



**Special/Regular Meeting Agenda
Mid-Year Goal Review Check-in Workshop**

City Council

Mark Turner - Mayor
Marilyn Librers - Mayor Pro Tem
Gino Borgioli - Council Member
Rene Spring - Council Member
Yvonne Martínez Beltrán - Council Member

Wednesday, September 18, 2024 5:00 PM

**Council Chamber Building
17555 Peak Avenue, Morgan Hill, CA 95037**

Morgan Hill City Council meetings are held in person with the option for the public to attend in-person or view by live stream on the City's website or Channel 17. Information on how the public may observe and participate in the meeting is located below.

PUBLIC COMMENT

Public comment may only be provided in the following ways:

- In-person at the City Council Meeting;
- In writing
 - o Via email to ccpubliccomment@morganhill.ca.gov; or
 - o Hard copy hand delivered or by mail to the City Clerk at 17575 Peak Avenue, Morgan Hill, CA 95037.

Please email your comments to the City Clerk no later than 1:00 p.m. on Tuesday (the day before the City Council workshop) for your comments to be submitted to the members of the City Council with sufficient time to review the comments. You may continue to provide written comments throughout the workshop, although Council Members may not have sufficient time to review them.

Written comments WILL NOT be read aloud during the City Council Meeting. Please note that written comments are posted on the City's website. It is recommended that you do not include any personal information that you do not want to be posted on the web.

AMERICANS WITH DISABILITIES ACT (ADA)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email cityclerk@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.

CALL TO ORDER

ROLL CALL ATTENDANCE

DECLARATION OF POSTING AGENDA

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

Proclaiming September 19, 2024 as Rich Firato Day

PRESENTATIONS

PG&E UPDATE

PUBLIC COMMENT

This opportunity for public comment is for items that are not on the agenda. If you would like to make comments on an item that is on the agenda, please wait until we get to that item to offer your comments. Members of the public are entitled to address the City Council concerning any item within the Morgan Hill City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda. Public comment is intended for comments. Questions posed during public comment are not generally answered. If you have questions, please send them to the City Clerk at ccpubliccomment@morganhill.ca.gov to receive a response. (See additional noticing at the end of this agenda)

ADOPTION OF AGENDA

WORKSHOP

1. CITY COUNCIL MID-YEAR GOAL CHECK-IN WORKSHOP

Recommendation:

Review and discuss:

1. Team Morgan Hill Department Updates
2. 2024-2025 Sustainable Morgan Hill, including Vision, Ongoing Priorities, and Strategic Priorities
3. 2024-2025 Strategic Priorities Workplan
4. Future Council Initiated Agenda Items
5. Update on Encampments
6. City Council Disturbance Policy
7. City Council Conference, Travel, and Meeting Spending Policy

CONSENT CALENDAR (To be heard at 6:00 p.m. or later)

Items appearing on the Consent Calendar are considered routine and may be approved by one motion. Pursuant to City Council Policies and Procedures (CP 97-01), any member of the Council or public may request to have an item removed from the Consent Calendar for comment and action.

2. ADOPT ORDINANCE NO. 2356, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL ADDING CHAPTER 8.42 ("SMOKING IN MULTIUNIT BUILDINGS") OF TITLE 8 ("HEALTH AND SAFETY") TO THE MORGAN HILL MUNICIPAL CODE TO PROHIBIT SMOKING IN AND AROUND MULTIUNIT RESIDENCES

Recommendation:

Waive the reading, adopt Ordinance No. 2356, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

ADJOURNMENT

NOTICE

Any documents produced by the City and distributed to the majority of the City Council less than 72 hours prior to an open meeting, will be made available for public inspection at the City Clerk's Counter at City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 and at the Morgan Hill Public Library located at 660 West Main Avenue, Morgan Hill, California, 95037 during normal business hours. (Pursuant to Government Code 54957.5)

PUBLIC COMMENT

Members of the Public are entitled to directly address the City Council concerning any item described in the notice of this meeting during consideration of that item. If you wish to address the Council on any item on this agenda, please complete a speaker request card located in the foyer of the Council Chambers and deliver it to the Minutes Clerk before the City Council discussion on the item. You are not required to give your name on the speaker card to speak to the Council, but it is very helpful. When you are called, proceed to the podium, and the Mayor will recognize you. If you wish to address the City Council on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the City Council.

