

**ORDINANCE NO. , NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING TABLE 18.26-1 (PERMITTED LAND USES IN THE INDUSTRIAL ZONING DISTRICTS) OF SECTION 18.26.020 (LAND USE REGULATIONS) OF CHAPTER 18.26 (INDUSTRIAL ZONING DISTRICTS); SECTION 18.108.040 (DESIGN PERMIT) OF CHAPTER 18.108 (SPECIFIC PERMIT REQUIREMENTS); SECTIONS 18.124.050 (INDUSTRIAL USES) AND 18.124.060 (TRANSPORTATION, COMMUNICATION, AND UTILITY USES) OF CHAPTER 18.124 (LAND USE DEFINITIONS) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING E-COMMERCE DISTRIBUTION USES AND DESIGN REVIEW FOR LARGE PROJECTS**

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES ORDAIN AS FOLLOWS:

**Section 1.** Table 18.26-1 (Permitted Land Uses in the Industrial Zoning Districts) of Section 18.26.020 (Land Use Regulations) of Chapter 18.26 (Industrial Zoning Districts) of Title 18 (Zoning) is hereby amended to read as follows (additions in underline, deletions in strikeout):

**18.26.020– Land Use Regulations**

**A. Permitted Land Uses.** Table 18.26-1 identifies land uses permitted in the industrial zoning districts.

**TABLE 18.26-1 PERMITTED LAND USES IN THE INDUSTRIAL ZONING DISTRICTS**

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required – Use not allowed	Zoning District					Additional Regulations
	CI	IO	IC	IL	IG	
<b>Residential Uses</b>						
Caretaker Quarters	-	-	-	C	C	
<b>Public and Quasi-Public Uses</b>						
Colleges and Trade Schools	C	C	C	C	C	
Community Assembly	C	-	-	C	C	
Instructional Services	A	-	-	-	-	
Medical Offices and Clinics	A	-	-	-	-	
Parks and Recreational Facilities	C	-	-	C	C	
Public Safety Facilities	C	-	-	C	C	
<b>Commercial Uses</b>						
Adult Businesses	-	-	P	P	P	18.92.020
<b>Animal-Related Commercial Uses</b>						
Animal Boarding	C	-	-	C	C	
Veterinarian Clinics and Hospitals	A	A	A	C	C	

Banks and Financial Institutions	C [4]	-	-	-	-	
Business Support Services	P	C	P	P	P	
Cinemas and Theaters	A	-	-	-	-	
Commercial Recreation, Indoor						
≤ 15,000 sq. ft.	P	C	C	C	C	
> 15,000 sq. ft.	C	C	C	C	C	
Eating and Drinking Uses						
Restaurants, Fast Food	C [4]	- [5]	- [5]	- [5]	- [5]	
Restaurants, Sit-Down	C [4]	- [5]	- [5]	- [5]	- [5]	
Tasting Rooms	P [6]	-	-	A [6]	A [6]	
Lodging Facilities						
Hotels and Motels	P	-	-	-	-	
Mini-Storage	-	-	-	C	C	18.92.100
Personal Service	C [4]	- [5]	- [5]	- [5]	- [5]	
Plant Nurseries	C	-	-	P	P	
Professional Offices	P	P	P	P	P	
Retail						
Building Materials	C	-	-	P	P	
Convenience Markets	C [4]	- [5]	- [5]	- [5]	- [5]	
General Retail	C [4]	- [5]	- [5]	- [5]	- [5]	
Home Improvement Centers	C	-	-	C	C	
Large Commodity Retail	C	-	-	C	C	
Vehicle-Related Uses						
Towing and Impound	-	-	-	C	P	
Vehicle Repair and Maintenance, Major	-	-	-	C	P	
Vehicle Repair and Maintenance, Minor	-	-	-	P	P [1]	
Wholesaling	P	-	-	P	P	
Retail						
Building Materials	C	-	-	P	P	
Convenience Markets	C [4]	- [5]	- [5]	- [5]	- [5]	
General Retail	C [4]	- [5]	- [5]	- [5]	- [5]	
Home Improvement Centers	C	-	-	C	C	
Large Commodity Retail	C	-	-	C	C	
Vehicle-Related Uses						
Towing and Impound	-	-	-	C	P	
Vehicle Repair and Maintenance, Major	-	-	-	C	P	
Vehicle Repair and Maintenance, Minor	-	-	-	P	P [1]	
Wholesaling	P	-	-	P	P	
<b>Industrial Uses</b>						
Construction and Material Yards	C	C	C	P	P	18.36.030.C
<u>E-Commerce Distribution</u>						
<u>Heavy Distribution</u>	-	-	-	-	-	
<u>Parcel Sorting Facilities</u>	-	-	-	-	-	

