



Morgan Hill Responsible Growth Coalition (MHRGC)

16600 Monterey ST #87
Morgan Hill, CA 95038
mhrgc@mh-rgc.org

July 15, 2020

VIA HAND DELIVERY

Irma Torrez, City Clerk
City of Morgan Hill
17575 Peak Ave
Morgan Hill, CA 95037

Dear Ms. Torrez,

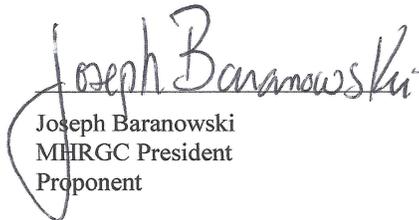
Attached please find a copy of the text of a proposed initiative and Notice of Intent to Circulate Petition, which sets forth the reasons for the proposed petition. Andrew Plant, President of Westmont Living, Rick Kent, Chief Financial Officer of Paramit Corporation, and myself, Joseph Baranowski, are the proponents of the foregoing initiative measure. Enclosed is a check for \$200 to cover the filing fee for the petition.

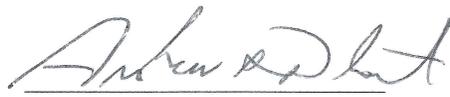
Pursuant to California Elections Code Sections 9202 and 9203, this is a request that a ballot title and summary be prepared. It is my understanding that the City Attorney will prepare a title and summary within 15 days and that you will provide the summary to us upon receipt from the City Attorney. The proponents of the petition respectfully request the City Attorney consider the title "Responsible Growth for Morgan Hill Initiative" which accurately represents the intention of the proposed ordinance.

The proponents have signed and attached hereto the Declaration required pursuant to Elections Code Section 9608.

Please contact me at 408-674-2846 if you require any additional information or have any questions. Thank you for your assistance, and for all your public service, always.

Sincerely yours,


Joseph Baranowski
MHRGC President
Proponent


Andrew Plant
President, Westmont Living
Proponent


Rick Kent
CFO, Paramit Corporation
Proponent



Morgan Hill Responsible Growth Coalition (MHRGC)

16600 Monterey ST #87
Morgan Hill, CA 95038
mhrpcb@mh-rgc.org

Notice of Intent to Circulate Petition
(Election Code §9202)

Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the City of Morgan Hill for the purpose of amending the Zoning Code (Article 18) of the City of Morgan Hill Municipal Code.

A statement of reasons of the proposed action as contemplated in the petition is as follows:

The purpose of this ordinance is to preserve the small-town feel and family-friendly character of Morgan Hill, to protect the health and safety of its residents, and to support the viability of local businesses by enacting legislation that will enable our city to remain distinctive in the midst of the rapidly changing logistics and distribution industry.

This ordinance safeguards our General Plan and land use entitlement process, allowing it to evolve in a sustainable manner that encourages high quality job growth and meets the needs of our residents and visitors.

This ordinance updates the Morgan Hill Zoning Code to include Fulfillment Center (commonly known as Distribution Center) as a defined land use, and to distinguish this use from traditional Warehouse & Distribution associated with manufacturing or static storage buildings that already exist in Morgan Hill. This ordinance will strictly prohibit Fulfillment Centers as a permitted land use anywhere within the City limits of Morgan Hill.

The proposed ordinance also changes the review and decision-making authority for administering the Zoning Code to allow Morgan Hill residents, through their elected officials and appointed planning commissioners, to have a voice in deciding whether large-scale development projects are permitted in the City.

The intent of this ordinance is to allow responsible growth for job-generating land use in our City, consistent with the General Plan, Zoning Code and Economic Blueprint while preserving public health and safety and Morgan Hill's special character and unique quality of life for generations to come.

Respectfully submitted by Proponents pursuant to Election Code §9202.


Joseph Baranowski
MHRGC President
Proponent


Andrew Plant
President, Westmont Living
Proponent


Rick Kent
CFO, Paramit Corporation
Proponent

DECLARATION PURSUANT TO ELECTIONS CODE SECTION 9608

I, Joseph Baranowski, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signature for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Joseph Baranowski

Joseph Baranowski
Proponent

Dated this 10th day of July, 2020

DECLARATION PURSUANT TO ELECTIONS CODE SECTION 9608

I, Andrew Plant, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signature for this initiative to be used for any purpose other than qualification of the measure for the ballot.

A handwritten signature in cursive script, appearing to read "Andrew Plant", written in black ink on a white background.

Andrew Plant
Proponent

Dated this 13th day of July, 2020

DECLARATION PURSUANT TO ELECTIONS CODE SECTION 9608

I, Rick Kent, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signature for this initiative to be used for any purpose other than qualification of the measure for the ballot.

A handwritten signature in black ink, appearing to read "Rick Kent", is written over a horizontal line.

Rick Kent
Proponent

Dated this 10th day of July, 2020.

Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the City of Morgan Hill for the purpose of amending the Zoning Code (Article 18) of the City of Morgan Hill Municipal Code. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

The purpose of this ordinance is to preserve the small-town feel and family-friendly character of Morgan Hill, to protect the health and safety of its residents, and to support the viability of local businesses by enacting legislation that will enable our city to remain distinctive in the midst of the rapidly changing logistics and distribution industry.

This ordinance safeguards our General Plan and land use entitlement process, allowing it to evolve in a sustainable manner that encourages high quality job growth and meets the needs of our residents and visitors.

This ordinance updates the Morgan Hill Zoning Code to include Fulfillment Center (commonly known as Distribution Center) as a defined land use, and to distinguish this use from traditional Warehouse & Distribution associated with manufacturing or static storage buildings that already exist in Morgan Hill. This ordinance will strictly prohibit Fulfillment Centers as a permitted land use anywhere within the City limits of Morgan Hill.

The proposed ordinance also changes the review and decision-making authority for administering the Zoning Code to allow Morgan Hill residents, through their elected officials and appointed planning commissioners, to have a voice in deciding whether large-scale development projects are permitted in the City.

The intent of this ordinance is to allow responsible growth for job-generating land use in our City, consistent with the General Plan, Zoning Code and Economic Blueprint while preserving public health and safety and Morgan Hill's special character and unique quality of life for generations to come.

INITIATIVE PETITION

The people of the City of Morgan Hill, California, do hereby ordain and enact as follows:

ARTICLE I FINDINGS, PURPOSE, AND INTENT OF INITIATIVE

Section 1.1. Findings. The People of the City of Morgan Hill ("City") find and declare as follows:

- A. The Morgan Hill General Plan represents the collective vision of the community and serves as the primary policy document governing land use in the City. The MORGAN**

HILL 2035 GENERAL PLAN (“General Plan”) represents countless hours of collaborative work by City staff and residents to develop a collective vision for what Morgan Hill will look and feel like through the year 2035. The overarching goal of the General Plan is to “maintain Morgan Hill’s family-friendly character and strong sense of community while the community grows and prospers.” In accordance with Government Code Section 65032, the General Plan defines a framework of detailed goals and policies intended to provide clear guidance for decision makers in the areas of land use, circulation, housing, conservation, open space, noise, and safety. Residents want the City to respect and follow the principles of the General Plan.

- i. **Preserve the City’s unique character and quality of life:** Often called the “hidden gem” of Silicon Valley, Morgan Hill has long been known for its pastoral valley and hillsides, quaint downtown, and family-friendly atmosphere. These qualities are eloquently expressed in the General Plan as: “strong connections between Morgan Hill’s developed neighborhoods, natural setting, and agricultural surroundings establish the feeling of a traditional, family-oriented, high quality, progressive, and active small town removed, although easily accessible, from the crowded, fast-paced Silicon Valley communities to the north.”
- ii. **Adhere to principles for responsible growth in all land use decisions.** Incorporated in 1906, Morgan Hill has slowly evolved from an agrarian area into a small suburban community; yet its small-town charm has not been lost, even as the population has grown to over 45,000 residents. This ideology is further affirmed by the General Plan: “Morgan Hill is proud of its small town character, strong sense of community, abundant access to open space and recreational amenities and ever growing participation in the Silicon Valley economy, and seeks to promote these desirable qualities through thoughtful land use planning.” As we go forward, “the City seeks to build upon its previous success by maintaining a steady, well-defined, and responsible rate of growth.”
- iii. **Protect environmental resources for future generations.** The residents of Morgan Hill declare that irresponsible development cannot easily be undone. The General Plan has “safety, services, and infrastructure” policies intended to “protect people from detrimental impacts associated with development”. Residents want the City to make the most conscientious land use decisions based on these elements to protect the pastoral landscape and family-friendly atmosphere for years to come, as these qualities make Morgan Hill a beautiful place to visit and an extraordinary place to live.

- B. **The Morgan Hill Zoning Code regulates land use in the City by implementing policies of the General Plan to protect public health, safety, and welfare.** Codified as Title 18 in the Morgan Hill Municipal Code, the Zoning Code of the City of Morgan Hill (the “Zoning Code”) implements the General Plan through detailed land use and

development regulations. The Zoning Code establishes a Zoning Map with zoning districts that apply to all property in Morgan Hill. The Zoning Code identifies which specific land uses are permitted in each zoning district and establishes development standards for each zoning district. As set forth in Section 18.04.040 of the Morgan Hill Municipal Code, the City's Zoning Code aims to achieve each of the following purposes:

- i. "Preserve and enhance Morgan Hill's small-town feel and family friendly character."
- ii. "Protect and enhance the quality of life in residential neighborhoods."
- iii. "Support a vibrant, diverse, and dynamic local economy."
- iv. "Protect environmental resources and promote a sustainable development pattern."

