, Section 6 “Mixed Use Zones and Standards,” Subsection XI-10-6.02 “Mixed Use Regulations,” Table XI-10-6.02-1 “Mixed Use Zone Uses,” Section 9. Unclassified Uses, of the Milpitas Municipal Code is hereby amended to read as follows:

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

Use	MXD	MXD2		MXD3
		Ground Level (Facing Retail street)	Upper Floor	
<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
Short-Term Rentals <sup>17</sup>	P	NP	P	P

<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.

<sup>17</sup> Only allowed within a dwelling unit, subject to the requirements of Subsection XI-10-13.16, Short-Term Rentals, of this Chapter.

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

Title XI, Chapter 10, Section 13 "Special Uses," Subsection XI-10-13.16 "Short-Term Rentals" of the Milpitas Municipal Code is hereby added to read as follows:

**XI-10-13.16 – Short-Term Rentals**

- A. Purpose. The purpose of this Subsection is to regulate the establishment and operation of short-term rental units ("STRs"). As such, the City desires to give special consideration to preserving the residential character of neighborhoods, preventing long-term residential uses from being replaced with STRs, and protecting all neighborhoods from potential adverse impacts caused by the operation of STRs.
- B. Definitions. For purposes of this Subsection, the following definitions apply:

1. “Alternative Contact Person” means a natural person, whether the owner, local property manager, or agent of the owner, who is available twenty-four hours per day, seven days per week to respond to complaints regarding the condition, operation, or conduct of occupants of a short-term rental unit.
2. “Applicant” means a person applying for or renewing a Short-Term Rental Permit. “Applicant” may be the “Owner” or “Operator.”
3. “Bedroom” means “Bedroom” as defined in Subsection XI-10-2.03 “Definitions” of the Milpitas Municipal Code.
4. “Dwelling unit” means “Dwelling unit” as defined in Subsection XII-1-2.04 “Definitions” of the Milpitas Municipal Code.
5. “Good Neighbor Manual” means a manual prepared by the City regarding the general rules of conduct to be followed when operating a Short-Term Rental Unit.
6. “Hosted Rental” means a Short-Term Rental Unit where an Owner or Operator is living and present in the dwelling unit during the short-term rental period.
7. “Hosting Platform” means business or person that provides a means through which an Operator may offer a dwelling unit, or portion thereof, for Short-Term Rentals. A Hosting Platform is usually, though not necessarily, provided through an internet-based platform. It generally allows a property owner or tenant to advertise the dwelling unit through a website provided by the Hosting Platform and provides a means for potential Short-Term Rental Transients to arrange short-term rentals, whether the Short-Term Rental Transient pays rent directly to the Operator or to the Hosting Platform.
8. “Operator” means a natural person who is the Owner, lessee, or Owner’s agent to act on the Owner’s behalf to insure compliance with this Subsection.
9. “Owner” means “Owner” as defined in Subsection XI-10-2.03 “Definitions” of the Milpitas Municipal Code.
10. “Short-Term Rental Unit” or “Short-Term Rental” or “STR” is defined by Subsection XI-10-2.03 “Definitions” of the Code.
11. “Short-Term Rental Permit” means a permit to establish a Short-Term Rental Unit.
12. “Transient” means “Transient” as defined in Subsection III-13-2.03 “Transient” of the Milpitas Municipal Code.
13. “Un-hosted Rental” means an STR where an Owner or Operator is not living and present in the primary dwelling unit during the short-term rental period.

C. Applicability.

1. This section applies to Short-Term Rental Units as defined in Subsection XI-10-13.16(B)(10).
2. Permitted Zoning Districts. STRs are permitted in dwelling units in the R1, R2, R3, R4, R5, MXD, MXD2, and MXD3 Zoning Districts, subject to the requirements of this Subsection XI-10-13.16.
3. Nonconforming Dwelling Units. STRs are prohibited within all nonconforming dwelling units, except those that are legal nonconforming with respect to the parking standards of Section 53 “Off-Street Parking Requirements.” If a dwelling is legal and nonconforming only because it does not meet the parking standards of Section 53 “Off-Street Parking Regulations,” an STR may be established when parking for the dwelling unit is provided to meet the applicable requirements of Section 53 “Off-Street Parking Regulations.”
4. Permitted in Primary Dwelling Units Only. STRs are permitted in primary dwelling units only. STRs are not permitted within accessory structures and buildings, accessory dwelling units (ADUs), guest house accessory buildings, or recreational vehicles.

