

ORDINANCE NO. 2226, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING TITLE 18, DIVISION 1, ZONING CODE TO AMEND CHAPTER 18.04 "DEFINITIONS", AMEND CHAPTER 18.20 CN NEIGHBORHOOD COMMERCIAL DISTRICT, SECTION 18.20.020 PERMITTED USES, AMEND CHAPTER 18.22 CG GENERAL COMMERCIAL DISTRICT, SECTION 18.22.020 PERMITTED USES OF THE MORGAN MUNICIPAL CODE.

WHEREAS, this proposed Ordinance (Zoning Amendment ZA2016-0007) was considered by the Planning Commission of the City of Morgan Hill at its regular meeting of November 8th 2016, at which time the Planning Commission recommended approval of ZA2016-0007: City of Morgan Hill-Medical Offices and Clinics; and

WHEREAS, this proposed Ordinance (Zoning Amendment ZA2016-0007) was considered by the City Council of the City of Morgan Hill at its special meeting of December 14, 2016; and

WHEREAS, testimony received at duly-noticed public hearings on the proposed Ordinance (Zoning Amendment ZA2016-0007), along with exhibits and other materials submitted as a part of public hearing, have been considered in the review process; and

WHEREAS, adoption of this proposed Ordinance (Zoning Amendment ZA2016-0007) does not constitute a project under the provisions of the California Environmental Quality Act of 1970 as described below.

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

SECTION 1. The City Council hereby finds that the amendment established by this ordinance as herein described is compatible with the goals, objectives, and policies of the General Plan of the City of Morgan Hill. The City Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.070 of the Morgan Hill Municipal Code. The proposed amendment is consistent with the General Plan as follows:

Policy ED-3.1 Business Retention, Expansion, and Attraction Efforts. Encourage retention and expansion of existing businesses, and attract new businesses, that:

- **Generate revenue to the City General Fund (such as retail and point-of-sale manufacturing);**
- **Help provide greater fiscal strength and stability to the City;**

- **Add industry diversity to the local economy;**
- **Stimulate other businesses to develop in the city;**
- **Augment or provide a service/amenity presently needed or lacking in the community, including higher education and medical services opportunities; and**
- **Offer higher-paying, quality jobs for local residents. risk areas, including, but not limited to, hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities, or identify construction methods or other methods to minimize damage if these facilities are located in a state responsibility area or very high fire hazard severity zone.**

The amendments are comprehensive and consistent with the City Council's community priorities to attract and grow medical services in Morgan Hill.

Policy SSI-11.3 Medical Services. Encourage provision of a full range of medical services in the city, including an acute care hospital.

The amendments provide for medical offices and clinics in commercial zones as permitted uses allowing for additional opportunities to expand, retain and attract medical services.

SECTION 2. Projects approved pursuant hereto are exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of Guidelines for CEQA. The proposed text amendments to the Morgan Hill Municipal Code are covered by the general rule that CEQA applies to projects that have the potential for causing a significant effect on the environment. 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, the activity is not subject to CEQA. The proposed amendments are changes only to definitions of certain uses. Adoption of this amendment does not create changes in the physical environment and are therefore exempt pursuant to the exemption described above.

SECTION 3. The City Council hereby amends Title 18, Division 1, Zoning Code to amend Chapter 18.04 "Definitions", amend Chapter 18.20 CN Neighborhood Commercial District, Section 18.20.020 Permitted Uses, amend Chapter 18.22 CG General Commercial District, Section 18.22.020 Permitted Uses of the Morgan Hill Municipal Code, as outlined in the attached Exhibit A.

SECTION 4. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 5. Effective Date; Publication. This Ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A SPECIAL MEETING OF THE CITY COUNCIL HELD ON THE 14TH DAY OF DECEMBER 2016 AND WAS FINALLY ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 18TH DAY OF JANUARY 2017 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:

APPROVED:

DATE:

STEVE TATE, Mayor

ATTEST:

DATE:

IRMA TORREZ, City Clerk

Effective Date: February 17, 2017

∞ 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. 2226, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 18th day of January 2017.

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

DATE: _____

IRMA TORREZ, City Clerk

Chapter 18.20 - CN NEIGHBORHOOD COMMERCIAL DISTRICT

Sections:

18.20.010 - Purpose of district.

The CN neighborhood commercial district is intended to create and maintain neighborhood shopping areas primarily accommodating offices, personal service, and retail sales uses of moderate size, serving the immediate neighborhood under regulations that will assure compatibility with surrounding residential uses.

(Ord. 559 N.S. § A (part), 1981)

18.20.020 - Permitted uses.

The following uses shall be permitted in the CN neighborhood commercial district:

- A. Retail stores;
- B. Offices;
- C. Personal services;
- D. Grocery stores;
- E. Professional offices.
- F. Medical Offices and Clinics**

(Ord. 1135 N.S. § 30, 1993; Ord. 559 N.S. § A (part), 1981)

18.20.030 - Conditional uses.

The following uses may be conditionally allowed in the CN neighborhood commercial district, subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title:

- A. Service stations;
- B. Convenience markets;
- C. Nursery schools and day care centers;
- D. Animal care facilities;
- E. Nursing home or convalescent hospital;
- F. Private clubs, lodges or fraternal organizations;
- G. Business and trade schools;
- H. Utility facilities essential to provision of utility services to the neighborhood, but excluding construction or storage yards, maintenance facilities, or corporation yards;
- I. Ambulance services;
- J. Restaurants;
- K. Drive-in establishments;
- L. Residential care facilities; and
- M. Any other use which the planning commission finds to be of a similar nature to the permitted or conditional uses specified in this chapter for the CN zoning district.

(Ord. 1899 N.S. § 2 (part), 2008; Ord. 1307 N.S. § 3, 1996; Ord. 1215 N.S. § 23, 1995; Ord. 1055 N.S. § C (part), 1991; Ord. 846 N.S. § 1 (part), 1987; Ord. 559 N.S. § A (part), 1981)

(Ord. No. 2203, § 3(Exh. A), 6-1-2016)

18.20.040 - Site development standards.

The following site development standards shall apply in the CN neighborhood commercial district:

- A. Minimum zoning district area, two acres;
- B. Minimum lot area, twenty thousand square feet;
- C. Minimum lot width, one hundred feet;
- D. Minimum lot depth, one hundred feet;
- E. Maximum building coverage, fifty percent;
- F. Minimum setbacks:
 - 1. Front, forty feet,
 - 2. Rear, forty feet,
 - 3. Side, forty feet;
- G. Maximum height, two and one-half stories or thirty feet;
- H. Landscaping. Landscaping must cover a minimum of ten percent of the site, and be designed to assure screening of loading, storage, refuse and other unsightly areas;
- I. Side Street Side Yard. A side yard along the side street lot line of a corner lot shall have a width of not less than fifteen feet or one-half the required depth of the front yard, whichever is greater;
- J. Cul-de-sac lot width, minimum of forty feet as measured along the front property line;
- K. Allowed only on one quadrant of an intersection.

(Ord. 1055 N.S. § C (part), 1991; Ord. 899 N.S. §§ 6 (part), 22 (part), 1989; Ord. 559 N.S. § A (part), 1981)

18.20.050 - Additional required conditions.

- A. Design permit approval by the community development director shall be required of all uses situated on sensitive sites, as defined in Chapter 18.74 of this title.

(Ord. 1495 N.S. § 10, 2001; Ord. 1111 N.S. § 12, 1992; Ord. 559 N.S. § A (part), 1981)

(Ord. No. 1935 N.S., § 4(Exh. B), 6-3-2009)

Chapter 18.22 - CG GENERAL COMMERCIAL DISTRICT

Sections:

18.22.010 - Purpose of district.

The CG general commercial district is intended to create and maintain major commercial areas accommodating a broad range of office, retail sales and other commercial activities of community-wide significance. The CG district is intended to be applied to community commercial areas identified by the Morgan Hill General Plan and other areas where deemed appropriate.

(Ord. 559 N.S. § A (part), 1981)

18.22.020 - Permitted uses.

The following uses shall be permitted in the CG general commercial district:

- A. Retail stores;
- B. Restaurants;
- C. Offices and professional offices;
- D. Financial services;
- E. Personal services;
- F. Day care centers and nursery schools;
- G. Commercial recreation uses three thousand square feet or less in area (exclusive of parking).
- F. Medical Offices and Clinics**

(Ord. 1215 N.S. § 24, 1995; Ord. 980 N.S. § 3 (part), 1990; Ord. 559 N.S. § A (part), 1981)

18.22.030 - Conditional uses.

The following uses may be conditionally allowed in the CG general commercial district, subject to issuance of a conditional use permit in accordance with Chapter 18.54:

- A. Commercial recreation;
- B. Convenience markets;
- C. Service stations;
- D. Ambulance services;
- E. Utility facilities, excluding construction of storage yards, maintenance facilities, or corporation yards;
- F. Motels, hotels and similar lodging facilities;
- G. Mini-storage facilities;
- H. Drive-in establishments;

- I. Wholesale business;
- J. Caretaker units;
- K. Off-site pole or pylon freeway-oriented signs pursuant to Sections 18.76.270(C)(4) and 18.76.075;
- L. Minor motor vehicle repair;
- M. Nursing home or convalescent hospital;
- N. Residential care facilities; and
- O. Any other use which the planning commission finds to be of a similar nature to the permitted uses and conditional uses specified in this chapter for the CG zoning district.

(Ord. 1899 N.S. § 2 (part), 2008; Ord. 1307 N.S. § 4, 1996; Ord. 1135 N.S. § 31, 1993; Ord. 1134 N.S. § 2, 1993; Ord. 1055 N.S. § C (part), 1991; Ord. 980 N.S. § 3 (part), 1990; Ord. 846 N.S. § 1 (part), 1987; Ord. 839 N.S. § 1 (part), 1987; Ord. 559 N.S. § A (part), 1981)

(Ord. No. 2203, § 3(Exh. A), 6-1-2016)

18.22.040 - Site development standards.

The following site development standards shall apply in the CG general commercial district:

- A. Minimum lot area, ten thousand square feet;
- B. Minimum lot width, one hundred feet;
- C. Minimum lot depth, one hundred feet;
- D. Maximum building coverage, fifty percent;
- E. Minimum setbacks:
 - 1. Front, twenty-five feet,
 - 2. Rear, twenty feet,
 - 3. Side, zero feet;
- F. Maximum height, three stories or thirty-five feet;
- H. On any portion of a site in the CG district which abuts a lot in any residential zoning district, a minimum interior yard of ten feet shall be required, and a solid wall or fence of six feet in height shall be constructed and maintained along the common lot line. The minimum interior yard shall be planted and maintained as a landscaped screen;
- I. All uses, whether permitted or conditional, shall be conducted in such a manner so as to avoid any nuisance, hazard or commonly recognized offensive condition or characteristic, as established by the commercial and industrial performance standards of Chapter 18.48 of this title;
- J. Side Street Side Yard. A side yard along the side street lot line of a corner lot shall have a width of not less than fifteen feet or one-half the required depth of the front yard, whichever is greater;
- K. Cul-de-sac lot width, minimum of forty feet as measured along the front property line.