C. **Morgan Hill Zoning Code contains outdated definitions related to land use for Warehousing and Distribution.** Revisions to the Zoning Code have not kept pace with the evolution of e-commerce and fails to adequately distinguish characteristics of traditional "warehouse and distribution" from modern-day Fulfillment Centers. Many industry and government organizations recognize and clearly define the differences between traditional warehouses and Fulfillment Centers and this initiative updates the Zoning Code to do the same.

- i. **Current Zoning Code describes a traditional warehouse facility only.** The Zoning Code describes Warehousing and Distribution under Industrial Land Uses (18.124.050) as "a use engaged in storage, wholesale and distribution of manufactured products, supplies, and equipment to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies." This description characterizes a traditional warehouse facility but not a modern Fulfillment Center.
- ii. **Current Zoning Code does not presently include a definition for Fulfillment Center.** Fulfillment Centers and Distribution Centers have revolutionized the way e-commerce companies meet the demands of their customers. The most common term for these facilities is "Distribution Center", also labeled as Fulfillment Center, Ecommerce Center, Logistics Center, Parcel Hub, Cold Storage Facility, High Cube Warehouse, Last-Mile Distribution Facility, and many other names that describe these specialized facilities in the logistics and distribution industry. The term "Fulfillment Center" was selected for the purpose of this ordinance, rather than "Distribution Center", because the Morgan Hill Zoning Code already contains the defined term "Warehouse and

Distribution Facility” to refer to traditional uses associated with manufacturing, wholesaling, and other business-to-business commerce, none of which are affected by this proposed ordinance. It was determined that allowing “Distribution Facility” and “Distribution Center” to refer to two different types of land uses in the Zoning Code, would create unnecessary confusion. Therefore, “Fulfillment Center” is used to represent all related facilities.

- iii. **The function of a Fulfillment Center is vastly different from a traditional warehouse.** Driven primarily by the massive growth in e-commerce over the past decade, the role of warehousing has been radically transformed in the supply chain and logistics industry. While many different types of Fulfillment Centers have evolved to meet the demands of e-commerce, they share each of the following characteristics which differentiate them from traditional warehouses.
 - a. **Primary role:** While traditional warehouses are used for more static long-term storage of manufactured goods, Fulfillment Centers are used for short-term storage, fast intake and rapid shipment of goods driven by customer demand.
 - b. **Operations:** A typical warehouse has fairly simple everyday operations that include organizing stored goods, shipping pallets of goods, and replenishing stock at periodic intervals. Fulfillment Centers usually ship individual products directly to customers making operations much more complex when they are managing tens of thousands of unique products, or stock keeping units (SKUs). To meet customer demand, product flow volume and velocity are also much greater in Fulfillment Centers.
 - c. **Technology:** Technology is an integral part of the order fulfillment process for all e-commerce companies. Unlike traditional warehouses, in order to handle the high volume and rapid movement of products, Fulfillment Centers use advanced technology for functions such as warehouse management, transportation management, package identification, sorting, picking, packaging, labeling, etc. many of which are becoming fully automated using robots and computer-controlled automated systems. These value-added services are designed to reduce inventory carrying costs and act as a bridge between a supplier and its customers.
- iv. **Design specifications for a Fulfillment Center differ from those for a traditional warehouse.** Because of the dynamic nature of its operations, modern Fulfillment Centers have different building requirements than traditional warehouse and distribution facilities in order to optimize the high-volume product flow. While there are many types of Fulfillment Centers being built

across the country, they share each of the following physical characteristics which distinguish them from a traditional warehouse:

- a. **Floor area and ceiling heights:** Fulfillment Centers usually require more square footage of available floor area (75,000 square feet or more) and higher clear ceiling heights (greater than 24 feet) that are geared for high volume and velocity of modern e-commerce distribution.
 - b. **Service Doors and Docks:** A dock-high door is a loading dock that is not at ground level but rather is elevated in order to align with the standard tractor-trailer height for loading or unloading goods without a change in elevation. The number of dock-high doors is a key characteristic of modern Fulfillment Centers. The Dock-High-Door-to-Square-Foot Ratio (DHDSFR) is the ratio of the total number of dock-high doors to the building's total square feet of floor area. Fulfillment Centers have a higher ratio of DHDSFR >1:25,000 (i.e. more than one dock-high door for every 25,000 square feet of available floor area) than traditional warehouses. The number of dock-high doors is an indicator of the anticipated truck traffic that will be generated by a Fulfillment Center.
 - c. **Located for convenient highway access:** Whereas traditional warehouses are typically located in urban industrial areas, Fulfillment Centers are located along interstate highways in rural or urban periphery areas. With explosive e-commerce growth and competition to offer shorter delivery times (same-day and even one-hour delivery are becoming common), many Fulfillment Centers are moving into urban and suburban areas located along major highways where available land offers convenient highway access.
- D. **Fulfillment Centers are unsuitable for land use in our city due to the relatively few quality jobs generated.** The General Plan establishes that land use should “support the development of office and industrial facilities to meet local demand, compete for regional growth opportunities, and create high-quality jobs.” City leaders and residents recognize the need to diversify and expand employment opportunities in Morgan Hill. The City’s Economic Blueprint states that “attracting high-quality jobs that are well-suited to the skills and preferences of local workers, may increase the number of people who can both live and work in Morgan Hill.” However, permitting Fulfillment Centers on parcels allocated for “vibrant job centers” is not consistent with the General Plan or Economic Blueprint, and does not ensure the long-term economic strength of the City.
- i. **Residents want City planners to be mindful of the limited supply of commercial and industrial land available for development in Morgan Hill.** But, with little or no public input, City staff approved a 503,400 square foot Fulfillment Center for the Shoe Palace Expansion project. City staff was also asked to review and recommend approval of a proposal for General Plan and Zoning Code