D. General Requirements.

1. Required Permits. Prior to the operation of a dwelling unit, or a portion thereof, as an STR, the operator must obtain a Short-Term Rental Permit pursuant to this Subsection and a business license pursuant to Title III, Chapter 1 “Business Licenses” of the Milpitas Municipal Code. A Short-Term Rental Permit may be terminated or revoked if the standards of this Chapter are not met.

2. Compliance. Occupants of the STR must comply with all applicable Federal, State, and local laws. The Operator must ensure compliance with this provision.
3. Rentals per Dwelling Unit. A maximum of one (1) Short-Term Rental is permitted per dwelling unit at any given time.
4. Off-Street Parking Requirement. One (1) off-street parking space must be provided for the STR. Any parking space in excess of the required number of parking spaces for the primary dwelling unit pursuant to Section 53 “Off-Street Parking Regulations” may be used for the STR. The parking space must comply with all development standards set forth in Section 53 “Off-Street Parking Regulations.”
5. Exterior Alterations. The exterior of the dwelling unit must not be altered such that the structure appears to serve a nonresidential use either by color, materials, construction, lighting, signage, landscaping, or by other similar effects.
6. Hosted Rentals Only. An Operator may only conduct a Hosted Rental. Un-hosted Rentals are prohibited in STRs.
7. Maximum Occupancy. The daytime (7:00 a.m. to 9:00 p.m.) and overnight (9:00 p.m. to 7:00 a.m.) occupancy of the STR is limited to a maximum of two (2) persons per bedroom plus one (1) additional person. The Operator shall not allow the STR to be used for any gathering where the number of persons will exceed the permitted maximum occupancy limits.
8. Alternative Contact Person. The Owner must identify and designate an Alternative Contact Person who must be available twenty-four (24) hours per day, seven (7) days per week, to respond to complaints regarding the condition, operation or conduct of occupants of the STR. The Alternative Contact Person must respond in-person to complaints within sixty (60) minutes.
9. Trash and Refuse. Trash and refuse must be stored outside of public view, except in proper containers for the purpose of collection by the City’s authorized waste hauler on scheduled trash collection days.
10. Signage. Signs that advertise the availability of the short-term rental unit are prohibited.
11. Liability Insurance. Liability insurance is required of the Operator, or Hosting Platform on behalf of the Operator, in the amount of no less than \$500,000. Proof of liability insurance is not required if hosting activity is only handled by a hosting platform that already extends similar liability coverage.
12. Commercial and Assembly Uses Prohibited. STRs are limited to dwelling, lodging, and sleeping purposes only. Use of the STR for any other commercial uses or assembly uses such as weddings, corporate events, or parties, is prohibited.
13. Transient Occupancy Tax. Either the Operator or Hosting Platform must collect and remit the transient occupancy tax (“TOT”) pursuant to Title 3, Chapter 3.24 “Transient Occupancy Tax” of the Milpitas Municipal Code. The Operator must maintain records of TOT paid, even if paid by a hosting platform, for three years.
14. Good Neighbor Manual Required. The Operator must sign a manual provided by the City that summarizes general rules of conduct and all rules and regulations applicable to the use of the STR in this Subsection and the Milpitas Municipal Code. The Operator must post the manual on the inside of the front door and door to the backyard or a in a conspicuous location near each door.
15. Indemnification. To the fullest extent permitted by law, the Owner of an STR must defend, indemnify, and hold the City of Milpitas, its officials, officers, and employees free and harmless from any and all claims, demands, causes of action, damage or injury to persons or property arising out of any alleged acts, omissions, or willful conduct of the Owner, its employees, or its agents.
16. Health and Safety. It is the Operator’s responsibility to assure that the STR is and remains in compliance with all applicable codes regarding fire, building and safety, health and safety, and other relevant laws.
17. Amnesty Period. Notwithstanding any other provision of law, Short-Term Rental Units operating on or before the enactment of this ordinance shall be considered existing, unpermitted uses. An amnesty period of six (6) months after the effective date of this Ordinance, is provided to allow these existing, unpermitted uses to be legalized by conforming to the requirements of this Chapter, including compliance with operating