<u>Parcel Hub Small &lt; 75,000 sq. ft.</u>	-	-	-	<u>P</u>	<u>P</u>	
<u>Parcel Hub Large &gt; 75,000 sq. ft.</u>	-	-	-	<u>C</u>	<u>C</u>	
Food and Beverage Production						
< 5,000 sq. ft. [7]	A [2]	A [2]	A [2]	P [2]	P [2]	
5,000 sq. ft. to 10,000 sq. ft. [7]	C [2]	C [2]	C [2]	P [2]	P [2]	
> 10,000 sq. ft.	C	C	C	P [2,8]	P [2,8]	
Manufacturing, Light	P	C [3]	C	P	P	
Manufacturing, General	-	-	-	-	C	
Research and Development	P	P	P	P	P	
Salvage and Wrecking	-	-	-	-	C	
Warehousing and Distribution ( <u>Wholesale</u> )						
Warehousing and Distribution, Large	C	C [3]	C [3]	C	P	
Warehousing and Distribution, Small	C	C [3]	C [3]	P	P	
Warehousing and Distribution with Outdoor Storage	C	-	-	C	C	
<b>Transportation, Communication, and Utility Uses</b>						
Freight Terminals and Transfer	-	-	-	-	C	
Light Fleet-Based Services	C	-	C	P	P	
Recycling Facilities						
Reverse Vending Machine	P	C	C	P	P	
Recycling Collection Facility	C	-	-	C	C	
Recycling Processing Facility	-	-	-	-	C	
Utilities, Major	-	-	-	C	C	
Wireless Communications Facilities	See Chapter 18.96					
<b>Agriculture and Natural Resource Uses</b>						
Crop Cultivation	-		-			
<b>Other Uses</b>						
Accessory Uses	See Chapter 18.44					
Temporary Uses	See Section 18.92.150					

**Notes:**

- [1] Retail sale of automotive products allowed only when ancillary to a vehicle repair and maintenance use. Retail display areas for automotive products may not exceed 25 percent of the building floor area.
- [2] Must be 150 feet or more from a residential zoning district, otherwise requires a CUP.
- [3] Permitted only when ancillary to another permitted use.
- [4] Allowed as a primary use only when the Planning Commission finds that the use supports the primary job-generating uses within a business park setting.
- [5] Allowed when accessory to a permitted primary use subject to the limitations in Section 18.26.020.D (Accessory Uses).
- [6] Allowed only when accessory to a brewery, winery, or other alcoholic beverage production facility. Tasting rooms must be located within the building occupied by the primary use and may not exceed 5,000 square feet or 10 percent of the gross floor area of the building, whichever is less.
- [7] On-site wholesale or retail sales required.
- [8] Conditional Use Permit required when the type of food being produced will emit a generally offensive odor. Examples include primary processing of seafood, coffee roasting, pickled foods, or processes involving primarily fat and oils.

**Section 2.** Section 18.108.040 (Design Permit) of Chapter 18.108 (Specific Permit Requirements) of Title 18 (Zoning) is hereby amended to read as follows:

**18.108.040 – Design Permit**

**A. Purpose.** A Design Permit is a discretionary action that enables the City to ensure that

proposed development exhibits high quality design consistent with the General Plan and any other applicable specific plan or area plan adopted by the City Council. The Design Permit process is also intended to ensure that new development and uses are compatible with their surroundings and minimize negative impacts on neighboring properties.