amendments to permit the development of the Morgan Hill Technology Center, designed as a 1,040,000 square foot Fulfillment Center. The City has also submitted documents to organizations collectively known as Bay Area Metro, identifying 797 acres of land to be classified as a Priority Production Area (PPA) with “last mile production and distribution” as the key industry envisioned for expansion within the PPA area.

- ii. **Fulfillment Centers do not provide an influx of quality jobs.** Studies show that the number of jobs created per square foot of building or per acre of land, called the ‘employment density’, differs depending on the land use. In 2020, Kent, Washington, which has a substantial number of Fulfillment Centers and advanced manufacturing, flex, and engineering buildings, reported the number of jobs created per square foot of development is almost five times higher for advanced manufacturing than for Fulfillment Centers. They stated, “with market forces strongly favoring storage and pass-through operations for goods produced elsewhere, there is a need for a deliberate, proactive approach to preserve and grow the manufacturing sectors in Kent’s industrial lands.” Fulfillment Center jobs also generally have a lower pay scale than manufacturing jobs. Fulfillment Center jobs are highly repetitive and workers experience both physical and psychological stress with the demands of the work environment - bending, twisting, running, and lifting boxes in a high-pressure setting that prioritizes line speed over employee health.
 - iii. **Automation is displacing Fulfillment Center jobs.** Most jobs at Fulfillment Centers involve repetitive tasks, so to increase efficiency and reduce costs, many e-commerce companies have begun to reduce their human work force by deploying automation technology. Sorting, picking, labeling and even janitorial work can be done by robots. Experts in automation at Cornell University and University of Redlands predict this trend will accelerate and 75% to 90% of Fulfillment Center jobs will be displaced in the near future. As automation increases, so too will the disparity in the number of jobs created per square foot of land use. If the predicted number of job displacements does occur, land developments for advanced manufacturing and research & development are forecast to support 20 to 50 times more jobs per square foot than Fulfillment Centers.
- E. **Fulfillment Centers generate intense truck activity around the clock, increasing both highway and surface street traffic, and causing significant damage to roadways.** The City General Plan establishes the importance of an effective Transportation System and recognizes that “congestion in Morgan Hill can be substantially affected by regional traffic if Highway 101 capacity does not meet demand, as regional travelers attempt to decrease travel times by using local roads”. The most recent 10th Edition of the Institute of Transportation Engineers Trip Generation manual, a compilation of traffic generation studies, shows that Fulfillment Centers are likely to generate

significantly more peak hour and overall more traffic on a daily or weekly basis than traditional warehouses. A 2016 study by *the Institute of Transportation Engineers* (High-Cube Warehouse Vehicle Trip Generation Analysis) found that Fulfillment Centers of four different types generate between forty-five (45) and four hundred (400) daily truck trips per 100,000 gross square feet of building area. Residents of Morgan Hill are concerned how traffic could intensify at the Cochrane Road interchange, known as the “choke point” of South County, if Fulfillment Centers are built in that area. As Morgan Hill residents have declared, “Traffic on Hwy 101 is barely tolerable now, it would become absolute gridlock for anyone traveling through this region of the Bay Area.” It is likely that intense trucking activity from Fulfillment Centers would cause significantly more wear and tear on our roadways. Relevant news articles and government documents describe unexpected economic repercussions of Fulfillment Centers, including effects on roadways and other infrastructure. The *American Association of State Highway and Transportation Officials* estimate that one big-rig truck results in street maintenance costs that are equivalent to approximately seven thousand (7,000) passenger cars. In Kent, Washington, the city’s long-range planning manager, in her report to the city council stated, “One truck is equal to about eight thousand (8,000) cars when it comes to impact on our pavement. And those costs are borne by the city, which puts us in a difficult fiscal situation to keep that infrastructure maintained.” The City of Morgan Hill already struggles to fund these repairs to infrastructure as evident by more than \$2.0 million in general fund needs for pavement rehabilitation and street maintenance that are unfunded as of year-end 2019.