Persons interested in proposing an item for the City Council agenda should contact a member of the City Council who may request an item on the agenda for a future City Council meeting. Council discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the City Council, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of City Council Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email cityclerk@morganhill.ca.gov.

SUSTAINABLE MORGAN HILL



Vision

To sustain a safe, inclusive, socially responsible, environmentally conscious, and economically sound community.

Choose Morgan Hill

The City of Morgan Hill is the best community for people to live, work, visit, and operate their businesses.

Strategic Priorities 2024-2025

- Fiscal Sustainability
- Affordable Housing and Homelessness
- Community Engagement
- Economic Development and Tourism
- Transportation
- Healthy Community

City Council Ongoing Priorities

- Enhancing Public Safety and Quality of Life
- Protecting the Environment and Preserving Open Space and Agricultural Land
- Maintaining and Enhancing Infrastructure
- Supporting our Youth, Seniors, and Entire Community
- Fostering a Positive Organizational Culture
- Preserving and Cultivating Public Trust
- Preserving our Community History
- Enhancing Diversity and Inclusiveness
- Advocating for Local, Regional, and State Legislative Initiatives

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- Advocating for Local, Regional, and State Legislative Initiatives

STRATEGIC PRIORITIES 2024-2025

Fiscal Sustainability

The City will continue to be financial stewards of its resources and assets to ensure long-term fiscal sustainability. Through the budget development process, the City, within the fiscal sustainability path, will prudently carry out the City Council's priorities, while maintaining adequate fund balance reserves. The City will continue to explore new or expand existing revenue sources to ensure fiscal sustainability.



Affordable Housing and Homelessness

Morgan Hill will continue to improve, preserve, and develop new safe, quality, rental, and ownership housing for residents at all income levels. To the extent possible, the City will respond to and reconcile new housing initiatives and legislative mandates. The City is guided by the vision of its General Plan, a long-term plan for the physical development of the Community. The vision includes the preservation of agriculture, incentives to foster infill development, and new housing for families of various sizes, ages, and incomes. Like many other cities in the Bay Area, Morgan Hill is experiencing transformative growth and working to meet the housing needs of its current and future residents. The City's Housing Program is grounded in five key pillars:

- **Production of New Affordable Housing Units:** Morgan Hill will continue to improve, preserve, and develop new safe, quality, rental and ownership housing for residents at all income levels through the implementation of its Inclusionary Housing Ordinance. The City will seek partnerships that create new housing opportunities directly aligned with the City's "fair share" Regional Housing Needs Allocation (RHNA).
- **Promotion of Housing Program:** The City manages an inventory of Below Market Rate deed-restricted units and collaborates with the County of Santa Clara and local non-profits to connect residents to resources. Staff will focus on communications, engagement, and education of housing services with particular attention to the Spanish-speaking residents.
- **Preservation of Existing Affordable Housing Inventory:** The City has a robust inventory of Below Market Rate housing units. Through the City's thoughtful planning, affordable housing has been integrated throughout the Community and balanced throughout new developments. The City's Inclusionary Housing Ordinance further ensures future production of income-restricted units. The City will coordinate the lease up process of upcoming affordable developments to ensure residents are aware of and accessing upcoming housing opportunities.
- **Prevention of Homelessness:** Implement the Countywide Community Plan to End Homelessness by continuing to identify barriers and housing problem solving at the local level with the assistance of the Unhoused Specialist, and advance efforts to increase coordination in South County among its service providers. The City will continue to employ a balanced approach, offering resources and referrals to services, partnering with the faith-based community and non-profits to create appropriate local service points, while also utilizing available resources to reduce encampments.
- **Protection of Quality of Life for New and Existing Neighborhoods:** The City will continue to seek quality development and balance the needs of existing and new neighborhoods.