(Ord. 1055 N.S. § C (part), 1991; Ord. 899 N.S. §§ 6 (part), 22 (part), 1989; Ord. 559 N.S. § A (part), 1981)

18.22.050 - Additional required conditions.

- A. Design permit approval by the community development director shall be required of all uses situated on sensitive sites, as defined in Chapter 18.74 of this title.
- B. Where any lot in the general commercial district abuts residentially zoned property, a twenty-five-foot minimum building setback shall apply.

(Ord. 1495 N.S. § 11, 2001; Ord. 1415 N.S. § 19, 1998; Ord. 1111 N.S. § 13, 1992; Ord. 559 N.S. § A (part), 1981)

(Ord. No. 1935 N.S., § 4(Exh. B), 6-3-2009)

Chapter 18.04 - DEFINITIONS

Sections:

18.04.005 - Definitions and interpretation of language.

For the purpose of Division I of this title, the words and phrases set forth in this chapter shall have the meanings respectively ascribed to them herein, and the word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used.

(Ord. 559 N.S. § A (part), 1981)

18.04.010 - Abutting.

"Abutting" means land having a common property line or district line, or separated only by a private street, alley or easement.

(Ord. 559 N.S. § A (part), 1981)

18.04.015 - Accessory structure.

"Accessory structure" means a structure subordinate to the principal structure on the same lot. Accessory structures cannot be used as living space which is heated/cooled and/or contains a full bath facility.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006; Ord. 1055 N.S. § C (part), 1991; Ord. 559 N.S. § A (part), 1981)

18.04.018.1 - Adult arcade.

"Adult arcade" means any place to which the public is permitted or invited, wherein coin-operated, currency-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, television sets, monitors, receivers, transmitters, video cassette players or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.2 - Adult business.

"Adult business" means a business which includes any of the following: sells or rents items related to specified anatomical areas or specified sexual activities for over twenty percent of the year, and which items represent over twenty percent of the inventory or stock in trade or titles offered or floorspace and/or over twenty percent of the net receipts of the business, whichever is greater; depicts or projects still or moving photographs related to specified anatomical areas or specified sexual activities for over twenty percent of the year, which depiction or projection represents over twenty percent of the net receipts of the business; or provides live entertainment, massage or other service to patrons, regardless of percentage of net receipts or other measurement of share of the overall business, which is related to specified anatomical areas or specified sexual activities.

1. Partial Listing of Types of Adult Businesses. "Adult businesses" include but are not limited to: adult bookstores, adult video stores, adult novelty stores, adult arcades, adult motels, adult theaters, adult entertainment enterprises, adult cabarets, escort agencies, massage parlors, nude modeling studios; or places which engage in or allow couch dancing, topless dancing, nude or semi-nude mud wrestling or similar businesses.
2. Exceptions. The following types of businesses which are regulated by state or professional agencies or which have only incidental services or products which could be associated with adult businesses are exempt from the provisions of this title:
 - a. Therapeutic or Holistic Massage. Massage which is conducted by doctors, nurses, osteopaths or chiropractors, teachers, barbers, beauticians or by massage practitioners or employees as licensed by or otherwise exempted under Chapter 5.32 of this code.
 - b. Medical or Psychological Therapies. The medical or psychological therapeutic activities of state-licensed doctors, psychologists, psychiatrists or marital or sexual therapists are exempt.
 - c. Modeling or Theatrical Performances. Nude modeling done at infrequent intervals in connection with a college or art school, accredited by a nationally recognized accreditation organization, for students who have enrolled on a semester or quarterly basis with tuition is exempt. Occasional theatrical performances, either live or in motion picture theaters, in which nudity is incidental to the content of the presentation, are exempt.
 - d. Incidental Sale or Rental of Merchandise. Businesses which incidentally sell or rent adult merchandise, involving less than twenty percent of the floorspace of the establishment or less than twenty percent of the net receipts, whichever is greater, are exempt, providing that all other laws on obscenity and indecent behavior are complied with.
 - e. Private Noncommercial Behavior. This title does not regulate the private behavior of adults, which is otherwise permitted by law, where there is no payment, gratuity, exchange of labor or goods, or other consideration of a transaction.

(Ord. 1528 N.S. § 4, 2001; Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.3 - Adult bookstore.

"Adult bookstore" means any premises in which twenty percent or more of the titles offered or to which twenty percent or more of the actual display area of the store is devoted to books, magazines, periodicals or merchandise which depict or describe specified sexual activity.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.4 - Adult cabaret.

"Adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features (a) persons who appear in a state of nudity; (b) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or (c) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by a depiction or description of specified sexual activities or specified anatomical areas.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.5 - Adult entertainment enterprise.

"Adult entertainment enterprise" means any business activity wherein is furnished for a fee or charge or other like consideration the opportunity to paint, feel, handle, touch, to be in the presence of, be entertained by the unclothed body, or the unclothed portion of the body of another person, or to be so painted, felt, handled, touched or observed by another person, or to observe, view or photograph any such activity, and shall include but not be limited to nude encounter studios, adult or nude dance studios, adult or nude exhibitions, peep shows, nude wrestling centers and adult or nude art or photograph studios. "Unclothed portion of the body" means a state of dress so as to expose the female breast below a point immediately above the top of the areola, male or female genitals, pubic areas, buttocks or female breast with only the nipple and areola covered. The medical or psychological therapeutic activities of state-licensed doctors, psychologists, psychiatrists or marital or sexual therapists are exempt.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.6 - Adult hotel/adult motel.

"Adult hotel/adult motel" means a hotel or motel or similar commercial establishment which:

- A. Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, computer software, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television; or
- B. Offers a sleeping room for rent for a period of time less than ten hours; or
- C. Allows a tenant or occupant to subrent the sleeping rooms for a time period of less than ten hours.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.7 - Adult novelty store.

"Adult novelty store" means an establishment with over twenty percent of its floor area devoted to stock-in-trade consisting of, or gross revenues derived from, goods which are replicas of, or which simulate, specified anatomical areas or specified sexual activities, or goods which are designed to be placed on or in specified anatomical areas, or to be used in conjunction with specified sexual activities.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.8 - Adult theater.

"Adult theater" means a commercial establishment in which for any form of consideration, films, motion pictures, video cassettes, video tapes, laser discs, slides or similar photographic or electronic reproductions are regularly shown and which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, or to which minors are not admitted, or with respect to which advertising for such pictures is contained in the adult theaters sections of local newspapers, or in which on a regular basis sexual intercourse, oral copulation, masturbation, homosexual acts or other specified sexual activities are actually shown or simulated.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.9 - Adult video store.

"Adult video store" means a commercial enterprise which offers for sale or rental for any form of consideration, for over twenty percent of titles offered or over twenty percent of actual display area of the store, whichever is more, any one or more of the following: photographs, films, motion pictures, laser discs, video cassettes, video tapes or video reproductions, slides or other visual representations which primarily depict or describe specified sexual activities or specified anatomical areas.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.020 - Agent of owner.

"Agent of owner" means any person who can show written proof that he is acting for the property owner.

(Ord. 559 N.S. § A (part), 1981)

18.04.025 - Agriculture.

"Agriculture" means the use of the land for agricultural purposes, including farming, dairying, pasturage, agriculture, apiaries, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, processing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities; and provided, further, that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

(Ord. 559 N.S. § A (part), 1981)

18.04.030 - Alley or lane.

"Alley" or "lane" means a public or private way not more than thirty feet wide, affording only secondary means of access to abutting property.

(Ord. 559 N.S. § A (part), 1981)

18.04.035 - Alter.

"Alter" means to change any of the supporting members of buildings, such as bearing walls, columns, beams or girders.

(Ord. 559 N.S. § A (part), 1981)

18.04.036 - Amusement/entertainment arcade.

"Amusement/entertainment arcade" means a commercial establishment involving mechanical or electronic games operated on a private or for-profit basis. Mechanical or electronic games include any machine, apparatus, contrivance, appliance or device which may be operated or played upon by placing or depositing therein any coin, check, slug, ball, or any other article or device, or by involving in its use either skill or chance, including, but not limited to tape machine, pinball machine, bowling game machine, shuffleboard machine, electronic video game, or any other similar machines or similar services. Commercial establishments with ten or fewer mechanical or electrical games and which are incidental to the primary use are not considered arcades.

(Ord. 1215 N.S. § 4, 1995)

18.04.036.5 - Ancillary use.

"Ancillary use" means a use subordinate to the principal use on the same lot and serving a purpose customarily incidental to the principal use.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.037 - Antique shop, vintage clothing and collectables.

"Antique shop, vintage clothing and collectables" means a place principally offering antiques for sale. An antique for the purposes of the chapter, shall be a work of art, piece of furniture, clothing, decorative object, or the like, of or belonging to the past, at least thirty years old. Antique shop does not include "second hand store."

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.040 - Apartment vacancy rate.

"Apartment vacancy rate" means the number of vacant apartments in the city at a given time, shown as a percentage of the total number of apartments in the city. Vacant apartments include those units which are:

- A. Currently vacant and available for rent or lease;
- B. Vacant but temporarily not available for rent or lease due to painting, cleaning or repairs; and
- C. Currently occupied but will become available for rent or lease within one week.

(Ord. 559 N.S. § A (part), 1981)

18.04.043 - Arts and crafts gallery/studio.

"Arts and crafts gallery or studio" is an establishment (1) engaged in the sale, loan, or display of art books, paintings, sculptures, or other works of art, and/or (2) that produces on the premises articles for sale of artistic quality or effect or handmade workmanship (no mass produced items). Examples include candle making, glass blowing, pottery making, custom jewelry, weaving, woodworking and other associated activities.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.044 - Motor vehicle sales area.

"Motor vehicle sales area" shall mean an outdoor open area, other than a street, used for the display, sale or rental of new or used passenger vehicles or other motor vehicles, such vehicles as recreational vehicles and trailers, and such recreational equipment as campers and boats, in operable condition and where no repair work is done, but not including the rental of motor homes, mobile homes, or pickup trucks with campers mounted thereon in the sales area.

(Ord. 1865 N.S. § 6, 2008)

18.04.045 - Automobile service station or gasoline service station.

- A. "Automobile service station" or "gasoline service station" means a retail place of business engaged exclusively in dispensing of automotive fuel and motor oil; and may as a secondary or ancillary use engage in supplying goods and services essential to the normal operation of automobiles, such as: vehicle washing and lubricating services; the sale and servicing of tires, batteries, replacement items and other automotive accessories; and minor automotive repair; and the vending of prepackaged soft drinks, tobacco products, and snack foods from automatic vending machines.
- B. This definition shall not be deemed to include such things as body or fender work, painting or major automotive repairs.
- C. Gasoline service stations may also provide a towing service limited to no more than two trucks or equipment rental, subject to use permit conditions of approval by the reviewing agency.
- D. When a conditional use permit shall have been granted to authorize an automobile service station or gasoline service station on a lot, the only use permitted thereon shall be the supplying of those goods and services described in subsections (A) and (C) of this section unless such conditional use permit expressly authorizes other uses. Permitted uses otherwise allowed in the zoning district in which a service station is located are not allowed in conjunction with a service station unless specifically authorized by a conditional use permit.