- F. **Fulfillment Centers can produce a significant amount of pollution that would have a detrimental impact on the health and safety of residents.** The General Plan establishes that “protecting environmental resources for future generations” and making development decisions that “contribute to the overall health and well-being of Morgan Hill Residents” should be priorities. The General Plan also defines policies for “safety, services, and infrastructure” that “intends to protect people from detrimental impacts associated with development, including noise impacts.” Fulfillment Centers in Morgan Hill would result in neighborhoods congested with trucks queued up for loading docks while polluting the air with diesel emissions. Onsite equipment like forklifts, and large numbers of robots inside open dock doors, produce continuous sounds that travel a considerable distance, especially at night. There are many articles in the news that describe air pollution, noise pollution, and serious health effects from fulfillment centers developed too close to schools and residential areas. The *Union of Concerned Scientists*, stated in a 2017 report: “Driven by the fast-paced e-commerce industry, warehousing construction has grown dramatically over the past 10 years in the US and bringing with it, big negatives like air pollution, noise, traffic safety and road damage. Developers are searching for locations with low land rent, low-wage labor pool, weak political power and favorable public policies. The exposure of residents, especially, the young and elderly, to truck emissions, like NOx and particulate matter, causes asthma and other

serious respiratory issues.” Another article, by Carlos De La Cruz of *Sierra Club’s My Generation* campaign states: “Trucks generate more than three-fourths the nitrogen oxides emissions statewide. These contribute to ozone, which damages the lungs, lowers resistance to diseases and causes wheezing and chest pain. For such a small segment (of the overall number of vehicles), they present a big health risk.”

- G. **Fulfillment Centers will negatively impact the General Plan Goals for Retail and Tourism.** It is widely reported by industrial real estate firms that rapid e-commerce growth is expected to continue, driving the insatiable demand for Fulfillment Centers for the foreseeable future. This is true for all types of Fulfillment Centers and especially last-mile Fulfillment Centers where developers and investors are expanding their search for available land to secondary and tertiary markets near population centers. Space for last-mile distribution has become so valuable that, in cities which have allowed it, office buildings are being torn down and the land repurposed as Fulfillment Centers. Not only is a high percentage of Morgan Hill’s vacant land located adjacent to Highway 101, but such land is less expensive than comparable properties in other Bay Area cities. The land that is now associated with the proposed Morgan Hill Technology Center was purchased in 2019 at a significant discount on a per acre basis compared to land in Fremont which was purchased in 2018 for a large Fulfillment Center development. If allowed, developers will almost certainly build more Fulfillment Centers in Morgan Hill and they will target areas adjacent to highway exits. They are likely to request zoning amendments to convert parcels currently zoned for Commercial uses as is the case for the proposed Morgan Hill Technology Center. Given the large footprint, high building heights and number of dock-high doors with resulting trucking activity, the Morgan Hill General Plan goals to “support the development of regional retail facilities that are visible and accessible from the City’s freeway exits, to provide easy access by local residents as well as shoppers traveling from the City” and to support “a vibrant, enhanced, visible, and well-promoted tourist industry that draws on Morgan Hill’s unique character and variety of amenities” will certainly not be met.
- H. **This Initiative encourages development of advanced manufacturing, research and development, and engineering facilities on industrial land.** Other jurisdictions who sought to bring more advanced manufacturing into their industrial employment areas, such as robotics and industrial R&D, recognize that limiting dock-high doors for truck loading to a ratio of one dock-high door per 25,000 square feet of building area discourages trucking-intensive uses such as Fulfillment Centers while providing the flexibility that modern advanced manufacturing facilities need. Because some, albeit a low percentage, of advanced manufacturing operations require more grade-level truck docks or service doors, no limitations are put on grade-level doors which are understood not to facilitate trucking intensive operations.

- I. **This initiative promotes democracy in land use planning, ensuring that citizens have a voice in deciding whether large development projects should be permitted.** Despite the protections in our General Plan, our community is facing new, imminent threats. Residents have noticed that City planners, under the sway of developers and under the pressure of an ongoing budget crisis, are taking steps to radically change our town and open it up to development that is not consistent with the General Plan. Allowing large-scale development projects to be approved by one person, without review oversight and approval (voting) by the Planning Commission and City Council is not responsible land use planning. Morgan Hill residents, through their elected officials and appointed planning commissioners, should have a voice in deciding whether large development projects, that could radically alter the character of our community and have significant long term fiscal impacts, are approved.

- J. **This initiative proposes Fulfillment Centers not be permitted as a land use in the City of Morgan Hill.** Fulfillment Centers should not be permitted due to their adverse impacts on the health and safety of residents, detrimental effect to existing and future retail businesses and tourism, inability to generate high-quality jobs, and impact on regional traffic and transportation. Fulfillment Centers would erode the small-town character of Morgan Hill and forever change our quality of life here.

