

REGULAR

NUMBER: 38.841

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING SECTIONS OF CHAPTER 10 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE RELATING TO OFF-STREET PARKING REQUIREMENTS FOR HOTELS AND OTHER LODGING USES AND MAKING FINDINGS OF CEQA EXEMPTION

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of April 20, 2021, upon motion by Mayor Tran 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:

Wendy Wood, 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, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, the City’s Zoning Code, Chapter 10 of Title XI of the Milpitas Municipal Code, contains minimum off-street parking requirements for new development projects and for expansions or changes to existing properties based on the type of land use, which are intended to ensure an adequate supply of parking to serve residences, businesses, and other establishments; and

WHEREAS, Planning Department staff have observed, based on recent applications for new hotel development projects, that the current off-street parking requirements for hotels in the Zoning Code are excessive compared to the actual demand for parking at hotels in the City, causing an inefficient use of land on sites of new hotel projects and an unnecessary burden and expense for developers of hotel projects; and

WHEREAS, travel patterns and preferences for business and leisure travelers in the San Francisco Bay Area have shifted in recent years, away from traveling by or renting private vehicles and toward using on-demand rideshare services such as Uber and Lyft and/or using public transportation such as BART and VTA Light Rail; and

WHEREAS, according to the Institute of Transportation Engineers (ITE) Parking Generation Manual, 4th Edition, the peak period parking demand for hotels (based on survey data for actual hotels) is 0.64 parking spaces per occupied hotel room in urban areas, and 0.9 parking spaces per occupied hotel room in suburban areas; and

WHEREAS, according to the ITE Parking Generation Manual, 4th Edition, the average weekday hotel occupancy rate ranges from 62 percent to 69 percent, and the average weekend hotel occupancy rates are 72 percent on Saturdays and 51 percent on Sundays; and

WHEREAS, Planning Department staff has consulted with developers of recent hotel projects in Milpitas to seek input about actual parking demand for hotels and possible approaches to amending the City’s off-street parking requirement for hotels, including incentives for parking demand management measures to be incorporated into hotel development projects; and

WHEREAS, parking demand management measures, such as shared parking programs, shared transportation shuttles, shared bicycles, and methods to lower to cost and increase the convenience of using public transportation, have been shown to be effective in reducing the demand for parking for a variety of residential and commercial land uses; and

WHEREAS, the City has prepared a Zoning Amendment (“Amendment”) to Title XI, Chapter 10 of the City’s Municipal Code, including refinements to Section 2 (“Definitions”) and Subsection 53.09 (“Off-Street Parking Required by Land Use”) and a new Subsection 53.15 (“Allowed Reductions to Required Parking for Lodging Uses”); and

WHEREAS, the proposed amendments reduce the base requirement for off-street parking for hotels, motels and other lodging uses and allows for further discretionary reductions to required off-street parking through implementation of parking demand management measures; and

WHEREAS, on February 24, 2021, the Planning Commission for the City of Milpitas held a lawfully noticed public hearing to solicit public comment and consider the proposed Amendment, take public testimony, and make a recommendation to the City Council on the project; and

WHEREAS, this Ordinance is exempt from the California Environmental Quality Act, Public Resources Code Section 21000, *et seq.* (“CEQA”), each as a separate and independent basis, pursuant to CEQA Guidelines Section 15183 (projects consistent with the General Plan) and Section 15061(b)(3) (no possibility of significant environmental effect).

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 this ordinance is categorically exempt from the California Environmental Quality Act 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 reduce the required number of parking spaces for hotels, motels and other lodging uses. Under the standard, widely used methodology for evaluating potential traffic impacts of proposed development projects, the number of vehicle trips associated with a hotel is based on the number of guest rooms, not by the number of parking spaces; therefore, this ordinance would not result in any increase in vehicle trips or traffic impacts associated with hotel development projects. The number of vehicle trips associated with a hotel would either remain the same (e.g., if hotel guests travel locally by taxi or on-demand rideshare service such as Uber or Lyft instead of driving their own private or rental vehicle) or decrease (e.g., if hotel guests travel locally via shuttle service, public transit, walking or bicycling instead of driving their own private or rental vehicle). 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.

Moreover, the City Council hereby finds that the introduction and adoption of this Ordinance is categorically exempt from 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 Circulation Element has several policies and guidelines related to encouraging and promoting multimodal transportation in Milpitas, including public transit and non-motorized travel modes such as bicycling and walking. The proposed ordinance creates incentives for new development to improve access to and use of public transit, shared passenger shuttles, bicycling, and walking as alternatives to driving private vehicles. Therefore, the proposed Amendment is consistent with the General Plan. Therefore, the proposed Amendment is consistent with the General Plan and is exempt from CEQA pursuant to Section 15183 of the CEQA Guidelines.