(Ord. 1307 N.S. § 1, 1996; Ord. 1135 N.S. § 1, 1993; Ord. 715 N.S. § 1, 1985; Ord. 559 N.S. § A (part), 1981)

18.04.050 - Automobile wrecking.

"Automobile wrecking" means the dismantling or disassembling of used motor vehicles or trailers, the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts, and the towing of such vehicles or parts in connection with such activity.

(Ord. 559 N.S. § A (part), 1981)

18.04.053 - Balcony.

"Balcony" means a platform that projects from the wall of a building that is surrounded by a railing or balustrade and does not require separate understructure for support.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.055 - Basement.

"Basement" means a story whose floor is more than twelve inches, but not more than one-half of its story height, below the average level of the adjoining ground (as distinguished from a "cellar," which is a story more than one-half below such level). A basement, when used as a dwelling, shall be counted as a story for purposes of height measurement, and as a half-story for purposes of side yard determination.

(Ord. 559 N.S. § A (part), 1981)

18.04.057 - Boardinghouse or roominghouse.

"Boardinghouse or roominghouse" means a dwelling or part thereof where meals and/or lodging are provided for compensation.

(Ord. 899 N.S. § 1 (part), 1989)

18.04.060 - Building.

"Building" means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side-yard requirements as provided in Division I of this title.

(Ord. 559 N.S. § A (part), 1981)

18.04.063 - Building coverage.

"Building Coverage" means the ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot of the total lot area.

(Ord. 1473 N.S. § 1, 2000)

18.04.064 - Building envelope.

"Building envelope" is the volume of space for the principal building as defined by the minimum setbacks and the maximum allowable building height.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)18.04.064

18.04.065 - Building, height of.

"Height of building" means the vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof, or mansard roof, or the highest point of a ridge for gable, hip or gambrel roofs.

(Ord. 1323 N.S. § 3, 1997: Ord. 559 N.S. § A (part), 1981)

18.04.070 - Building, main.

"Main building" means a building in which is conducted the principal use of the building site on which it is situated. In any residential district, any dwelling shall be deemed to be a main building on the building site on which the same is located.

(Ord. 559 N.S. § A (part), 1981)

18.04.070.1 - Business support service.

"Business support service" means an establishment entirely within a building, providing other businesses with services including maintenance, repair and service, testing, rental, etc. Business support services include but are not limited to the following:

- A. Advertising and mailing;
- B. Building maintenance;

- C. Equipment rental and leasing;
- D. Janitorial supplies and services;
- E. Management and consulting services;
- F. Messenger, courier, postal and delivery services;
- G. Office supply;
- H. Packaging and labeling;
- I. Personnel and employment services;
- J. Photofinishing;
- K. Photocopying, printing and blueprinting;
- L. Protective services;
- M. Travel; and
- N. Knowledge based computer software development and technical support.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.071 - Caretakers unit.

"Caretakers unit" means a dwelling unit subordinate to a principal use on a site and intended for occupancy as a dwelling unit on the same site, as a caretaker, security guard, servant or similar position generally requiring residence on the site.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006; Ord. 1055 N.S. § C (part), 1991)

18.04.073 - Catering service.

An establishment that serves and supplies food and/or refreshments, for a fee, for public or private consumption to be consumed and served off-premises.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.075 - Cessation of use.

As used in Division I of this title, a use shall be deemed to have ceased when it has been discontinued, either temporarily or permanently for a period of six consecutive month, or for twelve months of any consecutive period of twenty-for months, whether with the intent to abandon such use or not.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006; Ord. 559 N.S. § A (part), 1981)

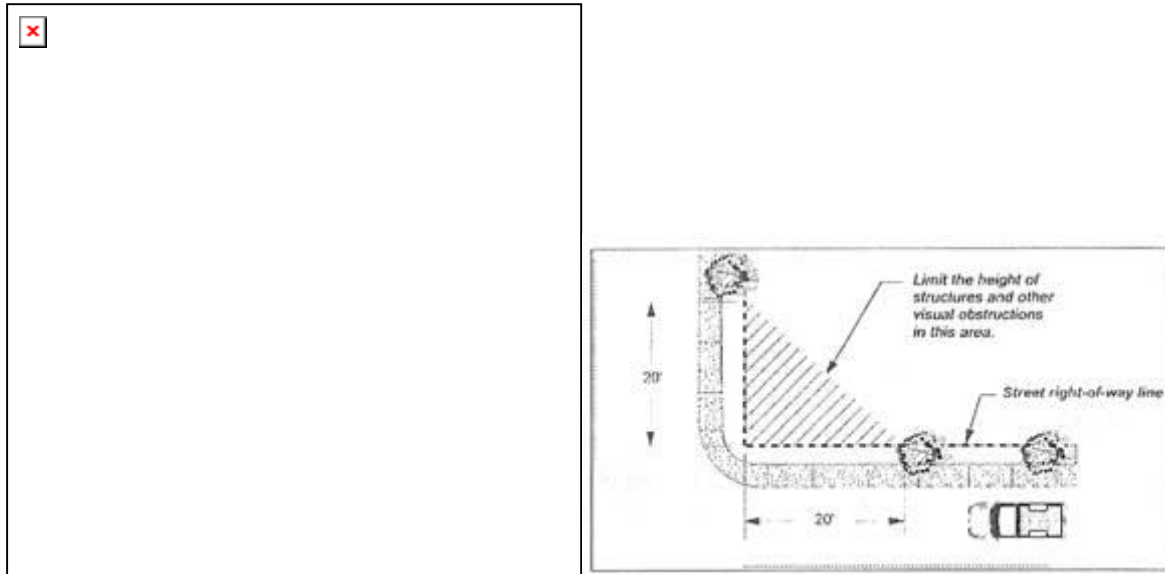
18.04.077 - City geologist.

The term city geologist as used in this title means a registered professional geologist who is certified by the state of California in the specialty of engineering geology (C.E.G.) who is either a staff member or a consultant retained by the city.

(Ord. 1176 N.S. § 7, 1994)

18.04.077.5 - Clear triangle.

"Clear triangle" is a triangular area bounded by the street right-of-way lines of a corner lot and a line joining points along said street lines twenty feet from the point of intersection.



(Ord. 1803 N.S. § 1 (Exh. A) (part), 2006)

18.04.078 - Club, lodge, and private meeting hall.

"Club," "lodge" and "private meeting hall" mean permanent headquarters-type meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for:

- A. Business associations;
- B. Civic, social, and fraternal organizations;
- C. Labor unions and similar organizations;
- D. Political organizations;
- E. Professional membership organizations; and
- F. Other membership organizations.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.080 - Combining district.

"Combining district" means a district within which certain regulations and requirements apply in addition to, and are combined with, regulations and requirements of another district.

(Ord. 559 N.S. § A (part), 1981)

18.04.085 - Commercial.

"Commercial" means any activity on or use of land which involves the buying, selling, processing or improving of things not produced on the land, and having financial gain as the primary aim of the activity or use, whether or not such activity or use is for hire or on account of the buyer, seller, processor or improver.

(Ord. 559 N.S. § A (part), 1981)

18.04.090 - Commercial indoor recreation.

"Commercial indoor recreation" means a facility providing indoor amusement and entertainment services for a fee or admission charge, including but not limited to the following:

- A. Electronic arcade games;
- B. Fine arts;
- C. Health club;
- D. Batting cages;
- E. Laser tag and similar games;
- F. Swimming pools;
- G. Pool hall;
- H. Tennis/racquet/hand ball courts;
- I. Bowling;
- J. Gymnasiums;
- K. Dance studios;
- L. Art schools;
- M. Ballet and other dance academies;
- N. Drama schools;
- O. Martial arts schools;
- P. Music schools and academies; and
- Q. Voice training schools.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006; Ord. 1215 N.S. § 5, 1995; Ord. 1135 N.S. § 2, 1993; Ord. 604A N.S. § A, 1983; Ord. 559 N.S. § A (part), 1981)

18.04.091 - Commercial outdoor recreation.

"Commercial outdoor recreation" means any facility providing outdoor amusement and entertainment services for a fee or admission charge, including but not limited to the following:

- A. Batting cages;
- B. Swimming pools;
- C. Driving ranges;
- D. Tennis/racquet/hand ball courts;

- E. Golf courses; and
- F. Miniature golf.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)18.04.091

18.04.093 - Commercial services.

"Commercial services" means retail establishments that primarily render services rather than goods. Such services may include but not be limited to the following:

- A. Cellular and satellite phone sale and services;
- B. Cable and satellite television sale and service;
- C. Decorating and design services;
- D. Florists;
- E. Video/DVD rental;
- F. Picture framing;
- G. Jewelry repair;
- H. Repair services; and
- I. Travel agency.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.095 - Community apartment.

"Community apartment" means a project in which an undivided interest in land is coupled with the right of exclusive occupancy of an apartment located thereat.

(Ord. 559 N.S. § A (part), 1981)

18.04.100 - Conditional use.

"Conditional use" means a use of land for which a conditional use permit is required, pursuant to Chapter 18.54 of this title.

(Ord. 559 N.S. § A (part), 1981)

18.04.105 - Condominium.

"Condominium" means individual ownership of a dwelling unit within a multiple-unit structure exclusive of the land underlying such structure.

(Ord. 559 N.S. § A (part), 1981)

18.04.110 - Condominium development.

"Condominium development" means a structure and appurtenant premises divided in ownership by the existence of the condominiums as now or hereafter defined in Section 783 of the Civil Code of the

state, and shall include instances where ownership is so divided following prior single ownership of the entire structure and premises, as well as new structures so divided in ownership.

(Ord. 559 N.S. § A (part), 1981)

18.04.112 - Congregate care for the elderly/assisted living facility.

"Congregate care for the elderly/assisted living facility" (See residential care facility).

(Ord. 1899 N.S. § 1 (part), 2008; Ord. No. 2203, § 3(Exh. A), 6-1-2016)

18.04.115 - Construction yard.

"Construction yard" means an area on or immediately adjacent to a major construction or demolition site used on a temporary basis for the parking and storage of equipment used in the project, and the storage and preparation of materials and other items used in the project. Such yard may include construction offices and such shops as are necessary for work on the immediate project.

(Ord. 559 N.S. § A (part), 1981)

18.04.117 - Convenience market/store.

"Convenience market/store" means a retail establishment which contains less than five thousand square feet of gross floor area allocated for the sale of groceries, staples, dairy products, sundry items, tobacco products and/or alcoholic beverages. This definition also includes a liquor store, within which all or the majority of the floor area for retail sales is allocated for the sale of alcoholic beverages. This definition, however, does not include a full-service grocery store containing less than five thousand square feet of gross floor area wherein at least ten percent of that floor area is allocated for the sale of fresh meat, seafood and fresh produce products.

(Ord. 1307 N.S. § 2, 1996; Ord. 1215 N.S. § 6, 1995)

18.04.120 - Corporation yard; service yard.

"Corporation yard" or "service yard" means buildings and premises, including offices, used by any person or by the city for the storage, maintenance, repair and processing of equipment, materials and other items involved in construction or maintenance of physical facilities having permanently fixed locations, or in the operation of a fleet of rolling stock.