standards, registration, and record-keeping obligations. Transient occupancy tax payment continues to be required at all times for Short-Term Rental Units and must be collected and paid during the amnesty period. Applications to bring an existing, unpermitted Short-Term Rental Unit use into compliance shall be made on or before six (6) months from the effective date of this ordinance. Existing Short-Term Rental Units that do not conform to the requirements of this section shall cease operation within six (6) months of the effective date of this Ordinance, and shall be prohibited from resuming unless and until the use conforms to the requirements of this Chapter.

E. Application Procedure.

1. Short-Term Rental Permit. STRs are subject to a Short-Term Rental Permit, pursuant to this Subsection. An Owner or Operator must apply for and obtain a Short-Term Rental Permit before operating an STR.
2. The Planning Director makes the determination on the Short-Term Rental Permit application, based on compliance with provisions in this Subsection XI-10-13.16.
3. The application must contain the following information and documentation:
  - a. The name, address, and telephone number of the Owner of the subject short-term rental unit;
  - b. If the Applicant is not the Owner, the Applicant must demonstrate written consent of the Owner to operate a Short-Term Rental Unit on the property;
  - c. The name, address, and telephone number of the Owner's authorized agent or representative, if any;
  - d. The name, address, and 24-hour telephone number of the Alternative Contact Person;
  - e. Verification that the Alternative Contact Person can respond in person to the site of the short-term rental unit within sixty (60) minutes of notification of a complaint;
  - f. The address of the proposed STR;
  - g. The number of bedrooms in the STR;
  - h. The location and dimensions of the off-street parking space designated for the STR;
  - i. For STRs located in any area governed by a homeowners' association or community association (association) and subject to CC&Rs, the Applicant must additionally submit a copy of a letter to the association's governing board stating the applicant's intent to operate a Short-Term Rental Unit and inviting the association to submit a letter to the City stating one of the following: (1) that short-term rentals are not prohibited at the proposed unit by the CC&Rs; or (2) that a short-term rental is allowed at the proposed unit under the CC&Rs, but only under certain conditions, and a statement of whether or not the conditions here are met; or (3) that the CC&Rs do not allow short-term rentals as defined herein. The association's response is not determinative, but it is a factor that may be considered by the Planning Director;
  - j. A copy of the Good Neighbor Manual, signed by the Owner, certifying that the Owner has read and understands the guidelines for responsible operation;
  - k. The Operator must attach a copy of the "Smoke Alarm & Carbon Monoxide Alarm Self Certification" for the property to be used as a Short-Term Rental to the application in order to ensure the space has smoke alarms and carbon monoxide alarms and spark arrestors installed; and
  - l. Such other information as the Planning Director deems reasonably necessary to administer this Subsection.

F. Compliance Review. The Planning Director or the Planning Director's designee will review the Short-Term Rental Permit within one (1) year after issuance for compliance with this Subsection. The Planning Director or his or her designee will conduct a similar compliance review of Short-Term Rental Permits on an annual basis, or as needed, concurrent with renewal of the Business License for each use. Any failure to conduct a review does not waive any noncompliance or the City's right to conduct a review in the future.

G. Change in Ownership. If there is a change of property ownership, change of Owner's agent or representative, or any other change in material facts pertaining to the information contained in the Short-Term Rental Permit

application, the new owner or new owner’s authorized agent or representative shall obtain a new Business License and notify the City prior to continuing to rent the subject unit as a short-term rental. The Planning Director or his or her designee will conduct a compliance review of the Short-Term Rental Permit for the subject property in conjunction with the application for a Business License by the new property owner.