- K. **This Initiative proposes regulations that will prevent new Fulfillment Centers from being established in Morgan Hill that are also consistent with the Morgan Hill General Plan, Zoning Code, and Economic Blueprint.**
 - i. The proposed amendments to the Morgan Hill Municipal Code will implement the goals, objectives, and policies of the General Plan.
 - ii. The proposed amendments are consistent with the purposes of the Zoning Ordinance.
 - iii. The proposed amendments to the Morgan Hill Municipal Code are reasonably related to the public interest, and that public necessity, convenience and general welfare require the proposed amendments.

Section 1.2. Statement of Purpose. In establishing this Act, the people of the City do hereby declare it is their purpose and intent to:

- A. Preserve our community's unique small-town character and protect the safety and health of our residents and the environment by adopting provisions that will ensure our city remains unique in the midst of a rapidly changing logistics and distribution industry, while at the same time ensuring the City's land use entitlement process continues to evolve in a sustainable manner that encourages high quality job growth and meets the needs of our residents and visitors.

- B. Update the City of Morgan Hill Municipal Code to identify and prohibit proposed developments that exceed threshold Dock-High-Doors-to-Square-Foot Ratios (DHDSFR) and are therefore indicative of Fulfillment Centers.
- C. Update the City of Morgan Hill Municipal Code to distinguish between traditional Warehouse & Distribution facilities and modern Fulfillment Centers.
- D. Prevent new Fulfillment Centers from being built anywhere in the City.
- E. Ensure thoughtful accountable long-term planning by requiring Planning Commission review and approval for large-scale developments.
- F. Ensure that no member of City staff, whose compensation is funded, in whole or in part, by the payment of fees by the applicants whose applications are requiring approval, has discretionary authority to grant land use entitlements for a proposed Large-Scale Development within the City.

**ARTICLE II
AMENDMENT OF CITY OF MORGAN HILL ZONING CODE**

Section 2.1. Amendments to City of Morgan Hill Land Use Regulations. Title 18 – ZONING, Division I. – Zoning Code, of the City of Morgan Hill Municipal Code, is amended as follows:

Section 2.1.1. Definition of Dock-High Door and Dock-High-Door-to-Square-Foot-Ratio. Chapter 18.12 (“Rules of Measurement”) of Part 1 (“General Provisions”) of Division 1 (“Zoning Code”) of Title 18 (“Zoning”) of the City of Morgan Hill Municipal Code is amended to insert a new Section 18.12.045 (“Dock-High-Door-and-Dock-High-Door-to-Square-Foot-Ratio”), which reads, in its entirety, as follows (language in **bold double underline text** is inserted, language in ~~strikeout text~~ is deleted):

“§18.12.045 - Dock-High-Door-and-Dock-High-Door-to-Square-Foot-Ratio.

A. Dock-High-Door means an opening to the outside of a building used to interface with trucks for the loading and /or unloading of goods, products, merchandise or wares of any type and where the bottom of the opening is not at ground level but rather elevated by twenty-four (24) inches or more. Dock-High-Doors are used so that the bed of a truck and /or shipping container will match the building slab elevation at the opening. The typical configuration allows a semi-truck to back up to a building and directly align the back doors of the truck with a loading dock door. The elevation of the dock apron, the approach pavement area, is lower than the building slab elevation so that the bed of the truck will match the building slab elevation. The typical offset is forty-eight (48) inches and the typical loading dock door is nine (9) feet wide by ten (10) feet tall. (Dock-High-Doors are also sometimes known as loading dock doors.)

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

Section 2.1.2. Definition of Clear Ceiling Height. Section 18.12.060 (“Height”) of Chapter 18.12 (“Rules of Measurement of Part 1 (“General Provisions”) of Division 1 (“Zoning Code”) of Title 18 (“Zoning”) of the City of Morgan Hill Municipal Code is amended to insert a new Paragraph B (“Clear Ceiling Height”), which reads, in its entirety, as follows (language in bold double underline text is inserted, language in ~~strikeout text~~ is deleted):

* * *

A. Building Height.

* * *

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

B. C. Number of Stories.

* * *

Section 2.1.3. Definition of Large-Scale Development. Chapter 18.12 (“Rules of Measurement”) of Part 1 (“General Provisions”) of Division 1 (“Zoning Code”) of Title 18 (“Zoning”) of the City of Morgan Hill Municipal Code is amended to insert a new Section 18.12.065 (“Large-Scale Development”), which reads, in its entirety, as follows (language in **bold double underline text** is inserted, language in ~~strikeout text~~ is deleted):

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

Section 2.1.4. Amendment of Chapter 18.92 (“Supplemental Standards”). Chapter 18.92 of Part 3 (“CITYWIDE STANDARDS”) of Division 1 (“Zoning Code”) of Title 18 (“ZONING”) of the City of Morgan Hill Municipal Code is amended to include a new Section 18.92.105 (“Fulfillment Centers”), which reads, in its entirety, as follows (language in **bold double underline text** is inserted):

“Chapter 18.92 – Supplemental Standards.