(Ord. 559 N.S. § A (part), 1981)

18.04.120.1 - Daycare center, adult.

"Adult daycare center" means a facility providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a twenty-four hour day.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.120.2 - Day care center, large.

"Large day care center" means a commercial or non-profit child day care facility designed and approved to accommodate fifteen or more children including infant centers, preschools, sick-child centers, day care centers, and school-age day care facilities. These may be operated in conjunction with a school or church facility, or as an independent land use.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.120.3 - Day care center, medium.

"Medium day care center" means the use of a center or single-family residence where an occupant of the residence provides care and supervision for nine to fourteen children. Children under the age of ten years who reside in the home count as children served by the day care facility.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.120.4 - Day care home, small.

"Child day care homes, small" means the use of a single-family residence where an occupant of the residence provides care and supervision for up to eight children. Children under the age of ten years who reside in the home count as children served by the day care facility.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.120.9 - Deck.

"Deck" means a platform, either freestanding or attached to a building that is supported by piers, pillars or posts.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.120.13 - Density.

"Density" means the number of dwelling units permitted per net lot area.

(Ord. No. 1992 N.S., Exh. C, 10-6-2010)

18.04.121 - Delivery or service vehicle.

"Delivery or service vehicle" means any car, motorcycle, scooter, van or truck used in a normal business capacity to deliver a product, service or good to any location off-site of the primary business establishment.

(Ord. 1055 N.S. § C (part), 1991)

18.04.123 - Display area, outdoor.

"Outdoor display area" means any area, either permanent or temporarily devoted to, or used for the display of any product or services which is external to a building.

(Ord. 1055 N.S. § C (part), 1991)

18.04.125 - District.

"District" means a portion of the territory of the city within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of Division I of this title.

(Ord. 559 N.S. § A (part), 1981)

18.04.130 - Domestic pet.

"Domestic pet" means any of the various animals customarily kept as household pets (except exotic animals).

(Ord. 559 N.S. § A (part), 1981)

18.04.132 - Drive-in establishment or drive through.

"Drive-in establishment or drive through" means:

- A. Any place or premises where a portion of the business conducted involves the sale, dispensing or serving of food, beverages or merchandise or the provision of service to vehicles and/or their occupants.
- B. Drive-in establishments or drive throughs shall include, but not be limited to, drive-thru photo sales, car washes, service stations, and drive-up window facilities for use by a fast-food restaurant, bank or savings and loan association or similar institution, and other similar uses as determined by the community development director.

(Ord. 846 N.S. § 2, 1987)

18.04.135 - Driveway.

"Driveway" means a permanently surfaced area on a lot designed and required to provide direct access for vehicles between a street and a private garage, carport or other permitted parking space or parking area or loading area.

(Ord. 559 N.S. § A (part), 1981)

(Ord. No. 1992 N.S., Exh. B, 10-6-2010)

18.04.140 - Driveway aisle, major.

"Major driveway aisle" means a driveway providing principal access to the parking area or the driveway providing principal circulation throughout the parking areas or premises.

(Ord. 559 N.S. § A (part), 1981)

18.04.143 - Driveway apron.

"Driveway apron" means a paved area providing principal access from a drive aisle or street right-of-way to a garage or other covered parking space.

(Ord. 1473 N.S. § 2, 2000)

18.04.145 - Dwelling.

"Dwelling" means any building or portion thereof designated or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer or trailer coach.

(Ord. 559 N.S. § A (part), 1981)

18.04.150 - Dwelling, multifamily.

"Multifamily dwelling" means a building designed and used as a residence for three or more families living independently of each other and containing three or more dwelling units.

(Ord. 1050 N.S. § 1 (part), 1991; Ord. 559 N.S. § A (part), 1981)

18.04.154 - Dwelling, single-family, attached.

"Single-family attached dwelling" means a dwelling attached to another dwelling on at least fifty percent of the length of the attached side of the building, sometimes called a townhouse, duet, or row house. One or more walls extend from foundation to roof, which separate it from adjoining structures and from a property line. Single-family attached dwellings also include modified setback dwellings as defined by the Morgan Hill Municipal Code.

(Ord. 1641 N.S. § 7, 2003; Ord. 1415 N.S. § 1, 1998; Ord. 1050 N.S. § 1 (part), 1991; Ord. 559 N.S. § A (part), 1981)

18.04.155 - Dwelling, single-family, detached.

"Single-family detached dwelling" means a dwelling designed to contain a single dwelling unit situated on a single lot.

(Ord. 1050 N.S. § 1 (part), 1991; Ord. 559 N.S. § A (part), 1981)

18.04.156 - Dwelling, single-family, modified setback.

A "modified setback dwelling" is defined as follows:

- A. A dwelling physically separated from an adjacent dwelling on a separate lot of record by a minimum of three feet and a maximum of six feet, and architecturally connected by a design element such as a wing wall, trellis, or fireplace to give the appearance of attachment; or
- B. A dwelling physically separated from an adjacent dwelling on a separate lot of record whereby the adjacent lots are designed with an alternative lot configuration, such as a Z-lot or off-set property lines, and the units are situated such that they give the appearance of attachment from the public right-of-way.

(Ord. 1641 N.S. § 8, 2003)

18.04.157 - Dwelling, two-family or duplex.

"Two-family" or "duplex dwelling" means a structure which is designed and used as a residence for two families living independently of each other and containing two dwelling units.

(Ord. 1050 N.S. § 1 (part), 1991: Ord. 899 N.S. § 1 (part), 1989)

18.04.160 - Dwelling unit.

"Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, occupied or intended for occupancy by one family on a nontransient (less than thirty-day stay) basis and having not more than one kitchen.

(Ord. 1415 N.S. § 2, 1998: Ord. 559 N.S. § A (part), 1981)

18.04.162 - Dwelling unit, primary.

"Primary dwelling unit" means a single-family dwelling located on a separate lot with no other dwellings on the lot except for a secondary dwelling unit.

(Ord. 1215 N.S. § 7, 1995: Ord. 884 N.S. § 1, 1989)

18.04.164 - Dwelling unit, secondary.

"Secondary dwelling unit" means a detached or attached dwelling unit which provides complete independent living facilities for one or more persons which are located on a lot which contains an existing single-family dwelling. A secondary dwelling unit must be located in a permanent structure and includes provisions for living, sleeping, eating, cooking, sanitation and has a private entry accessed from the exterior of the building. Secondary dwelling units are not "accessory structures" as defined in Sections 18.04.015 and 18.56.020 of this title.

(Ord. 1323 N.S. § 4, 1997: Ord. 1215 N.S. § 8, 1995: Ord. 884 N.S. § 2, 1989)

18.04.164.1 - Emergency shelter.

"Emergency shelter" is housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

(Ord. No. 2111 N.S., § 3, 10-1-2014)

Editor's note— Ord. No. 2111 N.S., § 3, adopted Oct. 1, 2014, amended § 18.04.164.1 in its entirety to read as herein set out. The former section pertained to emergency or transitional housing facility, and derived from Ord. 1813 N.S. § 1(Exh. A)(part), adopted 2006.

18.04.164.5 - Escort agencies.

"Escort agencies" means a person, business or other agency which provides or dispatches a person or persons who, for any form of consideration or gratuity, agree or offer to act as a companion, guide on date for another person.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.165 - Family.

"Family" means an individual or group of individuals living together who constitute a bona fide single housekeeping unit in a dwelling unit. "Family" shall not be construed to include a group of individuals occupying a hotel or lodging house of any kind.

(Ord. 1415 N.S. § 3, 1998: Ord. 559 § A (part), 1981)

18.04.167 - Farmers market.

"Farmers market" is defined as a permanent or temporary market facility in which the primary activity is the sale of fresh agricultural goods on a year-round or seasonal basis. The sale of agricultural goods shall constitute at least two-thirds of the gross sales on the property. A temporary market facility shall consist of multiple vendors at a single location which distinguishes it from an agricultural stand.

(Ord. 1215 N.S. § 9, 1995)

18.04.167.5 - Food production.

"Food production" means manufacturing establishments 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.

(Ord. 2070, § 3, 6-5-2013)

18.04.170 - Fence.

"Fence" means a structure made of wire, wood, metal, masonry or other material used as a screen or enclosure for a field, yard or lot.

(Ord. 559 § A (part), 1981)

18.04.175 - Fence height.

"Fence height" is measured from the bottom to the top of the fence. Fences placed on top of a retaining wall do not include the height of retaining wall.

(Ord. 1803 N.S. § 1 (Exh. A) (part), 2006: Ord. 1215 N.S. § 10, 1995: Ord. 559 § A (part), 1981)

18.04.177 - Financial service.

"Financial service" means a use providing financial services to individuals or other entities and includes federally-chartered banks, savings associations, industrial loan companies, and credit unions providing retail banking services to individuals and businesses. This classification expressly does not include payday lending businesses or check cashing businesses, and as a result, the establishment, expansion, or relocation of such businesses is prohibited. The term "payday lending business" as used herein means retail businesses owned or operated by a "licensee" as that term is defined in California Financial Code section 23001(d), as amended from time to time. The term "check cashing business" as

used herein means a retail business owned or operated by a "check casher" as that term is defined in California Civil Code section 1789.31, as amended from time to time.

(Ord. 899 N.S. § 1 (part), 1989)

(Ord. No. 2132 N.S., § 3, 4-15-2015)

18.04.180 - Floodplain.

"Floodplain" means that portion of land adjacent to a creek channel which is covered by water during a one-hundred-year flood event.

(Ord. 559 § A (part), 1981)

18.04.185 - Floodwaters.

"Floodwaters" means a body of water resulting from an overflow of a river, channel, bay, drainage canal or backwater, due to inadequate downstream capacity, which inundates the land.

(Ord. 559 § A (part), 1981)

18.04.190 - Floodway.

"Floodway" means a body or channel of a stream, and those portions of the floodplain adjoining the channel, that are required to carry and discharge the floodwater or flood flows of any river or stream, including but not limited to flood flows associated with the regulatory one-hundred-year flood.

(Ord. 559 § A (part), 1981)

18.04.195 - Floor area.

"Floor area ratio" (FAR) means a ratio, expressed as a percentage, of the gross floor area of a given building, as measured by the exterior faces of the walls, to the net area of the parcel of real property on which such building or buildings are located. In determining the FAR for residential uses, the gross floor area shall include the area devoted to covered parking and all area devoted to staircases on all levels. Basement area shall not be included in the gross floor area. Accessory structures are not included in the FAR calculation.

(Ord. 559 § A (part), 1981)

(Ord. No. 1992 N.S., Exh. B, 10-6-2010)

18.04.200 - Freeway.

"Freeway" means a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands, or in respect to which such owners have only limited or restricted right or easement of access. The term "freeway" has the same meaning as the term "freeway" as defined in the California Streets and Highways Code.

(Ord. 559 § A (part), 1981)

18.04.202 - Funeral facility and services.

"Funeral facility and services" means an establishment where deceased are prepared for burial or cremation, and funeral services may be conducted. Includes funeral homes, funeral parlors, and crematoriums.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.205 - Garage, private.