- H. Violation of Regulations. Violation of any provision of this Chapter, including the requirement to maintain a current Business License, may result in the revocation of the Short-Term Rental Permit after notice and an opportunity for a hearing has been given to the permittee, in accordance with Subsection XI-10-63.06 “Revocation, Suspension, Modification.”
- I. Enforcement. Where prompt compliance is not forthcoming, the City may take any appropriate enforcement action to secure compliance. All remedies in the Milpitas Municipal Code are considered cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing these provisions.

**SECTION 8. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 53**

Title XI, Chapter 10, Section 53 “Off-Street Parking Regulations,” Subsection XI-10-53.09 “Off-Street Parking by Land Use,” Table XI-10-53.09-1 “Number of Parking Spaces Required,” Section I. Residential Uses, of the Milpitas Municipal Code is hereby amended to read as follows:

**Table 53.09-1  
Number of Parking Spaces Required**

Use	Minimum Parking Spaces Required
<b>I. Residential Uses</b>	
Single Family and Duplexes:	
3 bedrooms or fewer	2 per unit <sup>4</sup>
4 or more bedrooms	3 per unit, plus 1 per each additional bedroom <sup>4</sup>
Multi-Family (R3-R5 zones):	
Studio	1 covered per unit
1 bedroom	1.5 covered per unit
1 or more 2 - 3 bedrooms	2 covered per unit
4 or more bedrooms	3 per unit, plus 1 additional space for each additional bedroom (at least two covered). <sup>4</sup>
Guest parking	
Projects with Parking structures	15% of the total required, may be uncovered
Projects with Private garages	20% of the total required, may be uncovered
Bicycle parking	5% of the total required
Boarding houses, dormitories, sororities and fraternities	1 per each room rented
Live-Work Units	<i>Single family and duplexes</i> parking requirements shall apply, plus 1.5 for the commercial component
<i>Mixed Use buildings or sites</i>	
Residential use	
Studio	1 covered per unit

1 bedroom	1.5 covered per unit
2 - 3 bedrooms	2 covered per unit
4 or more bedrooms	3 per unit, plus 1 additional space for each additional bedroom (at least two covered). <sup>4</sup>
Guest parking	
Projects with Parking structures	15% of the total required, may be uncovered
Projects with Private garages	20% of the total required, may be uncovered
Bicycle parking	5% of total required
Commercial use	
Ground Floor Retail	1 per 250 sq. ft.
Office	If building is 1,000 sq. ft. or smaller: 1 per 250 sq. ft. If building is larger than 1,000 sq. ft.: 3.3 per 1,000 sq. ft.
Short-Term Rentals	1 per unit
Other uses	Refer to specific uses within this table
Bicycle parking	5% of total required
Mobile Homes	Refer to Section 13.07, Mobile Homes
Senior Housing	1 per unit plus 2 per manager's unit
Single Room Occupancy (SRO)	1 per unit

<sup>1</sup> Refer to Subsection 2.03, Definitions, of this Chapter for a full description of "Commercial Services."

<sup>2</sup> For loading and unloading: One (1) parking space per six (6) children up to five (5) spaces and thereafter one (1) space per ten (10) children. Driveways, garage aprons and street frontage may be counted if appropriate permits are first received when calculating spaces for child care homes. Tandem spaces are prohibited.

<sup>3</sup> Exceptions for Child Care Requirements: The parking and loading/unloading requirements for child care facilities may in the Planning Commission's discretion be reduced, based on an empirical study (provided by the applicant) which establishes no adverse effects will occur as a result. The required number of loading/unloading spaces may be reduced without a study by one (1) space for each employee permanently assigned to load and unload children from vehicles.

<sup>4</sup> Applicable to new and existing projects being remodeled resulting in additional bedrooms submitted for approval after April 7, 2009. Existing projects or projects either entitled or submitted active planning applications prior to April 7, 2009 shall use the parking regulations in effect at the time of entitlement or application submittal. For R4, R5, MXD/MXD2/MXD3 zones, 15% guest parking is legal and conforming for projects entitled or active planning applications submitted prior to April 7, 2009.

## 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.