STRATEGIC PRIORITIES 2024-2025

Community Engagement

The City's Communications, Outreach, and Engagement Plan defines the communication, priorities, strategies, and tools the City will use when communicating with the Community. Through the Plan, the City will share the Morgan Hill story and work to build trust with the Community and ensure that we provide effective engagement opportunities. Through effective application of communication strategies, the Plan will ensure that all City Council Members, Commissioners, and teammates have the tools to provide accurate, timely, and relevant information to the Community. The Plan aligns communication resources with the goals to set clear communications expectations for the Community, ensuring that the City can continue providing excellent services that reflect the strength of the City's outreach initiatives while supporting the implementation of the City Council's strategic priorities.

- Encourage Community engagement through audience-appropriate two-way communication, and ensure opportunities for constructive feedback.
- Share accurate, non-biased information promptly through a variety of communication channels.
- Maximize opportunities to engage with the Spanish-speaking community by sharing information and resources in Spanish and holding workshops, town halls, and other meetings in Spanish.
- Build trust in local government by creating a sense of belonging and value with all members of the Community, especially those that are traditionally marginalized.
- Work directly with the Council, staff, and Community partners to ensure communication and outreach efforts, objectives, and outcomes align with the strategic priorities and promote Community understanding.
- Keep City teammates informed and involved in public dialogue to aid in telling the Morgan Hill story.

Economic Development and Tourism

The City's Economic Development efforts focus on implementing the Economic Blueprint strategies and actions to help build long-term fiscal sustainability and improve quality of life for residents. This will be achieved by attracting jobs and commercial investment which generate revenues to support essential City services and improve critical City infrastructure. The Economic Blueprint is focused on advancing economic prosperity and vitality by attracting investment, development, and jobs in four key industries:

- **Healthcare:** Grow and foster medical and diagnostic services by advancing and supporting the entitlement process for new medical facilities. Promote and market Morgan Hill as a desired location for medical and diagnostic providers.
- **Innovation and Advanced Manufacturing:** Grow existing companies, attract new industry, and grow high-quality jobs. Support and advance the entitlement and permit process of new developments. Promote and market Morgan Hill as a premier location for commercial and industrial investment.
- **Retail:** Grow retail offerings and strengthen commercial nodes. Utilize incentives and available tools to attract new investments that increase both jobs and revenue to the Community.
- **Tourism:** Grow leisure, agriculture, wine country, and sports and recreational tourism. Continue to nurture Downtown's transformation as a Community gathering place. Support the Downtown Property Based Improvement District and manage parking supply. Support and incentivize additional lodging investments, implement activations with partner organizations, and partner with Visit Morgan Hill to support increased tourism and vibrancy.



STRATEGIC PRIORITIES 2024-2025

Transportation

The City has clearly identified traffic and transportation issues facing Morgan Hill as regional in nature. Morgan Hill will continue to partner with the City of Gilroy to advocate for improvements and funding for the South Santa Clara County Transportation Corridor. The City will actively advocate on regional transportation planning issues. Locally, the City will prioritize funding for Vision Zero safety strategies over congestion management. The City will take actions to implement its goal to create a culture that prioritizes safety, creates livable streets, and seeks to eliminate traffic fatalities. Safety of pedestrians, bicyclists, drivers, and passengers is paramount.



- Complete the development of a comprehensive Transportation Master Plan.
- Complete construction of Hale Avenue Extension.
- Advocate for grade separations and the design of a Downtown station and emergency response design solutions as it relates to the High-Speed Rail Authority's (HSRA) project.
- Advocate for the ongoing provision of funding of innovative local transit services that matches the needs of the Morgan Hill Community and supports paratransit needs.
- Advocacy will include:
 - Working with the Valley Transportation Authority (VTA), Caltrain, the County, the HSRA and the State to enhance service, secure funding for transportation projects and road maintenance, and protect the Community from negative impacts of regional projects
 - Expansion of Highway 101 between Morgan Hill and Gilroy to reduce pass-through traffic and improve commute traffic for South County residents
 - Electrification of commuter rail from San Francisco to Gilroy
 - Funding for priority projects in the South County