"Private garage" means an attached or detached accessory dwelling located upon a lot developed with a residential dwelling or dwellings (or a portion of a main residential building) used by the occupants resident upon the premises principally for the storage of passenger vehicles, and other vehicles and equipment permitted to be located upon the lot.

(Ord. 559 § A (part), 1981)

18.04.210 - Garage, public.

"Public garage" means a structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of motor vehicles or other vehicles; except that a structure or part thereof used only for storage (as in the case of a public parking area) or display (as in the case of an automobile sales area) of motor vehicles, but not for transients, and at which fuels and oils are not sold, and such motor vehicles are not equipped, repaired or hired, shall not be deemed to be a public garage.

(Ord. 559 § A (part), 1981)

18.04.215 - General Plan.

"General Plan" means the general plan of the City of Morgan Hill, California, as adopted by the city council on October 15, 1980, and as may be amended from time to time.

(Ord. 559 § A (part), 1981)

18.04.217 - Guest house.

"Guest house" means a building containing living space that is heated/cooled and a full bath with or without kitchen facilities, and used to house occasional visitors or nonpaying guests of the occupant of the primary dwelling unit on the same lot. A guest house with a kitchen facility is considered a secondary dwelling unit.

(Ord. 1803 N.S. § 1 (Exh. A) (part), 2006; Ord. 899 N.S. § 1 (part), 1989)

18.04.218 - Hazardous materials reprocessing.

"Hazardous materials reprocessing" means one or more activity to manufacture, clean, repack or perform another industrial operation involving "hazardous waste" as defined by the Santa Clara County hazardous waste management plan. This definition relates the hazardous wastes which are brought onto a site and reprocessed, with the product sent off-site. The definition does not apply to (a) transportable treatment units (TTU) which are designed to be moved either intact or in modules and which are intended to be operated at a location for a limited time; or (b) permanent on-site hazardous waste facilities at

locations where hazardous waste is produced and which are owned by, leased to or under the control of the producer of the waste; all such facilities requiring state licensing to operate; or (c) "small quantity generators" as defined by the Santa Clara County hazardous waste management plan, including but not limited to small photo laboratories, dry cleaning plants and similar businesses, which are not included in (b) above regarding reprocessing of off-site hazardous waste or (d) a "salvage yard" defined by Section 18.04.390 of this chapter unless hazardous materials are processed or stored therein. Hazardous materials reprocessing is not allowed in any zoning district except an M-C campus industrial district, and is allowed in such district only upon issuance of a conditional use permit and a determination of consistency with the Santa Clara County hazardous waste management plan or a city-designated equivalent.

(Ord. 1104 § 1 (Exh. A) (part), 1992)

18.04.219 - Hazardous waste.

"Hazardous waste" means a waste or combination of wastes, which because of its quantity, concentration, toxicity, corrosiveness or flammability, or physical, chemical or infectious characteristics may (1) cause or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitating illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed.

(Ord. 1104 § 1 (Exh. A) (part), 1992)

18.04.220 - Home improvement center.

"Home improvement center" means a retail establishment which carries a full line of building materials, appurtenances and decorator items for individual "do-it-your-selfer" residents, to facilitate the improvement, rehabilitation and maintenance of individual dwellings. This use is different in function from a building supply yard or lumberyard which stores large volumes of building materials for contractors, home builders and/or individuals, most of which is stored in special sheds or out-of-doors.

(Ord. 559 § A (part), 1981)

18.04.225 - Home occupation.

"Home occupation" means a use customarily carried on in a dwelling by a resident thereof, which use is merely incidental to the residential use of the dwelling, and subject to criteria as provided in Division I of this title.

(Ord. 559 § A (part), 1981)

18.04.227 - Hospitals.

"Hospitals" means facilities that are engaged primarily in providing inpatient diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care. May include on-site accessory clinics and laboratories, accessory retail uses and emergency heliports.

18.04.230 - Industrial park/business park.

"Industrial park/business park" means a combination of industrial and/or commercial uses of contiguous lots specifically planned for industry, having continuity of design and function and uniform or integrated standards of development established by contract, covenant or deed restriction.

(Ord. 559 N.S. § A (part), 1981)

18.04.232 - Interim basis.

"Interim basis" means a temporary basis not to exceed three years, and which is never intended, at any time during occupancy, to be a permanent occupancy.

(Ord. 1653 N.S. § 1 (part), 2004)

18.04.235 - Kennel.

"Kennel" means a building or a portion of a building, or other enclosure, used to confine, feed, exercise, show or provide shelter for more than five cats or dogs, ten weeks of age or older. Veterinarians' offices ("Veterinary clinics and hospitals") and pet stores ("Retail sales") are specifically excluded, although pet care supplies may be sold as an ancillary activity to the primary shelter use.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006: Ord. 559 N.S. § A (part), 1981)

18.04.237 - Kitchen.

"Kitchen" means a room, or portion of a room primarily designed, constructed or used for the preparation of food and containing complete cooking facilities including, but not limited to a stove or separate cook top and oven, refrigerator and kitchen sink.

(Ord. 1415 N.S. § 4, 1998)

18.04.238 - Kitchen, half.

"Kitchen, half" is defined as a limited kitchen facility with a small counter space, a refrigerator, a small single compartment sink, a microwave and a small (two burner maximum) cook-top. Half kitchens cannot contain any type of oven other than the microwave oven, but may contain a dishwasher.

(Ord. 1899 N.S. § 1 (part), 2008)

18.04.240 - Landscaping.

"Landscaping" means the planting and maintenance of trees, shrubs, lawns and other evergreen ground cover or material, including inorganic accessory materials utilized to accent or complement the vegetation.

(Ord. 559 N.S. § A (part), 1981)

18.04.244 - Lodging facilities.

"Lodging facilities" means facilities with guest rooms or suites, provided with or without meals or no more than half kitchen facilities, rented to the general public for overnight or other temporary lodging (less

than thirty days). These facilities may typically include a variety of services in addition to lodging, including restaurants, meeting facilities, personal services, and other accessory guest facilities including swimming pools, tennis courts, indoor athletic facilities, accessory retail uses, parking, etc. Does not include adult hotels or adult motels. (See "Adult hotel/adult motel" and "Adult business".)

(Ord. 1899 N.S. § 1 (part), 2008; Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.245 - Lot.

"Lot" means a piece or parcel of land owned as a single unit in common ownership, occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as are required by this chapter, and having frontage on and access to an approved and accepted city street which meets the standards of width and improvements as specified in the regulations of the city contained in or adopted pursuant to the subdivision title of this code, and Chapter 18.50 of this title on street improvements as to the frontage of the lot involved, or having frontage on and access to an approved private street or major driveway aisle for properties that are located in the R-1 4,500, R-2, R-3, R-4, CL-R and CC-R districts.

(Ord. 1743 N.S. § 1, 2005; Ord. 559 N.S. § A (part), 1981)

(Ord. No. 1992 N.S., Exh. B, 10-6-2010)

18.04.250 - Lot area.

"Lot area" means the net site area of a lot, expressed in terms of acres or square feet. In determining net lot area the following shall not be included:

1. Any land within the limits of a street (public or private) upon which the lot abuts, even if fee title to such street is held by the owner.
2. Public easements or private easements other than streets which are in excess of fifteen percent of the net site area of the lot.

(Ord. 559 N.S. § A (part), 1981)

(Ord. No. 1992 N.S., Exh. B, 10-6-2010)

18.04.255 - Lot, corner.

"Corner lot" means a lot abutting upon two streets at their intersections, or abutting upon a curvature of a single street, where such streets or curvature form an interior angle of less than one hundred thirty-five degrees. The point of intersection of the street lot lines, extending, is the "corner." A corner lot may have more than one corner and may also abut upon one or more streets which do not form the corner or corners of the lot.

(Ord. 559 N.S. § A (part), 1981)

18.04.260 - Lot coverage or building coverage.

"Lot coverage" or "building coverage" means that portion of the lot area covered by a building.

(Ord. 559 N.S. § A (part), 1981)

18.04.265 - Lot, depth of.

"Depth of lot" means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear lot line.

(Ord. 1055 N.S. § C (part), 1991; Ord. 559 N.S. § A (part), 1981)

18.04.270 - Lot, interior.

"Interior lot" means a lot which has only one front lot line.

(Ord. 559 N.S. § A (part), 1981)

18.04.272 - Lot, Z.

A "Z-lot" is a lot in which the interior side property line(s) form the letter 'z.'

(Ord. 1641 N.S. § 9, 2003)

18.04.275 - Lot line, front.

A. "Front lot line" means any of the following:

1. Each street lot line of an interior or through lot;
2. On a corner lot, the shorter lot line abutting a street or the line designated as the front lot line; and
3. Any street lot line not forming a corner of a corner lot.

B. If the side yard setback facing the street on a corner is at least as deep as the front yard setback requirement, the community development director may designate the front lot line of corner lots for setback purposes.

(Ord. 1025 § 3 (part), 1991; Ord. 559 N.S. § A (part), 1981)

18.04.280 - Lot line, rear.

"Rear lot line" means the lot line opposite and most distant from the front line, where such lot line is not also a street lot line.

(Ord. 559 N.S. § A (part), 1981)

18.04.285 - Lot, through.

"Through lot" means a lot which has two or more front lot lines which do not intersect to form a corner lot.

(Ord. 559 N.S. § A (part), 1981)

18.04.290 - Lot width.

"Lot width" means the distance measured along a straight line between the midpoints of the side property lines.

(Ord. 1323 N.S. § 5, 1997; Ord. 559 N.S. § A (part), 1981)

18.04.291 - Major motor vehicle repair.

"Major motor vehicle repair" means all repair, servicing or maintenance work not provided for under "minor motor vehicle repair," including, but not limited to, general repair, rebuilding or reconditioning of: (a) major vehicle components, such as engines, transmissions and differentials, (b) non-passenger vehicles, motor homes or trailers and trucks exceeding one and one-half ton capacity, or (c) body, frame or fender components, including collisions service, upholstery or painting.

(Ord. 980 N.S. § 3 (part), 1990)

18.04.292 - Manufactured housing.

"Manufactured housing" means single-family detached housing that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974, and shall include structures known as manufactured homes or modular homes.

(Ord. 1803 N.S. § 1 (Exh. A) (part), 2006; Ord. 1050 N.S. § 1 (part), 1991)

18.04.292.5 - Massage establishment.

"Massage establishment" means the definition of "massage establishment" as found in Section 5.32.010(D).

(Ord. 1528 N.S. § 3, 2001; Ord. 1150 N.S. § 2 (part), 1993)

18.04.292.6 -- ~~Medical/dental clinic and office~~ Medical Offices and Clinics.

~~"Medical/dental clinic and office" means a use including those service facilities and offices where consultation, diagnosis, therapeutic, preventive, or corrective personal treatment services are provided by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans licensed for such practice by the state of California.~~

"Medical Offices and Clinics" means facilities where medical, mental, dental, or other personal health services are provided on an outpatient basis using specialized equipment. Includes offices for physicians, dentists, and optometrists, diagnostic centers, blood banks and plasma centers, and emergency medical clinics offered exclusively on an out-patient basis. May include educational aspects such as medical instruction and/or training as well as house a laboratory, radiology/imaging, pharmacy, rehabilitation and other similar services as accessory uses. Excludes "hospitals."