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

SECTION 3. GENERAL PLAN CONSISTENCY

The proposed Amendment is aligned with several important goals and policies of the former and updated General Plan. The Circulation Element includes policies and guiding principles related to creating a balanced, accessible, multimodal transportation network and increasing bicycling, walking and use of public transit. The Amendment helps accomplish all these objectives because it sets forth a system of regulations and incentives for private developers to design and operate hotels and other lodging uses in a manner that encourages use of alternative transportation modes such as shared shuttles, public bus and rail transit, bicycling and walking, while discouraging use of private vehicles. 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 read as follows:

XI-10-2.03 - Definitions

"Boarding House" means an establishment where lodging is provided for compensation, generally for stays of more than 30 days, for up to 8 persons. Boarding houses typically have individual rooms for guests, shared bathroom facilities and a single common kitchen. Meals may be served for guests and included as part of the cost of lodging.

"Extended Stay Hotel" means a commercial establishment providing lodging for a fee for guests, generally marketed to long-term visitors on a temporary basis, which contain furnishings and facilities for sleeping, bathing, food preparation and cooking, Kitchen facilities within individual units may include, but are not limited to, counters, refrigerators, stoves, and ovens.

"Hotel" means a commercial establishment providing lodging accommodations for a fee for transient guests, generally for stays of 30 days or less, with access to rooms or units primarily from interior lobbies, courts or halls. A hotel may include limited facilities for storage and preparation of food and beverages within individual rooms, such as coffee makers, mini refrigerators and microwave ovens.

"Micromobility Device" means a small, lightweight vehicle operating at a speed typically below 15 miles per hour and driven by the individual user, such as bicycles, e-bikes, and electric scooters.

"Motel" means a building or group of attached or detached buildings providing lodging accommodations for a fee for transient guests, generally for stays of 30 days or less, with access to each room or unit through an exterior door. Motels are distinguished from hotels primarily in that the former provide direct independent access to, and adjoining parking for, guest rooms and do not provide 24-hour guest services.

SECTION 5. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 53, TABLE XI-10-53.09-1

Title XI, Chapter 10, Section 53 (Off-Street Parking Regulations), Subsection XI-10-53.09 (Off-Street Parking Required by Land Use}, Table XI-10-53.09-1 (Number of Parking Spaces Required) 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
A. Commercial Uses	
Commercial Services ¹ (floral shops, barber shops, dry cleaners, Laundromats, photocopy shops)	1 per 200 sq. ft.
Furniture and appliance stores and other bulky item retail	1 per 350 sq. ft.
General Retail and Convenience Stores	1 per 200 sq. ft.
Mortuary, funeral parlor	1 per 4 seats and 1 per employee
Plant nursery	1 per 200 sq. ft.
B. Entertainment and Recreation	
Arcade and amusement	1 per 200 sq. ft.
Billiards	1 per 200 sq. ft.
Bowling Alleys including incidental accessory uses (eating and drinking, billiards, etc.)	6 per alley or lane
Clubs and Lodges	1 per 200 sq. ft.
Commercial Athletic Facility (indoor)	1 per 150 sq. ft.
With outdoor or indoor sports courts	
Small courts (tennis, badminton)	2 per court plus required parking for other uses on site.
Large courts (basketball, volleyball)	5 per court plus required parking for other uses on site.
Golf Course	6 per hole plus parking for ancillary uses
Miniature Golf	1.25 per tee, plus 1 per employee

Use	Minimum Parking Spaces Required
Motion Picture Theater (indoor)	1 per 3.5 seats
Nightclub	1 per 30 sq. ft.
C. Health and Veterinarian Uses	
Convalescent Homes	1 per 2 beds or 1 per 1,000 sq. ft, whichever is greater
Hospital	1 per bed or 1 per 220 sq. ft., whichever is greater
Kennel, indoor	1 per 1,000
Massage Establishments	Two per treatment room or if no treatment room, one per 2 chairs or 2 tables
Medical and dental Clinic and Office	1 per 225 sq. ft.
Veterinary Clinic and Animal Grooming	1 per 250 sq. ft.
D. Industrial Uses	
Distribution Manufacturing Warehousing	1 per 1,500 sq. ft.
Mini Storage	1 per 5,000 sq. ft., plus 1 per resident manager
Wholesale	1 per 500 sq. ft.
Research and Development Medical Laboratories High employee demand uses	1 per 300 sq. ft.
Office space within an industrial building (to be combined with categories above)	1 per 350 sq. ft.
E. Lodging	
Extended Stay Hotels	0.7 per guest room or unit ⁵
Hotels	0.7 per guest room ⁵
Motels	0.7 per guest room ⁵
F. Professional Offices, Financial Institutions and Related Uses	
Automated Teller Machine (free standing)	2 per machine
Financial institutions (banks, savings and loans, etc.)	1 per 180 sq. ft.