“§18.92.100 – Mini-Storage

* * *

§18.92.105 -- Fulfillment Centers

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

Section 2.1.5. Amendment of Section 18.124.050 (“Industrial Uses”). Section 18.124.050 “Industrial Uses” of Chapter 18.124 (“LAND USE DEFINITIONS”) of Part 5 (“GLOSSARY”) of Division 1 (“Zoning Code”) of Title 18 (“ZONING”) of the City of Morgan Hill Municipal Code is amended to insert a new Paragraph H (“Fulfillment Center”), which reads in its entirety, as follows (language in **bold double underline text** is inserted):

“§18.124.050 – Industrial Uses

* * *

G. Warehousing and Distribution

* * *

H. Fulfillment Center. A facility, which is used primarily for the warehousing, storage or holding of goods, wares, merchandise, equipment, manufactured goods, wholesale products, retail products, refrigerated or frozen food or other goods, and similar types of materials or finished products and commercial or industrial products or equipment of any type of nature, for any length of time, and regardless of whether any of the foregoing items are offered for sale; prior to their distribution to retail locations, other warehouses, distribution facilities, or fulfillment centers, commercial or business customers, retail customers, manufacturer, wholesaler, or similar final destination, and/or end user; provided, however, that any structure, building or other facility that has a floor area of more than seventy-five thousand (75,000) square feet, a clear ceiling height of twenty-four (24) feet or greater over more than twenty-five (25) percent of the floor area, and a proposed or as built DHDSFR greater than 1:25,000 (i.e. more than one dock-high door per 25,000 square feet of floor area) shall conclusively be presumed to have been configured and/or intended for use as a Fulfillment Center in addition to such other uses as may have been contemplated by the developer. "Fulfillment Center" shall include, but is not limited to, the following types of facilities which for the purpose of this section shall have the same meaning: distribution center, sortable fulfillment center, e-commerce center, non-sort fulfillment center, transload facility, parcel hub, cold storage facility, short-term storage facility, high-cube warehouse, cross-dock facility, bulk break center, package handling center, order fulfillment center, logistics center or facility, receive center, sortation center, delivery station, specialty facility, last-touch facility, last-mile facility, last-mile distribution facility, city distribution facility, multi-market distribution facility, gateway facility, warehousing center, building, structure, or other facility.

Section 2.2. Amendments to Specific Permit Requirements. Title 18 – ZONING, Division I. – Zoning Code, Part 1 – GENERAL PROVISIONS, Chapter 18.08 – INTERPRETATION OF ZONING CODE, and Part 4 - PERMITS AND ADMINISTRATION, Chapter 18.100 – ADMINISTRATIVE RESPONSIBILITY, and Chapter 18.108 - SPECIFIC PERMIT REQUIREMENTS, of the Zoning Code of the City of Morgan Hill Municipal Code are amended as follows:

Section 2.2.1. Amendment of Review Authority and Notice Requirements for Administrative Use Permits. Paragraph C (“Review Authority”) and Paragraph D (“Public Notice and Hearing”) of Section 18.108.020 (“Administrative Use Permits”) of Chapter 18.108 (“Specific Permit Requirements”) of Part 4 (“Permits and Administration”) of Division 1 (“Zoning Code”) of Title 18 (“Zoning”) of the City of Morgan Hill Municipal Code are amended to read, in their entireties, as follows (language in **bold double underline text** is inserted, language in ~~strikeout text~~ is deleted):

18.108.020 - Administrative Use Permits.

* * *

C. Review Authority. The Community Development Director ~~takes action on~~ **shall review and act on all** Administrative Use Permit applications. ~~The Community Development Director may refer any Administrative Use Permit application to the Planning Commission for review and final decision~~ **other than applications relating to Large-Scale Developments; provided, however, that the Community Development Director may refer any Administrative Use Permit application to the Planning Commission for review and final decision. The Planning Commission shall review and act on all Administrative Use Permit applications, which: (1) relate to Large-Scale Developments; and/or (2) are otherwise referred to the Planning Commission by the Community Development Director pursuant to this paragraph.**

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

Section 2.2.2. Amendment of Definitions, Review Authority, and Notice Requirements for Design Permits. Paragraphs B (“Review Authority”), C. (“When Required”),

D (“Significant Projects”), E (“Sensitive Sites”), and G (“Public Notice and Hearing”) of Section 18.108.040 (“Design Permit”) of Part 4 (“Permits and Administration”) of Division 1 (“Zoning Code”) of Title 18 (“Zoning”) of the City of Morgan Hill Municipal Code are amended as follows (language in **bold double underline text** is inserted, language in ~~strikeout text~~ is deleted):

18.108.040 – Design Permit.