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.293 - Mini-storage facilities.

- A. "Mini-storage facility" means a building or group of buildings, in a controlled access and fully enclosed compound, which contain separate storage spaces of varying size, for the dead storage of customer's goods and possessions.
- B. "Dead storage" means goods that are not radioactive, explosive, flammable or hazardous materials, that are not living plants or animals, that are not in use and not associated with any commercial use on the premises.

(Ord. 839 N.S. § 2, 1987)

18.04.295 - Minor motor vehicle repair.

"Minor motor vehicle repair" means general servicing and maintenance of passenger cars and trucks not exceeding one and one-half tons capacity. Such servicing may include, but not be limited to: (a) the repair or replacement of worn or defective parts and gaskets external to the basic engine block, such as intake and exhaust manifolds, carburetors and water pumps; (b) engine replacement; (c) the repair or replacement of worn or defective brake parts, clutch parts, mufflers, exhaust system parts, wheel bearings, shock absorbers, tires, batteries, spark plugs and other accessible minor parts; and (d) maintenance work such as the changing or supplementing of vehicle fluids and the adjustment of mechanical components while on the vehicle.

(Ord. 1135 N.S. § 3, 1993: Ord. 980 N.S. § 3 (part), 1990)

18.04.295.5 - Mixed use.

"Mixed use" means a development project, where residential and commercial/office uses are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design in which both residential and non-residential uses are provided. A residential and non-residential mixed use development project shall be contained within one structure or on one site (a "single site" may include contiguous properties) and may be constructed (1) in a vertical manner in which the non-residential uses are located on the ground floor level and the residential uses are located on upper levels or (2) in a horizontal manner in which the non-residential uses are located along the street frontage and the residential uses are located to the rear of those commercial uses.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.296 - Mobile home.

"Mobile home" means a vehicle designed and equipped for human habitation, and for being drawn by motor vehicle. A mobile home is a type of "trailer" or "trailer coach" or "semi-trailer" as such terms are defined in the California Vehicle Code, and has the same meaning as "mobile home," as such term is defined in the California Health and Safety Code. For the purposes of Division I of this title, the terms "mobile home," "travel trailer" and "trailer," which are each separately defined terms in this division, are mutually exclusive terms. The term "mobile home" does not include "modular" or "manufactured dwellings" intended for assembly on-site on permanent foundations and not designed for subsequent or repeated relocation.

(Ord. 899 N.S. § 1 (part), 1989: Ord. 559 N.S. § A (part), 1981)

18.04.300 - Motel, motor hotel.

"Motel" or "motor hotel" means a group of buildings containing individual sleeping units which may include no more than half kitchens, rented to the general public for overnight or other temporary lodging (less than thirty days), designed for use by automobile tourists or transients, with garage attached or parking space conveniently located to each unit.

(Ord. 1899 N.S. § 1 (part), 2008; Ord. 559 N.S. § A (part), 1981)

18.04.305 - Natural land slope.

"Natural land slope" means the predominant slope (or slopes) in its natural condition, disregarding minor surface humps or hollows.

(Ord. 559 N.S. § A (part), 1981)

18.04.310 - Nonconforming building.

"Nonconforming building" means a building or structure or portion thereof which:

- A. At the time of construction complied with the height requirements of the district in which it was located, and was sited on the lot on which it was constructed in compliance with the area and yard requirements of such district at that time; but
- B. Does not now conform to the presently existing height regulations of the district where located; or
- C. Is sited on the lot where it is situated in such a manner that there is a lack of conformity with the presently existing area or yard requirements of the district where located.

(Ord. 559 N.S. § A (part), 1981)

18.04.315 - Nonconforming lot.

"Nonconforming lot" means a lot which, when lawfully created or established, complied with the width and area requirements of the district where located, but which does not conform to the presently existing area or width regulations of the district where located, or which does not conform to the presently existing requirements of the Subdivision Ordinance governing lot standards.

(Ord. 559 N.S. § A (part), 1981)

18.04.320 - Nonconforming use.

"Nonconforming use" means a use which, when commenced, complied with the use regulations of the district in which such use was commenced, and which does not conform to the presently existing use regulations of the district where the use is being conducted or carried on. The term "nonconforming use" shall be applicable to use of buildings, structures and land.

(Ord. 559 N.S. § A (part), 1981)

18.04.321 - Non-profit organization.

"Non-profit organization" means an organization formed for a charitable or social welfare purpose, and which possesses non-profit status pursuant to Internal Revenue Code section 501(c)(3).

(Ord. 1653 N.S. § 1 (part), 2004)

18.04.322 - Nudity or semi-nudity.

"Nudity" means the appearance of the human anus, male genitals, female genitals or the areola or nipple of the female breast. "Semi-nudity" means the cover of these areas solely by small patches of cloth or similar material, held to the body solely by straps, strings or adhesives.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.325 - Nursery.

"Nursery" means an area where agricultural products are grown for transplanting, for use of stock for building and grafting, or for sale on the premises.

(Ord. 559 N.S. § A (part), 1981)

18.04.335 - Nursing home or convalescent hospital.

"Nursing home" or "convalescent hospital" means any licensed place or institution which makes provisions for bed care, or for chronic or convalescent care for one or more persons, exclusive of relatives, who by reason of illness or physical infirmity are unable to properly care for themselves. Institutions for the care of alcoholics, drug addicts, persons with mental health issues not including dementia/Alzheimer's, and persons with communicable diseases, such as contagious tuberculosis, are not included within the meaning of "nursing home" or "convalescent hospital."

(Ord. 1899 N.S. § 1 (part), 2008; Ord. 559 N.S. § A (part), 1981)

18.04.336 - Office, administrative or general.

"Administrative office" or "general office" means offices and service facilities performing as headquarters, regional, or other level management for a company, or other establishments of a company, or for other firms and institutions and having limited contact with the public. Activities include a range of day-to-day office administrative services, including financial planning; billing and record keeping; personnel.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.336.1 - Office, professional.

"Professional office" means the office of a member of a recognized profession maintained for the conduct of that profession, including offices of lawyers, engineers, designers, architects, accountants, consultants, therapists, etc. A profession is an occupation requiring advanced study in a specialized field, licensing, or maintenance of professional standards applicable to the field. Does not include medical/dental offices. (See "medical/dental clinics and offices.")

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.337 - Off-site improvements.

"Off-site improvements" means those improvements required to be installed as a result of development, either in the form of new construction, tenant improvements, or remodeling, outside the boundaries of the parcel.

(Ord. 1653 N.S. § 1 (part), 2004)

18.04.338 - On-site improvements.

"On-site improvements" means those improvements required to be installed as a result of development, either in the form of new construction, tenant improvements, or remodeling, within the boundaries of the parcel. Examples of such improvements include the requirements of Chapters 18.24, 18.50, and 18.74 of the municipal code.

(Ord. 1653 N.S. § 1 (part), 2004)18.04.338

18.04.340 - Open space, essentially unimproved.

- A. "Open space," for the purposes of Division I of this title, means any parcel or area of land or water which is essentially unimproved and devoted to an open-space use, as defined in Section 65560 of the Government Code. "Essentially unimproved" means any parcel of land with a building coverage of five percent or less of the total parcel area.
- B. "Open space" also means an outdoor area created by artificial or natural design not otherwise occupied by buildings (open spaces may be integral with, but may not be totally covered by, building areas, except as otherwise specified by district regulations), or paved areas for vehicular circulation or parking.

(Ord. 559 N.S. § A (part), 1981)

18.04.345 - Overlay district.

"Overlay district" means a district described by the zoning map, within which, through imposition of a special designation, additional regulations and requirements apply in addition to those of the district to which such designation is added.

(Ord. 559 N.S. § A (part), 1981)

18.04.346 - Owner.

An "owner" of an adult business means any person, corporation, partnership or other form of ownership, which (a) controls the business, other than a hired manager; or (b) receives over ten percent of the net receipts of the business. The word owner applies to any and all owners singly and collectively.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.350 - Parking space.

"Parking space" means a permanently surfaced area of not less than one hundred eight square feet, either within a structure or in the open, excluding driveways or access drives, for the parking of a vehicle.

(Ord. 559 N.S. § A (part), 1981)

18.04.352 - Patio.

"Patio" means a level surfaced area which has an elevation of not more than eighteen inches, and without walls or a roof. A patio may be constructed of any materials.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.355 - Performance standards.

"Performance standards" means regulations for the control of "dangerous or objectionable elements," as defined in Division I of this title.

(Ord. 559 N.S. § A (part), 1981)

18.04.357 - Personal service.

"Personal service" means a use providing services of a personal convenience nature. Personal service uses include but are not limited to the following:

- A. Beauty and barber shops;
- B. Nail salons;
- C. Tattoo parlors;
- D. Massage and health spa establishments;
- E. Shoe repair;
- F. Self-service laundry and cleaning services;
- G. Laundry and cleaning pick-up stations (where bulk cleaning and servicing is done elsewhere), and
- H. Repair, alteration and fitting of clothes and personal accessories.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006: Ord. 1215 N.S. § 12, 1995: Ord. 1135 N.S. § 4, 1993: Ord. 899 N.S. § 1 (part), 1989)

18.04.357.1 - Pet grooming.

"Pet grooming" means a commercial facility for the washing, brushing, trimming and other activities for the grooming of household pets.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)18.04.357.1

18.04.358 - Police permit.

"Police permit" means a permit, as described in Section 5.60.010 et seq. of the municipal code, and issued by the chief of police or other person appointed to act in his or her position by the city manager, which verifies the credentials and law enforcement history, if any, of the owner or owners and/or manager or managers of any adult business and other matters necessary to protect the public health, safety and general welfare.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.358.5 - Pool house.

"Pool house" means a building within the immediate vicinity of a swimming pool which may contain changing rooms, restrooms, shower facilities, kitchen and recreation room. A pool house with a kitchen and full bath facilities is considered a secondary dwelling unit.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.358.8 - Porch.

"Porch" means a covered but unenclosed projecting platform which extends from the main wall of a building that may or may not use columns for other ground supports for structural purposes.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.360 - Principal permitted use.

"Principal permitted use" means a use for which no conditional use permit is required, but which may be subject to site plan and architectural approval, planned unit development approval, or performance standards procedure, as specified in Division I of this title.

(Ord. 559 N.S. § A (part), 1981)

18.04.364 - Public facility.

"Public facility" means a noncommercial use established primarily for the benefit and enjoyment of the community in which it is located, including a library, school, museum, recreation center, water well, reservoir and similar facilities.

(Ord. 899 N.S. § 1 (part), 1989)

18.04.365 - Public use.

"Public use" means a use operated exclusively by a public body, such use having the purpose of serving the public health, safety or general welfare, and including uses such as public schools, parks, playgrounds, hospitals, and administrative and service facilities.

(Ord. 559 N.S. § A (part), 1981)

18.04.370 - Quasi-public use.