Use	Minimum Parking Spaces Required
Offices, administrative and business services	1 per 240 sq. ft.
G. Public, Quasi-Public and Assembly Uses	
Adult Day Care	1 per 500 sq. ft.
Auditoriums and theaters and places of meeting and assembly	1 per 4 seats
<i>Child Care Uses^{2, 3}:</i>	
Day Care School	1 per classroom or 1 per 500 sq. ft., whichever is greater.
Small family child care home	Same as required for underlying residential use
Large Family Child Care Home and Child Care Centers	1 per 1.5 employees
Community Center	1 per 4 fixed seats, or 1 per 6 linear feet of seating, plus 1 per 200 square feet of area without seating but designed for meeting or assembly by guests, plus 1 per 500 sq. ft. of outdoor area developed for recreational purposes
Museums	1 per 400 sq. ft.
Public Utilities	1 per 400 sq. ft.
Religious Institutions	1 per 5 seats in the main area of assembly plus parking for classrooms and offices in this table. Where there are no seats, then 1 seat equals 7 sq. ft.
<i>Educational Institutions:</i>	
School-elementary (K-8 Private)	1 per classroom, plus 1 per 240 sq. ft. of office
School-secondary (9-12 Private)	1 per classroom, plus 1 per 240 sq. ft. of office, plus 1 per 5 students
Vocational School, including business, professional, technical and trade	1 per 200 sq. ft.
Instructional Studios (Dance, Yoga)	1 per 150 sq. ft.
Private instruction, personal enrichment (tutoring)	1 per instructional area or classroom, whichever is greater. No fewer than 3 spaces.
Stadiums and arenas	1 per 4 seats
H. Restaurants or Food Service	

Use	Minimum Parking Spaces Required
Banquet facilities	See restaurants below
Bars, Drinking Establishments	1 per 30 sq. ft.
Drive thru	See "Vehicle Related Uses" section.
<i>Restaurants:</i>	
Sit down:	
Indoor and outdoor:	1 per 39 square feet of dining area.
Take out:	1 per 2.5 seats (indoor/outdoor) plus 1 per 60 sq. ft. GFA for the ordering or take out area.
I. Residential Uses	
Single Family and Duplexes:	
3 bedrooms or fewer	2 per unit ⁴
4 or more bedrooms	3 per unit, plus 1 per each additional bedroom ⁴
Multi-Family (R3—R5 zones):	
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). ⁴
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

Use	Minimum Parking Spaces Required
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). ⁴
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
J. Vehicle Related Uses	
Auto rental agency	1 per 400 sq. ft. plus 1 per rental vehicle
Auto repair (tire, oil change, smog check, etc.)	3 per service bay
Car Wash	1 per 200 sq. ft. of building area and reservoir space outside of building equal to two (2) times the maximum capacity of facility
<i>Gas & Service Stations:</i>	
With Retail	1 per 200 sq. ft.
With Auto Repair	3 per service bay
<i>Auto dealerships:</i>	
Sale or lease of vehicle	1 per 200 sq. ft. of showroom
Office	1 per 200 sq. ft.

Use	Minimum Parking Spaces Required
With Service Bays	3 per service bay
Window service or drive-thru in conjunction with any other use	The required parking for primary use (restaurant, or other use providing window service) plus queuing of 5 vehicles which do not interfere with any on-site parking spaces

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

² 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.

³ 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.

⁴ 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.

⁵ Refer to Subsection XI-10-53.15, Parking Standards for Hotels and Motels, of this Chapter for allowed reductions to minimum parking requirements.

SECTION 6. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 53

Title XI, Chapter 10, Section 53 (Off-Street Parking Regulations) of the Milpitas Municipal Code is hereby amended to add Subsection XI-10-53.15 (Allowed Reductions to Required Parking for Lodging Uses) to read as follows:

XI-10-53.15 – Allowed Reductions to Required Parking for Lodging Uses

- A. Allowed Reductions to Minimum Required Parking. The required parking for lodging uses, including hotels, motels, and extended stay hotels, may be reduced by up to 30 percent at the discretion of the decision-making authority based on a demonstrated program to reduce demand for on-site parking and maximize the efficient use of parking areas. A reduction in required parking shall be granted based on a point system as described in Subsection XI-10-53.15.C.
- B. An applicant requesting a reduction to the minimum required parking for a lodging use shall submit a written description of all proposed parking demand reduction and site design measures and a written justification of the anticipated reduction in parking demand that would result from implementation of such measures.
- C. Point System for Calculation of Parking Reduction. The decision-making authority may grant a reduction in the required number of parking spaces for lodging uses, as outlined in Table 53.15-1, according to the total number of points scored for implementation of parking demand reduction and site design measures.