Healthy Community

The City's 2035 General Plan's Healthy Community Element addresses elements of the built environment, programs, and partnerships that contribute to the overall health and well-being of Morgan Hill's residents. Morgan Hill promotes a healthy community through City policies, projects, and programs. The foundation of a healthy community is to help ensure basic needs (food, water, shelter, income, safety, and employment) are met for all people. With that foundation in place, a person's health is next a product of their environment. A healthy community is one in which all residents have access to housing, employment, transportation, healthcare services and amenities, such as parks, open spaces, and recreational facilities, that combine to provide a safe and welcoming environment in which people can lead healthy and fulfilling lives. To achieve this vision, the City of Morgan Hill is committed to:

- Creating, improving, and preserving a wide range of quality housing at all income levels.
- Planning policies that promote a well-planned City that ensures adequate services (roads, streets, water, sewer, police, fire, etc.) while providing plentiful amenities including restaurants, retail stores, and access to healthcare resources.
- Building better and safer streets that prioritize safety, and livability, working to eliminate traffic fatalities as identified in [Vision Zero Morgan Hill](#).
- Promoting a healthy environment as identified in the City's Climate Action Plan by advocating for adoption of electric vehicles in the Community and decarbonizing existing buildings by reducing the use of fossil fuels.

STRATEGIC PRIORITIES 2024-2025

Healthy Community *continued*

- Promoting active lifestyles through its efforts to invest in sports and Community facilities, youth sports and adult recreation programs, parks, and walking and biking trails.
- Providing fresh and healthy food options at City facilities and encouraging local farmers' markets and community gardens in an effort to improve availability of nutritious food.
- Providing services to the unhoused community by building relationships and trust with a trauma-informed approach.
- Connecting people to resources to support mental health, combat the opioid crisis, and treating those struggling with substance abuse and mental health issues with dignity and care.

By implementing these strategies and prioritizing the health and well-being of our residents, Morgan Hill will create a vibrant and thriving community where everyone can lead healthy, active, and fulfilling lives. The City of Morgan Hill seeks to create a welcoming, inclusive, and safe Community for everyone by fostering social connections and a sense of belonging for all.



City of Morgan Hill Strategic Priorities Workplan 2024-2025

REVISED SEPTEMBER 2024

Strategic Priorities 2024-2025							
#	Activity Goals	Fiscal Sustainability	Affordable Housing & Homelessness	Community Engagement	Economic Development & Tourism	Transportation	Healthy Community
City Manager							
1	Ensure Departments maintain focus on cost containment and continue to actively pursue County, State, and Federal funding	X					
2	Advocate with regional partners for the clearly identified traffic and transportation issues, including the High-Speed Rail, expansion of Highway 101, electrification of commuter rail, and funding for priority projects in South Santa Clara County	X				X	X
3	Represent the City's interests by regularly meeting with County of Santa Clara, MHUSD, Santa Clara Valley Transportation Agency (VTA), Chamber of Commerce, Gilroy, South County Regional Wastewater Authority (SCRWA), and Cal Cities	X	X		X	X	X
4	Work with the City departments to implement a work plan for Diversity, Equity, and Inclusion		X	X	X	X	X
Communications and Engagement							
5	Continue outreach and bilingual communication with a focus on maximizing opportunities to provide information on events and resources to the Community in English and Spanish.		X	X			
6	Continue implementing the Communications, Outreach and Engagement Plan with a focus on Priority 4 - Ensure a Well-informed City Workforce and Priority 5 - Reinforce Brand Identity			X			
7	Continue implementing Morgan Hill Together, celebrating our diverse community through events and educational campaigns, including the "Meet Morgan Hill" campaign, highlighting City teammates.			X			
8	Manage the Council Chamber A/V equipment replacement and upgrade project	X		X			
9	Develop and implement a customer service training program for teammates	X		X			
						Status	% Complete for In Process Activities
							Estimated Completion By
						Ongoing	
						Ongoing	
						Ongoing	
						Ongoing	
						Ongoing	
						Ongoing	
						In Process	35% Spring 2025
						In Process	20% March 2025