* * *

B. Review Authority.

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

~~2. The Community Development Director may refer any Design Permit application to the Planning Commission for review and final decision.~~

~~3.~~ The City Council shall review and act on all Design Permit applications for new City projects (e.g., new municipal buildings, parks) determined by the Community Development Director to be significant in accordance with Subsection D below.

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

* * *

12. Other projects determined by the Community Development Director to be significant **in accordance with Paragraph D below,** or which may

adversely affect the environment or adjacent development or otherwise be considered a sensitive site in accordance with Paragraph E below.

D. Significant Projects.

* * *

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

E. Sensitive Sites.

* * *

2. The Community Development Director's determination that a site is or is not sensitive and that a Design Permit is required may be appealed to the Planning Commission in accordance with Chapter 18.112 (Appeals).

Section 2.2.3. Blanket Prohibition of City Staff Authority to Grant Discretionary Land Use Approvals. Section 18.08.020 (“Authority”) of Chapter 18.08 (“Interpretation of the Zoning Code”) of Part 1 (“General Provisions”) of Division 1 (“Zoning Code”) of Title 18 (“Zoning”) of the City of Morgan Hill Municipal Code is amended to read, in its entirety, as follows (language in bold double underline text is inserted, language in ~~strikeout text~~ is deleted):

18.08.020 - Authority.

The City Council delegates to the Community Development Director and the director's designees the authority to interpret the meaning and applicability of all provisions in the Zoning Code; provided, however that, notwithstanding any other provision of this code, in no event shall any staff employee of the City of Morgan Hill have authority to approve a land use application for a Large-Scale Development project which requires environmental review under the California Environmental Quality Act (Public Resources Code Section 21000, et seq., as amended), including without limitation, any application for a “project” (as defined

in 14 CCR §15378) requiring discretionary approval (as defined in 14 CCR §15357). All such authority having been vested in the City Council of the City of Morgan Hill and/or the Planning Commission of the City of Morgan Hill, as appropriate.

Section 2.2.4. Amendment of Table 18.100-1 - Review and decision-making authority.

Table 18.100-1, which is set forth in Section 18.100.030 (Review and Decision-Making Authority.) of Part 4 (Permits and Administration) of Division 1 (Zoning Code) of Title 18 (Zoning) of the City of Morgan Hill Municipal Code shall be amended as necessary to update the information presented in Table 18.100-1 consistent with the terms and conditions of the various provisions of this Act.

**ARTICLE III
MISCELLANEOUS**

Section 3.1. Effective Date. As used herein, “effective date” shall mean the date on which this initiative measure has been adopted by the City Council of the City of Morgan Hill or the date upon which it shall have been approved by the voters of the City of Morgan Hill in accordance with applicable laws, whichever shall occur first.

Section 3.2. Exemptions for Certain Projects. This initiative shall not be construed to apply to any application or development, property, or contemplated use that, under state or federal law, is beyond the power of the local voters to affect by the initiative power reserved to the people via the California Constitution.

Section 3.3. No Interference with State Law Housing Obligations. Nothing in this initiative shall be construed or applied to prevent the City from complying with its housing obligations under state law. The City Council may, without voter ratification, approve a change to the amendments of the General Plan or Zoning Ordinance set forth in this initiative for the sole purpose of complying with the City's housing obligations if it (1) makes a finding that such change is necessary to comply with the City's housing obligation under the laws of the United States of America or the State of California and there is no suitable land available elsewhere in the City that may be used to satisfy the obligation; and (2) makes such a change or approves a project only to the extent necessary to comply with the applicable state law housing obligation.

Section 3.4. Liberal Construction. The provisions of this Act shall be liberally construed to effectuate its purposes. Nothing herein shall be construed to make illegal any lawful use being made of any land in compliance with all required permits in force before the effective date of this Act. This Act shall be interpreted and applied in as far as is possible in a manner that is consistent with all federal, state, and local laws, rules, and regulations. If any provision of this Act or any portion thereof, or any application thereof, is, for any reason held to be invalid or unconstitutional or otherwise unenforceable, the remaining

sections and applications shall not be affected but shall remain in full force and effect, and to this end, the provisions of this Act are severable.

Section 3.5. Interpretation. If this initiative measure and another measure on the same subject matter should appear on the same ballot, and a majority of the voters vote in favor of both measures but this measure receives more votes than the other measure, this measure alone shall become valid, binding, and adopted in its entirety, and the other measure shall be null and void in its entirety. If a majority of the voters vote in favor of both measures but this measure receives less votes than the other measure, only those provisions of the other measure that are in direct and irreconcilable conflict with the provisions of this measure shall control, and all other provisions of this measure shall become valid, binding, and adopted. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

Section 3.6. Amendment. This Act may be amended only by a vote of the People at a future municipal election conducted in accordance with laws governing initiative measures then in effect.

Section 3.7. Judicial Enforcement. Any aggrieved person or City of Morgan Hill registered voter shall have the right to maintain an action for equitable relief to restrain any violation of this Act, or to enforce the duties imposed on the City by this Act.