**Table 53.15-1
Point System for Parking Reduction for Lodging Uses**

Total Points	Allowed Parking Reduction
60 points or more	30 percent
40 points or more	20 percent
20 points or more	10 percent

1. Parking Reduction for Lodging Near Fixed Guideway Transit. A parking reduction may be granted for a lodging establishment within one-half (0.5) mile of a fixed guideway transit station. Fixed guideway transit means a public transit facility that uses and occupies a separate right-of-way or rail line for the exclusive use of public transit vehicles (15 points).

2. On-Site Parking Demand Reduction and Site Design Measures for Lodging Uses. Any combination of the following measures may be incorporated into the site plan and operational plan for a hotel, motel, or extended stay hotel to support a reduction in the minimum required on-site parking:
 - a. Shared parking agreement with owners of other property or properties in the vicinity of the lodging establishment pursuant to Subsection XI-10-53.11, Shared Parking, of this Chapter. The shared parking spaces must be located within 0.25 mile of the lodging use. (10 points for a number of shared parking spaces totaling between 10 and 20 percent of the base parking space requirement for the lodging use; 15 points for a number of shared parking spaces totaling more than 20 percent of the base parking space requirement for the lodging use)
 - b. Providing free monthly transit passes for employees. To qualify for this measure a lodging use must be located within 0.5 mile of a transit route (bus or rail) with service frequency of every 15 minutes or less between the hours of 7:00 am and 7:00 pm. (10 points)
 - c. Providing free 24-hour airport guest shuttle service (10 points)
 - d. Providing free guest shuttle service to other key destinations (including but not limited to BART and VTA light rail stations, San Jose Diridon Caltrain Station, Levi’s Stadium, and major commercial centers). (5 points for shuttle service serving one or two destinations, 10 points for shuttle service serving three or more destinations)
 - e. Providing free shared cars for guest use with dedicated, permanent on-site parking spaces for the shared cars . To qualify for this measure the lodging use must provide at least one shared car for every 50 guest rooms (when applying this calculation, any fractional number of required shared cars shall be rounded up to the nearest whole number). (10 points)
 - f. Providing on-site, free micromobility devices for guest use. To qualify for this measure the lodging use must provide at least one shared micromobility device for every 50 guest rooms (when applying this calculation, any fractional number of required shared micromobility devices shall be rounded up to the nearest whole number). The operator of the lodging establishment shall obtain approval from the Planning Director or designee for the proposed placement and use of micromobility devices prior to commencing operations. The operator of the lodging establishment shall maintain micromobility devices in good working order at all times. (5 points)
 - g. Providing valet parking (on-site or at an off-site shared parking location). (5 points for a number of valet parking spaces totaling between 10 and 20 percent of the base parking space requirement for the lodging use; 10 points for a number of valet parking spaces totaling more than 20 percent of the base parking space requirement for the lodging use)
 - h. Mechanical lifts for vehicles (if provided, lifts must be operated by staff of the lodging establishment). (5 points for a number of mechanical lift spaces totaling between 10 and 20 percent of the base parking space requirement for the lodging use; 10 points for a number of

mechanical lift spaces totaling more than 20 percent of the base parking space requirement for the lodging use)

- i. Charging a daily fee of \$25 or more for on-site parking of guest vehicles (10 points)
- j. Offering prepaid transit cards (Clipper) to guests (5 points)
- k. Featuring public transportation information and links on lodging establishment's website (schedules and route maps for Valley Transportation Authority [VTA] bus and light rail and/or Bay Area Rapid Transit [BART] regional rail) (3 points)
- l. Providing dedicated on-site passenger pickup/dropoff zones (3 points)
- m. Active marketing of guest shuttle services, on-site shared cars, and/or on-site shared micromobility devices, via the lodging establishment's website and other electronic and/or print advertising materials (3 points)
- n. Other measures as proposed by lodging establishment operator (points to be determined by the decision-making authority based on the potential for parking demand reduction of the proposed measure.)

SECTION 7. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision, or part has no effect on 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 takes effect 30 days from the date of its passage. The City Council hereby directs the City Clerk to cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.