City of Morgan Hill Strategic Priorities Workplan 2024-2025

REVISED SEPTEMBER 2024

Strategic Priorities 2024-2025							
#	Activity Goals	Fiscal Sustainability	Affordable Housing & Homelessness	Community Engagement	Economic Development & Tourism	Transportation	Healthy Community
City Attorney							
10	Communicate with Council and the Community regarding changes to the Housing Accountability Act and advocate for measures to mitigate potential impacts		X	X			
Human Resources							
11	Implement new NEOGOV Attract module for recruiting			X			
12	Implement and enhance organizational values by providing robust diversity, equity and inclusivity (DEI), harassment prevention, succession planning, customer service, and manager/supervisor development training			X			
13	Work with Work On Wellness (WOW) committee to promote and encourage a healthy and active lifestyle for our teammates						X
Council Services and Records Management							
14	Continue to improve accessibility of information: Continue adding resources and documents to the newly launched online portal for public access to City documents and records.	X		X			
15	Facilitate the November 2024 election process for the Mayor, two City Council seats, the Treasurer, and two ballot measures	X		X			
Finance/Budget/Utility Billing							
16	Explore new or expand existing tax revenue sources to address City's unfunded needs	X			X		
17	Implement new Enterprise Resource Planning System to replace the outdated system	X		X			
18	Review and adjust certain impact and user fees to ensure the long-term sustainability of the City's critical infrastructure and services	X					

Status	% Complete for In Process Activities	Estimated Completion By
Ongoing		
Complete	100%	
Ongoing		
Ongoing		
Ongoing		
Ongoing		
In Process	55%	Winter 2024
Ongoing		
In Process	75%	December 2024
Ongoing		

City of Morgan Hill Strategic Priorities Workplan 2024-2025

REVISED SEPTEMBER 2024

Strategic Priorities 2024-2025							
#	Activity Goals	Fiscal Sustainability	Affordable Housing & Homelessness	Community Engagement	Economic Development & Tourism	Transportation	Healthy Community
Public Services							
19	Support ongoing coordination with Visit Morgan Hill, MHOSC, the operator of the Outdoor Sports Center, and the team at the Aquatics Center to host regional sports events, while minimizing impact to the community	X		X	X		X
20	Create and manage a volunteer program for the Magical Bridge Playground in Community Park			X			
21	Explore alternative options for management of the City's open space	X					X
22	Continue to monitor and adjust water restrictions to meet local and state water conservation efforts			X			
23	Implement Climate Action Plan			X			X
24	Continue to implement the new and significant organic waste management regulations adopted by the State under SB 1383			X			X
25	Continue participation with Valley Water and the City of Gilroy in working towards recycled water opportunities for the City of Morgan Hill			X			
26	Develop the City's first Transportation Master Plan in coordination with the update to the City's General Plan Transportation Element					X	X
27	Collaborate with City of Gilroy and elected officials on advocacy for the South County Transportation Corridor; VTA, Caltrain, Highway 101 expansion, and electrification of commuter rail					X	
Fire							
28	Complete construction of Butterfield Fire Station and take delivery of new Engine 59	X		X	X		X
29	Add solar panels to both existing fire stations to reduce Department's Carbon Footprint	X					X
30	Identify training grounds for Morgan Hill Fire Personnel	X		X			X

Status	% Complete for In Process Activities	Estimated Completion By
Ongoing		
Ongoing		
In Process	50%	Fall 2025
Ongoing		
Ongoing		
Ongoing		
In Process	85%	Winter 2024
Ongoing		
In Process	75%	January 2025
Ongoing		
Ongoing		