**B. Review Authority.**

1. Except as provided below, The~~the~~ Community Development Director shall review and act on all Design Permit applications.
2. The Community Development Director may ~~refer~~elevate any Design Permit application under his or her authority to the Planning Commission for review and final decision.
3. The City Council shall review and act on all Design Permit applications for new City projects (e.g., new municipal buildings, parks) determined by the Community Development Director to be significant in accordance with Subsection D below.
4. Except for new City projects, the Planning Commission shall act on any Design Permit Application for any other projects determined by the Community Development Director to be significant in accordance with Subsection D below.

**C. When Required.** The following types of projects require a Design Review permit:

1. Three or more new residential units.
2. One or more new residential unit on a sensitive site as defined in Subsection E (Sensitive Sites) below.
3. New non-residential buildings, structures physical site improvements determined to be significant in accordance with Subsection D (Significant Projects) below.
4. Additions to existing buildings, structures, or other physical site improvements visible from a public right-of-way and determined to be significant in accordance with Subsection D (Significant Projects) below. Single-family homes are exempt unless the home is on a sensitive site as defined in Subsection E below.
5. Additions to existing residences located on a sensitive site as defined in Subsection E below.
6. Site alterations that change the topography of the currently developed site area on a sensitive site as defined in Subsection E below.
7. Relocation of existing buildings, structures or other physical site improvements.
8. Exterior changes to existing buildings, structures or other site improvements determined to be significant in accordance with Subsection D (Significant Projects) below. Single-family homes are exempt unless the home is on a sensitive site as defined in Subsection E below.
9. Grading of more than 50 cubic yards on slopes greater than ten percent.
10. New accessory structures including secondary dwelling units or guest homes on a sensitive site as defined in Subsection E below.
11. City projects, including but not limited to municipal buildings, parks and open spaces, landscaping within the right-of-way, and street furniture.

12. Other projects determined by the Community Development Director to be significant or which may adversely affect the environment or adjacent development.

**D. Significant Projects.**

1. The Community Development Director shall determine whether a project in Subsection C above is significant and thus requires a Design Review permit. When determining if a project is significant, the Community Development Director shall consider:
  - a. The visual prominence of the project when viewed from the public right-of-way and/or private property;
  - b. The project height, mass, and area of site disturbance;
  - c. The type, character, and proximity of adjacent development; and
  - d. The potential of the project to create adverse impacts on adjacent uses or the community at large.

2. Any structure with more than 100,000 square feet of floor area or a building height greater than 40 feet, not including projections allowed by-right under Table 18.56-1, is presumed to be significant for purposes of this Chapter.

3. Any residential development of more than 200 units is presumed significant for purposes of this chapter.

2.4. The Community Development Director's determination that a project is significant may be appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals).

**E. Sensitive Sites.**

1. The Community Development Director may require a Design Permit for a project located on a sensitive site where a Design Permit may not otherwise be required.
2. The Community Development Director's determination that a site is sensitive and that a Design Permit is required may be appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals).
3. The City shall consider a site to be sensitive if the site:
  - a. Contains a notable natural feature such as a hillside, ridgeline, watercourse, major drainage way or floodplain;

**Section 3.** Section 18.124.050 (Industrial Uses) of Chapter 18.124 (Land Use Definitions) of Title 18 (Zoning) is hereby amended to read as follows:

**18.124.050 – Industrial Uses**

**A. Construction and Material Yards.** Storage of construction materials and/or heavy equipment on a site other than a construction site.

**B. E-Commerce Distribution.**

**1. Heavy Distribution.** A Fulfillment Center or similar use with a minimum gross

floor area of 200,000 square feet and a minimum ceiling height of 24 feet. The Fulfillment Center's primary purpose is storage and distribution of e-commerce products to consumers or end-users, either directly or through a Parcel Hub. Heavy Distribution is prohibited in all zones in the City of Morgan Hill.

