



CITY COUNCIL STAFF REPORT

MEETING DATE: October 21, 2020

PREPARED BY: Donald Larkin, City Attorney
APPROVED BY: City Manager

ADOPT ORDINANCE AMENDING THE ZONING CODE TO PROHIBIT HEAVY DISTRIBUTION AND PARCEL SORTING USES, AMEND PROVISIONS RELATED TO LOCAL DELIVERY SERVICES AND CLARIFY THE DEFINITION OF SIGNIFICANT PROJECTS SUBJECT TO DESIGN REVIEW

RECOMMENDATION(S)

1. Open/close the public hearing;
2. Waive the first and second reading of the ordinance; and
3. Introduce the ordinance.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Preserving and Cultivating Public Trust

2020-2021 Strategic Priorities

Economic Development
Fiscal Sustainability

GUIDING DOCUMENTS

Economic Blueprint
Morgan Hill 2035 General Plan

POLICY CONSIDERATIONS:

Should the City of Morgan Hill create land use classifications for e-commerce uses and distinguish these businesses from warehouse and distribution uses?

Should the City of Morgan Hill prohibit large fulfillment centers and parcel sorting facilities?

Should the City of Morgan modify design permit standards to automatically elevate buildings and developments of certain sizes to Planning Commission for review?

REPORT NARRATIVE:

Background:

Council Members and members of the community have raised concerns about recently approved and/or proposed large development projects along the 101 Freeway corridor. There is particular concern that the City's current zoning regulations do not adequately regulate e-commerce facilities, so that large industrial buildings can be developed as e-commerce, heavy distribution "fulfillment centers" served by hundreds of large semi-

trucks daily. The Council has also directed staff to develop more specific criteria for determining what projects are referred to the Planning Commission for design review. This ordinance addresses these concerns by creating definitions for e-commerce facilities in the industrial zones, and by creating criteria that requires large projects to be referred to the Planning Commission for design review, while still giving the Community Development Director flexibility to elevate any smaller projects to the Planning Commission that she determines to be significant.

Initiative Measure:

As the Council is aware, there is an initiative currently circulating that also attempts to address e-commerce facilities and large development projects. The initiative takes a unique approach, by defining “fulfillment centers” by building features only, rather than by use. Staff is concerned that this approach will result in unintended consequences. There are several existing businesses in our industrial areas that would be classified as “fulfillment centers” under the initiative by building size, ceiling height and number of dock doors. These businesses would be unable to modify or expand their facilities to meet future needs, potentially driving them out of Morgan Hill. Other businesses would be prohibited from converting existing drive through doors or punch-outs to dock-high-doors. To address those concerns, staff recommends an approach that utilizes both building feature and use to regulate e-commerce facilities.

The initiative also attempts to modify the administrative authority to approve discretionary permits. However, as described under “Next Steps” below, it is anticipated that further action will be needed to limit staff approval of discretionary permits due to unique and specific development controls which exist by special action in some areas of the City. For example, administrative approvals of large projects are required by the PUD zoning for Phase 1 of the Morgan Hill Ranch Business Park (on the south side of Cochrane, west of Highway 101, including Sutter and Jarvis Drives). The initiative does not effectively amend the PUD zoning for the park. Changes to the zoning for the business park will require further discussion with affected property owners.

Proposed Ordinance:

Council has previously stated agreement with the intent of the initiative measure. Specifically, Councilmembers have discussed shared concerns about potential e-commerce businesses that could add significant truck traffic to Morgan Hill. Also, Council has requested staff to recommend new standards to meet the goal of increasing transparency in land-use approvals for large projects.

Fulfillment Centers:

The proposed ordinance prohibits “fulfillment center” type uses by clarifying that heavy distribution and parcel sorting uses are not permitted in any zone in the City. The proposed ordinance differs from the initiative in the manner of defining those uses. Whereas the initiative defines the fulfillment center use by identifying building features, the proposed ordinance defines the actual use. A comparison chart showing the differences between the proposed ordinance and the initiative is attached to this report as Attachment 2.

Local Delivery:

Under the existing code, local delivery services of any size are permitted in the industrial zones. With the increase in online ordering, there is a significantly higher demand for local delivery services. In recognition of this increased demand, staff recommends modifying the way the City regulates local delivery uses. The proposed ordinance replaces local delivery under the classification of “light fleet-based services” with a new classification of “parcel hub.” Staff proposes to permit parcel hubs with 75,000 square feet or less of floor area, provided delivery vehicles are rated 10,000 pounds or less (this is typically a van or other smaller vehicle), and deliveries occur primarily within the City of Morgan Hill zip code. For parcel hubs larger than 75,000 square feet, the same requirements would apply, but a conditional use permit would also be required.