"Quasi-public use" means a use operated by a private nonprofit educational, religious, recreational, charitable or medical institution, such use having the purpose primarily of serving the general public, and including uses such as churches, private schools, and universities, community, youth and senior citizen recreational facilities, private hospitals, and the like.

(Ord. 559 N.S. § A (part), 1981)

18.04.373 - Research and development.

"Research and development" means a use engaged in study, testing, design, analysis, and experimental development of products, processes, or services, including incidental manufacturing of products or provision of services to others.

(Ord. 899 N.S. § 1 (part), 1989)

18.04.381 - Recreational vehicle long-term space.

A "recreational vehicle long-term space" is one which is occupied by any resident or family or vehicle for longer than two hundred forty-four days in any consecutive three hundred sixty-five-day period, which would be in violation of this section. A short-term space, occupied thirty consecutive days or less; or a transitional space, occupied thirty-one to two hundred forty-four days, in any consecutive three hundred sixty-five-day period, is not a "recreational vehicle long-term space."

(Ord. 1233 N.S. § 4, 1995; Ord. 1100 N.S. § 1 (part), 1992)

18.04.382 - Recreational vehicle (RV) park.

"Recreational vehicle (RV) park" means any use of land upon which two or more recreational vehicles are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation or transitional housing purposes. For purposes of this definition, RV parks shall be owned by a single owner or organization and all recreational vehicles lots or spaces shall be rented or leased to the same person or group of persons who occupy the same recreational vehicle for a period of not to exceed that provided by Section 18.49.010 et seq. The term of stay or occupancy, and mix thereof, by vehicles in different sections of a park may be defined by each conditional use permit for each park, except that the maximum time limits specified in Section 18.04.381 shall be observed. For spaces which are defined for short-term or transitional occupancy, no longer term occupancy shall be permitted without an amendment to the conditional use permit.

(Ord. 1233 N.S. § 5, 1995; Ord. 1100 N.S. § 1 (part), 1992; Ord. 1059 N.S. § 1, 1991)

18.04.382.5 - Recreational vehicle short-term space.

A recreational vehicle park space which is designated for stays of thirty days or less in one continuous stay, and no more than ninety days in any consecutive three hundred sixty-five-day period, shall be determined to be a "recreational vehicle short-term space," providing for short-term stays for recreational vehicles.

(Ord. 1233 N.S. § 6, 1995)

18.04.382.7 - Recreational vehicle transitional space.

A recreational vehicle park space which is designated for stays of thirty-one to two hundred forty-four days in any consecutive three hundred sixty-five-day period shall be determined to be a "recreational vehicle transitional space," for persons moving to the city who may be in transition to permanent housing and require a temporary address in lieu of such permanent housing. The number, term of stay, location within the park and other parameters of recreational vehicle transitional spaces, as a proportion of a recreational vehicle park's spaces, shall be determined by conditional use permit. Any and all short-term stays, singly or combined, as defined in Section 18.040.382.5 shall be included as a portion of a transitional stay, if such short-term stay occurs within the same consecutive three hundred sixty-five-day period as the transitional stay.

(Ord. 1233 N.S. § 7, 1995)

18.04.382.75 - Residential care facility.

"Residential care facility" is a state licensed facility providing twenty-four-hour-a-day nonmedical residential living accommodations pursuant to the Uniform Building, Housing and Fire Codes. Care and supervision shall include, but not be limited to, any one or more of the following activities provided by a person or facility to meet the needs of the residents:

1. Assistance in dressing, grooming, bathing and other personal hygiene;
2. Assistance with taking medication and central storing and distribution of medications;
3. Arrangement of and assistance with medical and dental care;
4. Maintenance of house rules for the protection of residents;
5. Supervision of resident schedules and activities;
6. Maintenance and supervision of resident monies or property;
7. Monitoring food intake and special diets.

Individual sleeping quarters with no more than half kitchens, a common dining facility which provides a sit down dining service at two distinct times per day and recreational features such as a lounge or recreation room shall be provided. Safety features designed for the needs of the elderly, such as emergency call systems which are linked to on-site staff which are available twenty-four hours per day, grab bars and handrails, special door hardware, cabinets, appliances and doorways designed to accommodate wheel chairs, and social services for residents which must also include at least three of the following: transportation services provided by the facility, housekeeping, facility provided linen/laundry, and organized social and recreational activities. Such facilities may have up to two manager's units which contain full kitchen facilities. Residential care facility includes, but is not limited to, health facilities as defined in California Health and Safety Code (H&SC) Section 1250 et seq., Community Care Facilities (H&SC Section 1500 et seq.), Residential Care Facilities for the Elderly (H&SC Section 1569 et seq.), or Facilities for the Mentally Disordered or otherwise handicapped defined in California Welfare and Institutions Code (W&I Code Section 5000 et seq.), alcoholism or drug abuse recovery or treatment facilities (H&SC Section 11834.02), and other similar care facilities.

Supportive or transitional housing that provides medical care or services patients whose need for care or supervision exceeds a certain threshold (Section 1505 of the Health and Safety Code) shall obtain a license to operate from the State or the facility will be considered an apartment requiring participation in the city's residential development control system (RDCS).

(Ord. No. 2203, § 3(Exh. A), 6-1-2016)

Editor's note— Ord. No. 2203, § 3(Exh. A), adopted June 1, 2016, amended § 18.04.382.75 in its entirety to read as herein set out. Former § 18.04.382.75, pertained to residential care facility, large, and derived from Ord. 1899 N.S., § 1(part), adopted in 2008.

18.04.382.76 - Residential care facility, small.

"Residential care facilities, small" means any state-authorized, certified or licensed family-care home, foster home, or group home serving six or fewer mentally disordered or otherwise handicapped persons, or dependent and neglected children or the elderly, when such homes provide care on a twenty-four-hour a day basis.

(Ord. 1899 N.S. § 1 (part), 2008)

18.04.382.8 - Restaurant, fast food.

"Fast food restaurant" means an establishment whose principal business is the sale of prepared or quickly prepared foods, frozen desserts, or beverages in disposable containers and wrappers to the customer for consumption either within the restaurant building or for carryout. Customers pay before food is consumed. The fast food restaurant may include a drive-thru window and may allow consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, at other facilities on the premises outside the restaurant building or at ancillary seating areas provided within the restaurant building. Fast food restaurants may include but are not limited to the following:

- A. Bakeries;
- B. Ice cream parlors;
- C. Coffee and juice shops;
- D. Pizza parlors;
- E. Sandwich shops; and
- F. Delicatessens.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006: Ord. 1487 N.S. § 5 (part), 2000)

18.04.382.9 - Restaurant, sit-down.

"Sit-down restaurant" means an establishment having kitchen facilities whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one or both of the following characteristics:

- A. Customers, normally provided with an individual menu, are served their food, desserts, or beverages on reusable tableware by a restaurant employee at the same table or counter at which said items are consumed.
- B. A cafeteria-type operation where food, desserts, or beverages generally are consumed within the restaurant building.

A facility shall be classified as a sit-down restaurant only if it receives at least fifty percent of its gross revenues from serving food. A sit-down restaurant may include a bar serving alcoholic beverages and may have a "take-out" component which does not include a drive through component (unless a conditional use permit has been obtained), provided that the restaurant's on-site food sales account for more than fifty percent of its gross revenues.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006: Ord. 1487 N.S. § 5 (part), 2000)

18.04.383 - Retail, extensive.

"Extensive retail" means retail uses where more than seventy-five percent of the gross floor area is used for display, sales, and related storage of bulky commodities, and which demonstrably generate a demand for fewer parking spaces than do "less extensive retail uses." Extensive retail uses include the following:

- A. Carpeting and floor covering;
- B. Catalog and mail order sales;
- C. Catering and party rentals;
- D. Construction equipment and machinery;

- E. Garden and farm equipment;
- F. Heating, ventilating, air conditioning, and other mechanical equipment and supplies;
- G. Kitchen, bathroom and plumbing appliances, equipment and supplies;
- H. Lumber and building materials;
- I. Office furniture, equipment and machinery, including computers; and
- J. Household furniture.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006: Amended during 8/93 supplement; Ord. 1025 N.S. § 2 (part), 1991)

18.04.384 - Retail, intensive.

"Intensive retail" means any retail use that is not extensive. (Amended during 8/93 supplement; Ord. 1025 N.S. § 2 (part), 1991)

18.04.384.5 - Retaining wall.

"Retaining wall" is a fence or wall built or designed to retain or restrain lateral forces of soil. The retained/restrained soil must be similar in height to the top of the wall.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.385 - Sales, wholesale.

"Wholesale sales" means the sale of goods for resale, or the sale of goods produced or processed from raw or primary materials on the premises, or the sale of construction materials which require bulk delivery of the product.

(Ord. 559 N.S. § A (part), 1981)

18.04.390 - Salvage yard.

"Salvage yard" means a place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, or handled or stored, including auto wrecking yards, house wrecking yards, used-lumber yards and places or yards for storage of salvaged house-wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawnshops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials incidental to manufacturing operations.

(Ord. 559 N.S. § A (part), 1981)

18.04.390.5 - School, business, trade, or tutoring.

"Business, trade, or tutoring school" means a specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills or on-site tutoring. Includes specialized schools offering instruction in the following:

- A. Business, secretarial, and vocational schools;

- B. Computers and electronics training schools;
- C. Courses by mail;
- D. Driver education schools;
- E. Firearms training center;
- F. Language schools;
- G. Trade schools; and
- H. Tutoring centers.

(Ord. 1813 N.S. § 1, Exh. A (part), 2006)

18.04.391 - Schools, general educational.

"Schools, general educational" means all elementary, junior, senior high and college level schools or institutions, whether public or private, which give a course of study as defined or determined by divisions of the Education Code of the State of California.

(Ord. 1813 N.S. § 1, Exh. A (part), 2006)

18.04.393 - Senior citizen housing, independent/active.

"Independent/active senior citizen housing" means a dwelling unit (owned or rented) which is designed for, and limited to occupancy by persons who are of fifty-five years of age or older. This type of senior housing may or may not provide services to residents, but services are not at the levels and the form which define residential care facilities.

(Ord. 1899 N.S. § 1 (part), 2008; Ord. 899 N.S. § 1 (part), 1989)

(Ord. No. 2203, § 3(Exh. A), 6-1-2016)

18.04.394 - Sensitive areas or sensitive uses.

"Sensitive areas" or "sensitive uses" means and includes any of the following, for which proximity to an adult business can cause diminished real estate values, urban blight and other adverse secondary effects:

- A. Any religious institution, on land leased or owned by any church, synagogue, mosque, temple or any school or meeting hall operated by such institution.
- B. Any public or private elementary, junior high or high school, preschool or child day care center.
- C. Any public park on which recreation games may be played, including lawn and parking areas, but excluding natural open space on slopes exceeding twenty percent.
- D. Any public assembly or public use civic building, including City Hall, the library and the post office, but excluding police and fire stations.
- E. Any area developed with or shown on the general plan for future residential development.
- F. Any hospital except a veterinary hospital.
- G. Any freeway or arterial street which is identified in the general plan circulation element, and which residential and visitor traffic uses to access other sensitive areas.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.395 - Setback.