**2. Parcel Sorting Facilities.** Establishments for the sorting and or re-distribution of parcels or products from Heavy Distribution (Fulfillment Centers) to a Parcel Hub via intramodal transit truck to truck.

**3. Parcel Hub.** A "Last Mile" facility or similar establishment for the processing and/or re-distribution of parcels or products. A Parcel Hub's primary function is moving a shipment from one mode of transport to another for delivery directly to consumers or end-users.

**a. Parcel Hub, Large.** A parcel hub facility 75,000 square feet or more in building area.

**b. Parcel Hub, Small.** A parcel hub facility less than 75,000 square feet in building area.

**A.C. Food and Beverage Production.** A manufacturing establishment producing or processing food products or beverages for off-site consumption and wholesale distribution where the processing of food is primarily from previously prepared or farmed ingredients.

**B.D. Manufacturing, Light.** The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing and custom manufacturing. Includes manufacture of electric and electronic instruments and devices. Excludes saw and planing mills and manufacturing uses involving primary production of wood, metal or chemical products from raw materials.

**C.E. Manufacturing, General.** Manufacturing of products from extracted or raw materials or recycled or secondary materials, or bulk storage and handling of such products and materials. Includes operations such as agriculture processing, apparel manufacturing; photographic processing plants; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; primary metal manufacturing; fabricated metal product manufacturing; and automotive and heavy equipment manufacturing.

**D.F. Research and Development.** A facility for scientific research and the design, development, and testing of electrical, electronic, magnetic, optical, pharmaceutical, chemical, and biotechnology components and products in advance of product manufacturing. Includes assembly of related products from parts produced off site where the manufacturing activity is secondary to the research and development activities.

**E.G. Salvage and Wrecking.** Storage and dismantling of vehicles and equipment for sale of parts, as well as their collection, storage, exchange or sale of goods including, but not limited to, any used building materials, used containers or steel drums, used tires, and

similar or related articles or property.

**F.H. Warehousing and Distribution (Wholesale).** A use engaged in storage, wholesale and distribution of manufactured products, supplies, and equipment to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Includes merchant wholesalers; agents, merchandise or commodity brokers, and commission merchants; assemblers, buyers and associations engaged in the cooperative marketing of farm products; and bottling works.

1. **Warehousing and Distribution, Large.** A warehousing distribution facility 75,000 square feet or more in building/or use area.
2. **Warehousing and Distribution, Small.** A warehousing distribution facility or use less than 75,000 square feet in building area.
3. **Outdoor Storage.** Storage of commercial goods in open lots.

**Section 4.** Subsection B (Light Fleet Based Services) of Section 18.124.060 (Transportation, Communication, and Utility Uses) of Chapter 18.124 (Land Use Definitions) of Title 18 (Zoning) is hereby amended to read as follows:

- A. **Light Fleet-Based Services.** Passenger transportation services, ~~local-delivery services,~~ medical transport, and other businesses that rely on fleets of three or more vehicles with rated capacities less than 10,000 pounds. Includes parking, dispatching, and offices for taxicab and limousine operations, ambulance services, nonemergency medical transport, local messenger and document delivery services, and similar businesses. Excludes towing operations (see “Towing and Impound”) or delivery services with two or fewer fleet vehicles on site (see “Business Support Services”).

**Section 5. Severability.** Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

**Section 6. Effective Date; Posting.** This Ordinance shall take effect on \_\_\_\_\_, 2020. The City Clerk is hereby directed to publish this Ordinance or a summary thereof pursuant to Government Code Section 36933.

This ordinance was introduced at a meeting of the City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and adopted at a meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**

**NOES: COUNCIL MEMBERS:**

**ABSTAIN: COUNCIL MEMBERS:**

**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
IRMA TORREZ, City Clerk

\_\_\_\_\_  
RICHARD CONSTANTINE, Mayor

**CERTIFICATE OF THE CITY CLERK**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_\_, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2020.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
IRMA TORREZ, City Clerk