The table below compares the land-use regulations in the initiative to the proposed ordinance.

Facility	MHRGC Initiative	Proposed Ordinance
Heavy Distribution	Prohibited*	Prohibited
Sorting Center	Prohibited*	Prohibited
Parcel Hub-Large	Permitted**	Conditionally Permitted
Parcel Hub-Small	Permitted	Permitted

*Permitted with fewer than 1 dock door per 25,000 square feet of floor area or with a clear ceiling height of less than 24 feet.

**As Parcel Hub is defined in the Proposed Ordinance, which requires local delivery using vehicles rated 10,000 pounds or less. These smaller vehicles do not use dock-high doors.

Site and Design Review:

Currently, except for projects in Phase 1 of the Morgan Hill Ranch Business Park, the Community Development Director has discretion to refer site and design review for “significant projects” to the Planning Commission. A project is determined to be significant based on subjective findings by the Director. The proposed ordinance would clarify that any project that proposes to add more than 100,000 square feet of floor area, is higher than 40 feet, or would add more than 200 housing units, is automatically significant. The proposed amendments would also give the Director the authority to refer a project to Planning Commission for review for any reason, even if it does not meet the current significance conditions.

Planning Commission Recommendation:

The Planning Commission (PC) considered the proposed ordinance at the September 22 meeting and recommended adoption of the ordinance on a vote of 5-2. Commissioners made several recommendations that were incorporated into the current draft. Most significantly, the “parcel hub” definition was modified to clarify allowing only

local delivery using vehicles rated 10,000 pounds or less. In addition, the PC recommended removing a separate classification for e-commerce, and consolidating e-commerce uses with the existing warehouse and delivery classifications.

The Commission also expressed a concern that there could be an overconcentration of parcel hub uses in a single part of town. The PC recommended addressing overconcentration by requiring a CUP for all parcel hub uses. However, staff does not believe that the CUP process is the most effective way to prevent clustering of uses. If Council is concerned about a concentration of parcel hubs in any one part of the City, staff would recommend adopting distancing or siting by area limitations instead.

The PC Staff Report and agenda materials can be found [here](#).

Next Steps:

Morgan Hill Ranch Business Park:

This ordinance is just one step to address some of the concerns that have been raised about the development process. One issue that is not addressed by either this ordinance or the initiative measure is the outdated Morgan Hill Ranch Business Park Planned Development Agreement, which was approved in 1981. This agreement requires all discretionary permits for projects in the Business Park to be issued by staff rather than Planning Commission or City Council.

Although the agreement has expired, it has been adopted as part of the Planned Unit Development Zoning for the Business Park. The PUD zoning was amended and partially restated by initiative in 1987. Staff is currently exploring options to modify the PUD zoning to remove the requirement for administrative approval of discretionary permits.

E-Commerce Land Uses in Commercial Districts:

In addition to online businesses, many brick-and-mortar shops have begun operating e-commerce delivery services. These services can be operated out of existing stores, out of adjacent or nearby facilities, or through smaller warehouse-type facilities. Staff is monitoring developments in retail delivery services and will bring forth recommendations regarding whether and how to permit and regulate those uses in commercial zoning districts.

COMMUNITY ENGAGEMENT: Inform

Residents on the City's e-mail lists were notified of the proposed ordinance on September 16, 2020. At that time, copies of the staff report and draft ordinance were posted to the City's website. The Planning Commission held a public hearing to consider the proposed ordinance on September 22, 2020.

This staff report was posted to the project [webpage](#), all City social media accounts, and send to the community via City email blast on October 9, 2020 in advance of the October 21 City Council hearing.

ALTERNATIVE ACTIONS:

The Council could modify any of the proposed provisions of the ordinance or choose not to amend the zoning ordinance at this time.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

A public hearing was held before the Planning Commission on September 22, 2020.

FISCAL AND RESOURCE IMPACT:

Significant staff time will be required from the City Attorney's Office and Development Services Department to implement the ordinance changes. However, this work can be absorbed into the existing work plans.

CEQA (California Environmental Quality Act):

This ordinance is categorically exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, the proposed text amendment to the Morgan Hill Zoning Code is not a project with potential for causing a significant effect on the environment requiring California Environmental Quality Act (CEQA) analysis.