"Setback" means the distance between the building and any lot line, public or private street easements, or drive-aisles.

(Ord. 1473 N.S. § 5, 2000)

(Ord. No. 1992 N.S., Exh. B, 10-6-2010)

18.04.396 - Setback line.

"Setback line" means that line which defines the minimum required distance from any lot line, public or private street easements or drive-aisles, within which a primary structure must be placed.

(Ord. 1473 N.S. § 6, 2000)

(Ord. No. 1992 N.S., Exh. B, 10-6-2010)

18.04.399 - Site, building.

"Building site" means the ground area of a building or buildings, together with all open spaces required by Division I of this title.

(Ord. 1473 N.S. § 4, 2000: Ord. 559 N.S. § A (part), 1981)

18.04.399.1 - Social services.

"Social services" means establishments providing assistance and aid to those persons requiring counseling and/or treatment for psychological problems, addictions, learning disabilities, and physical disabilities or to those persons in need of jobs, food, or clothing. Does not include residential care on an overnight, short-term, or long-term basis.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.400.5 - Specialty food market.

"Specialty food market" is defined as a retail establishment allocated for the sale of groceries, staples, dairy products, sundry items, tobacco products, and alcoholic beverages. This use is distinguished from a convenience market/store in that a majority of the floor area for retail sales cannot be allocated for the sale of alcoholic beverages and the use cannot be open after 10:00 p.m.

(Ord. 1803 N.S. § 1, Exh. A (part), 2006)

18.04.401 - Specified anatomical areas.

"Specified anatomical areas" means and includes any of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, anus or female breasts below a point immediately above the top of the areolae; or
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.402 - Specified criminal acts.

"Specified criminal acts" means conviction of an act or acts which are sexual crimes against children, sexual abuse, or rape; as well as crimes connected with an adult business including, but not limited to, sexual assault, distribution of obscenity or material harmful to minors, prostitution, solicitation of prostitutes, pimping or pandering, unlawful acts of sexual intercourse, sodomy, oral copulation or masturbation occurring on the premises of the adult business. Indictment or accusation does not constitute a specified criminal act.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.403 - Specified sexual activities.

Specified sexual activities shall mean and include any of the following:

- A. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts; or
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; or
- C. Masturbation, actual or simulated; or
- D. Human genitals in a state of sexual stimulation, arousal or tumescence;
- E. Excretory functions as part of or in connection with any of the activities set forth in this section.

(Ord. 1150 N.S. § 2 (part), 1993)

18.04.405 - Stable.

"Stable" means a building or portion thereof, or other enclosure, not including pastures, used to confine, feed, exercise, show or provide shelter for horses, cows or other hooved animals, whether for private, public or commercial use. "Stable" includes, but is not limited to, stall, corral, paddock, barn, exercise area and arena, along with structures accessory thereto.

(Ord. 559 N.S. § A (part), 1981)

18.04.410 - Standard industrial classification manual (SIC).

"Standard industrial classification manual (SIC)" means the latest publication prepared by the Statistical Policy Division, Office of Management and Budget, Executive Office of the President of the U.S., and available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. As used in Division I of this title, the SIC shall constitute the detailed descriptions of uses enumerated in the various use districts, except where such uses are otherwise defined in Division I of this title.

(Ord. 559 N.S. § A (part), 1981)

18.04.415 - Story.

"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

(Ord. 559 N.S. § A (part), 1981)

18.04.417 - Street.

"Street" means a public or private thoroughfare, including road, highway, drive, lane, avenue, place, boulevard, and any other thoroughfare that affords the principal means of access to five or more lots.

(Ord. No. 1992 N.S., Exh. C, 10-6-2010)

18.04.420 - Street frontage.

"Street frontage" means:

- A. The existence of a street lot line; or
- B. The lineal foot measurement of a lot at a street lot line.

(Ord. 559 N.S. § A (part), 1981)

18.04.421 - Street, private.

"Private street" is a paved vehicular access to five or more lots or units over a common parcel or consecutive easements, primarily used by the owners or occupants of the common parcel or consecutive easements and from which the public may be excluded and which are not maintained by a public agency.

(Ord. No. 1992 N.S., Exh. C, 10-6-2010)

18.04.425 - Structure.

"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, except benches, statuary, planter boxes less than thirty-six inches in height, fish ponds less than eighteen inches in depth, and wood fences seventy-two inches or under in height.

(Ord. 559 N.S. § A (part), 1981)

18.04.426 - Supportive housing.

"Supportive housing" means housing with no limit on length of stay that is occupied by the targeted population and that is linked to an on-site or off-site service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing is permitted in all zones allowing residential uses and is not subject to any restrictions (e.g., occupancy limits) not imposed on similar dwellings (e.g., single-family homes, apartments) in the same zone in which the supportive housing is located.

(Ord. No. 2111 N.S., § 4, 10-1-2014)

18.04.427 - Theater.

- A. "Theater" means a motion picture theater where films, motion pictures, video, slides or similar photographic reproductions are regularly shown for any form of consideration; not including adult businesses ("Adult Business"); or
- B. An establishment regularly featuring live performance of music, dance or dramatic productions for any form of consideration, not including adult businesses ("Adult Business")

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.430 - Tract office, temporary.

"Temporary tract office" means an office facility used on a temporary basis only, located on or immediately adjacent to a tract or subdivision with new development thereon, for sales and administrative activity associated with the development.

(Ord. 559 N.S. § A (part), 1981)

18.04.432 - Transitional housing.

Transitional housing means a building configured as a rental housing development, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. Transitional housing is permitted in all zones allowing residential uses and is not subject to any restrictions (e.g., occupancy limits) not imposed on similar dwellings (e.g., single-family homes, apartments) in the same zone in which the transitional housing is located.

(Ord. No. 2111 N.S., § 5, 10-1-2014)

18.04.435 - Townhouse.

"Townhouse" means a dwelling unit which is a portion of a multiple dwelling and has one or more common walls with other dwelling units, where such unit is the sole dwelling unit on a separate lot, and where ownership of such dwelling unit includes an interest in common areas other than the lot upon which the dwelling unit is situated.

(Ord. 559 N.S. § A (part), 1981)

18.04.437 - Transportation terminal.

"Transportation terminal" means a depot, terminal, or transfer facility for passenger transportation services.

(Ord. 899 N.S. § 1 (part), 1989)

18.04.439 - Travel trailer or recreational vehicle.

"Travel trailer" or "recreational vehicle" or "coach" shall have the same definition as in Sections 18010 and 18215.5 of the California Health and Safety Code, except that all recreational vehicles or travel trailers parked for more than thirty days in a park in Morgan Hill shall have a tag of certification as described in Sections 4030 and 4032 of Title 25, Division 1, Chapter 3 of the California Code of Regulations. Such vehicles exclude homemade or nonstandard travel trailers or recreational vehicles and specifically exclude occupancy of camper shells or other removable sections of pickup trucks. Such vehicles so excluded from stays of over thirty days are not excluded from stays of under thirty days at recreational vehicle short-term occupancy spaces in Morgan Hill. A "travel trailer" is not a "residential development," except where a stay exceeds two hundred forty-four days, in any consecutive three hundred sixty-five-day period, in any recreational vehicle park or other lawful location.

(Ord. 1233 N.S. § 8, 1995: Ord. 1100 N.S. § 1 (part), 1992)

18.04.440 - Use, allowed.

"Allowed use" means a use that is either permitted or conditional within a zoning district.

(Ord. 559 § A (part), 1981)

18.04.445 - Use, permitted.

"Permitted use" means a use for which no conditional use permit is required, but which may be subject to other approval proceedings as specified in this chapter.

(Ord. 559 § A (part), 1981)

18.04.446 - Use, temporary.

"Temporary use" means a use established on private property, that exists for a specified length of time, and which is discontinued within that time period.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006: Ord. 866 N.S. § 1, 1988)

18.04.447 - Vehicle space.

"Vehicle space" means any portion of a park which may be leased or, subject to a subdivision map, sold to any person with the intent of occupancy by a recreational vehicle or travel trailer. If the intent to occupy or actual occupancy of the space exceeds the limits of Section 18.04.383, the vehicle space shall be defined as a "residential development" under Section 18.78.020 of the municipal code, and shall only have such long-term occupancy if an allocation is granted under Section 18.78.010 et seq. of the municipal code.

(Ord. 1100 N.S. § 1 (part), 1992)

18.04.448 - Veterinary clinic and hospital.

"Veterinary clinic and hospital" means office and medical treatment facilities used by veterinarians where animals receive medical and surgical treatment, including large and small animal veterinary clinics and animal hospitals. Grooming and temporary boarding of animals for thirty days is included if incidental to the hospital use. Does not include kennels ("Kennels") or pet stores ("Retail Sales").

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006)

18.04.449 - Warehousing and distribution, large.

"Warehousing and distribution, large" means a use over fifty thousand square feet in building area 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. [This definition] includes establishments such as: 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. Excluded is bulk storage of materials which are flammable or explosive or which create hazardous or commonly recognized offensive conditions.

(Ord. 1813 N.S. § 1 (Exh. A) (part), 2006; Ord. 1415 N.S. § 35, 1998; Ord. 899 N.S. § 1 (part), 1989)

(Ord. 2070, § 3, 6-5-2013)

18.04.449.1 - Warehousing and distribution, small.

"Warehousing and distribution, small" means the same type of establishments classified under "warehousing and distribution, large," except that these establishments are fifty thousand square feet or less in building area.

(Ord. 2070, § 3, 6-5-2013)

18.04.450 - Yard, front.

"Front yard" means an open space extending the full width of the lot, between a building and the front lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in Division I of this title.

(Ord. 559 § A (part), 1981)

18.04.455 - Yard, front, least depth.

"Front yard least depth" means the shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the front lot line. Such depth shall be measured from the right-of-way line of the existing street on which the lot fronts (the front lot line); provided, however, that if the proposed location of the right-of-way line of such street, as adopted by the city, differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as adopted, or shall be measured from any officially adopted setback lines.

(Ord. 559 § A (part), 1981)

18.04.460 - Yard, rear.

"Rear yard" means an open space between a building and a rear lot line, extending the full width of the lot (except for any portion thereof which overlaps a street side yard), unoccupied and unobstructed from the ground upward, except as specified elsewhere in Division I of this title.

(Ord. 559 § A (part), 1981)

18.04.465 - Yard, rear, least depth.

"Rear yard least depth" means the shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the rear lot line.

(Ord. 559 § A (part), 1981)

18.04.470 - Yard, side.

"Side yard" means an open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in Division I of this title.

(Ord. 559 § A (part), 1981)

18.04.475 - Yard, side, least width.

"Side yard least width" means the shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the nearest side lot line. Such width shall be measured from the nearest side lot line and, in case the nearest side lot line is a side street lot line, from the right-of-way line of the existing street; provided, however, that if the officially adopted location of the right-of-way line of such street differs from that of the existing street, then the required side yard least width shall be measured from the right-of-way of such street as adopted.

(Ord. 559 § A (part), 1981)