LINKS/ATTACHMENTS:

1. 2020 Zoning Code Amendments--City Council
2. Ordinance Comparison

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	
Residential Uses						
Caretaker Quarters	-	-	-	C	C	
Public and Quasi-Public Uses						
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	
Commercial Uses						
Adult Businesses	-	-	P	P	P	18.92.020
Animal-Related Commercial Uses						
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	
Industrial Uses						
Construction and Material Yards	C	C	C	P	P	18.36.030.C
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						
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	
Heavy Distribution	-	-	-	-	-	
Parcel Sorting Facilities	-	-	-	-	-	
Parcel Hub Small < 75,000 sq. ft.	-	-	-	<u>P</u>	<u>P</u>	
Parcel Hub Large > 75,000 sq. ft.	-	-	-	<u>C</u>	<u>C</u>	
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					
Agriculture and Natural Resource Uses						
Crop Cultivation	-		-			
Other Uses						
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 18.08.040 (Design Permit) of Chapter 18.08 (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, Thethe 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. 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.

C. 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.](#)

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.

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.

F. 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 vehicles with rated capacities less than 10,000 pounds, for delivery directly to consumers or end-users primarily within the Morgan Hill zip code.](#)

1. **Parcel Hub, Large.** [A parcel hub facility that occupies 75,000 square feet or more in building area.](#)

2. **Parcel Hub, Small.** [A parcel hub facility that occupies less than 75,000 square feet in building area.](#)

C.G. 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.](#)

D.H. 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.I. 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.J. Warehousing and Distribution. 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 less than 75,000 square feet in building area, or as a secondary/companion use of no more than 75,000 sf ancillary to another activity contained within a larger 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

Comparison of Industrial Ordinance versus MHRGC Initiative

INITIATIVE	INDUSTRIAL ORDINANCE
<p>18.08.020 Authority.</p> <p>The City Council delegates to the Community Development Director and the director's designees the authority to interpret the meaning and applicability of all provisions in the Zoning Code; <u>provided, however that, notwithstanding any other provision of this code, in no event shall any staff employee of the City of Morgan Hill have authority to approve a land use application for a large-Scale Development project which requires environmental review under the California Environmental Quality Act (Public Resources Code Section 21000, et seq., as amended), including without limitation, any application for a "project" (as defined in 14 CCR 15378) requiring discretionary approval (as defined in 14 CCR 15357). All such authority having been vested in the City Council of the City of Morgan Hill and/or the Planning Commission of the City of Morgan Hill, as appropriate.</u></p>	
<p>Chapter 18.12 - Rules of Measurement</p> <p>18.12.030 - Density.</p> <p>18.12.040 - Distances.</p> <p><u>18.12.045 - Dock-High-Door-and-Dock-High-Door-to-Square-foot Ratio.</u></p> <p><u>A. Dock-High-Door means an opening to the outside of a building used to interface with trucks for the loading and /or unloading of goods, products, merchandise or wares of any type and where the bottom of the opening is not at ground level but rather elevated by twenty-four (24) inches or more. Dock-High-Doors are used so that the bed of a truck and /or shipping container will match the building slab elevation at the opening. The typical configuration allows a semi-truck to back up to a building and directly align the back doors of the truck with a loading dock door. The elevation of the dock apron, the approach pavement area, is lower than the building slab elevation so that the bed of the truck will match the</u></p>	

building slab elevation. The typical offset is forty-eight (48) inches and the typical loading dock door is nine (9) feet wide by ten (10) feet tall. (Dock-High-Doors are also sometimes known as loading dock doors.)

B. Dock-High-Door-to-Square-Foot Ratio (DHDSFR) means the ratio of the total number of Dock-High-Doors that a building has to the total square feet of building floor area.

18.12.060 - Height

B. Clear Ceiling Height. Distance from the floor to the lowest hanging ceiling member or hanging objects, beams, joists or truss work descending down into a substantial portion of the area. This measure of the interior height of an industrial building defines the minimum height of usable space within the structure. Also known as clear height, clear headway, or clearance.

B-C. Number of stories.

18.12.065 – Large-Scale Development.

Large-Scale Development means any development which proposes the construction and/or addition of more than seventy-five thousand (75,000) square feet of new floor area, or a new building or addition to an existing building which is more than thirty-five (35) feet in height.

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

	IL	IG
Warehousing and Distribution		
Warehousing and Distribution, Large	C	P
Warehousing and Distribution, Small	P	P

	<u>Heavy Distribution</u>	-	-
	<u>Parcel Sorting Facilities</u>	-	-
	<u>Parcel Hub Small < 75,000 sq. ft.</u>	<u>P</u>	<u>P</u>
	<u>Parcel Hub Large > 75,000 sq. ft.</u>	<u>C</u>	<u>C</u>

Table 18.26-2: STANDARDS.

*

Structure Requirements [2]

*

Notes:

[1] An FAR of 0.6 is allowed for industrial uses. An FAR of 0.5 is allowed for non-industrial uses.

[2] Fulfillment Center structures, as defined in Section 18.124.050, are prohibited per Section 18.92.105.

Chapter 18.92 - Supplemental Standards.

18.92.100 - Mini-Storage

18.92.105 - Fulfillment Centers

Fulfillment Centers, as defined in Section 18.124.050, are prohibited uses in all Zoning Districts and Overlay Zones in the City of Morgan Hill. Fulfillment Centers lawfully existing prior to the effective date shall not be affected by this section.

18.108.020 - Administrative Use Permits.

C. Review Authority. The Community Development Director ~~takes action on~~ shall review and act on all Administrative Use Permit applications. ~~The community Development Director may refer any Administrative Use Permit application to the Planning Commission for review and final decision other than applications relating to Large Scale Developments; provided, however, that the Community Development Director may refer any Administrative Use Permit application to the Planning Commission~~

for review and final decision. The Planning Commission shall review and act on all Administrative Use Permit applications, which: (1) relate to Large-Scale Developments; and/or (2) are otherwise referred to the Planning Commission by the Community Development Director pursuant to this paragraph.

D. Public Notice and Hearing. Public notice of a pending action on an Administrative Use Permit application other than applications relating to Large-Scale Developments shall be provided in compliance with Section 18.104.100 (Notice of Pending Action). The Community Development Director shall hold a public hearing for a minor use permit application only upon receiving a written request for a public hearing as provided in Section 18.104.090. The Planning Commission, shall review and act on an Administrative Use Permit application related to Large Scale Developments or an application otherwise referred to the Planning Commission at a noticed public hearing in compliance with Chapter 18.104 (Common Permit Requirements).

18.108.040 – Design Permit

B. Review Authority.

1. The Community Development Director shall review and act on all Design Permit applications other than applications relating to Large-Scale Developments; provided, however, that the Community Development Director may refer any Design Permit application to the Planning Commission for review and final decision. The Planning Commission shall review and act on all Design Permit applications, which: (1) relate to Large-Scale Developments; and/or (2) are

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 their 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)

otherwise referred to the Planning Commission by the Community Development Director pursuant to this paragraph.

~~2. The Community Development Director may refer any Design Permit application 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.

C. When Required.

The following types of projects require a Design Review permit:

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12. Other projects determined by the Community Development Director to be significant in accordance with Paragraph D below, or which may adversely affect the environment or adjacent development or otherwise be considered a sensitive site in accordance with Paragraph E below.

D. Significant Projects.

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2. The Community Development Director's determination that a project is or is not significant may be appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals).

E. Sensitive Sites.

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2. The Community Development Director's determination that a site is or is not sensitive and that a Design Permit is required may be

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.

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D. Significant Projects.

a. 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:

- i. The visual prominence of the project when viewed from the public right-of-way and/or private property;
- ii. The project height, mass, and area of site disturbance;
- iii. The type, character, and proximity of adjacent development; and
- iv. The potential of the project to create adverse impacts on adjacent uses or the community at large.

b. 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.

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

~~b.d.~~ 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).

appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals).

18.124.050 - Industrial Uses

G. Warehousing and Distribution

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H. Fulfillment Center. Any structure, building or other facility that has all of the following three attributes: (1) a floor area of seventy-five thousand (75,000 square feet or greater, and (2) a clear ceiling height of twenty-four (24) feet or greater over more than twenty-five (25) percent of the floor area, and (3) more than one dock-high door per 25,000 square feet of floor area (i.e., a proposed or as built DHDSFR greater than 1:25,000). For purposes of this section, "Fulfillment Center" shall include, but not be limited to, the following structures, buildings, and facilities: distribution center, sortable fulfillment center, e-commerce center, non-sort fulfillment center, transload facility, parcel hub, cold storage facility, short-term storage facility, high-cube warehouse, cross-dock facility, bulk break center, package handling center, order fulfillment center, logistics center or facility, receive center, sortation center, delivery station, specialty facility, last-touch facility, last-mile facility, last-mile distribution facility, city distribution facility, multi-market distribution facility, gateway facility, warehousing center; or any building, structure, or other facility, provided it has all three attributes listed above.

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. 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.C. 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.

C.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.

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.

F. 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 vehicles with rated capacities less than 10,000 points, for delivery directly to consumers or end-users primarily within the Morgan Hill zip code.

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

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

D.G. 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.

E.H. 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.

F.I. 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.

G-J. Warehousing and Distribution. 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 less than 75,000 square feet in building area, or as a secondary/companion use of no more than 75,000 sf ancillary to another activity contained within a larger building area.
3. **Outdoor Storage.** Storage of commercial goods in open lots.

18.124.060 - Transportation, communication, and utility uses

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

	<p>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").</p>
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