City of Morgan Hill Strategic Priorities Workplan 2024-2025

REVISED SEPTEMBER 2024

Strategic Priorities 2024-2025							
#	Activity Goals	Fiscal Sustainability	Affordable Housing & Homelessness	Community Engagement	Economic Development & Tourism	Transportation	Healthy Community
31	Increase community fire safe resiliency	X		X	X		X
Police							
32	Complete Police Department Building Expansion Project	X					
33	Add 4th Beat to Patrol to redistribute call volume			X			X
34	Implement Police Department Wellness Programs	X					X
35	Implement NextGen 911 System	X		X			
36	Implement Report Writing Management and Computer Aided Dispatch Systems	X		X			X
Information Services							
37	Procure and deploy new cybersecurity tools	X					
38	Modernize applications by leveraging hosted, clouded systems	X					
Development Services							
39	Implement Economic Development Outreach Campaign to attract new advanced manufacturing, office, innovation, and medical users	X			X		
40	Implement Downtown parking management strategies to maximize parking spaces by identifying short-term parking.				X	X	
41	Improve business license process to improve efficiency and capture appropriate revenue.	X			X		
42	Modernize the City's Entertainment Permit and Noise Ordinance to encourage live music and entertainment while promoting better management and security practices.				X		
Status		% Complete for In Process Activities		Estimated Completion By			
Ongoing							
In Process		75%		January 2025			
In Process		25%		January 2025			
In Process		25%		January 2025			
In Process		25%		June 2025			
In Process		25%		June 2025			
In Process		25%		June 2025			
In Process		25%		June 2025			
In Process		25%		June 2025			
In Process		25%		June 2025			
In Process		25%		December 2024			
In Process		10%		June 2025			
In Process		25%		March 2025			

City of Morgan Hill Strategic Priorities Workplan 2024-2025

REVISED SEPTEMBER 2024

Strategic Priorities 2024-2025							
#	Activity Goals	Fiscal Sustainability	Affordable Housing & Homelessness	Community Engagement	Economic Development & Tourism	Transportation	Healthy Community
43	Conduct annual Business Legislative Roundtable and bi-annual Human Resources Roundtable with major employers				X		
44	Launch economic mobility efforts to support workforce development and entrepreneurship opportunity with a focus on connecting Spanish-speaking residents to job opportunities and housing		X	X	X		X
45	Update Circulation Element			X		X	X
46	Prepare Environmental Justice Element			X			X
47	Update Open Space and Infrastructure and Safety Element			X			X
48	Prepare LOS-VMT Model and policy guide					X	
49	Continue affordable housing and homelessness initiatives: Safe Park Program, Inclement Weather Shelter Program, and Case Management		X				X
50	Identify resources to support the implementation of the Housing Element		X				
51	Implement the Housing Element initiative: Develop and coordinate an eviction counsel program		X				
52	Develop a Housing Mobility Counseling Program to support Housing Choice and combat housing insecurity		X				
53	Seek out opportunities to increase access to housing in Higher Resource Areas and Areas of Affluence, making funding available through an RFP		X				
54	Produce farmworker Housing Development Program		X				

Status	% Complete for In Process Activities	Estimated Completion By
In Process	25%	December 2024
In Process	25%	June 2025
Commencing Soon		December 2025
Commencing Soon		February 2025
Commencing Soon		February 2025
In Process	90%	December 2024
Ongoing		
Ongoing		
Commencing Soon		June 2025
Commencing Soon		June 2025
Commencing Soon		November 2025
Commencing Soon		June 2025

Future Council Initiated Agenda Items

Meeting Date	Council Member	Request	Teammate	Estimated Completion
AWAITING COUNCIL APPROVAL				
9/4/2024	Spring	Expand non-smoking ordinance to all residential properties	Larkin	October 23, 2024
5/15/2024	Spring	Public discussion on festival policies	Palsgrove	After debriefs with festival organizers
APPROVED BY COUNCIL TO BE AGENDIZED OR STAFF MEMO				
5/15/2024	Martinez Beltran	Bring Viva Calle to Morgan Hill	Ghione	TBD
12/6/2023	Librers	Elected vs Appointed City Treasurer	Bigelow	Revisit Spring 2026
2/21/2024	Borgioli	Policy on City Council Meeting disturbances	Turner/Larkin	September 18, 2024 Goal Setting
10/4/2023	Turner	Funding mechanism for public art	Ramirez	Oct/Nov 2024
6/7/2023	Turner	Fundraising or panhandling around medians	Larkin/Palsgrove	TBD
2/16/22	Borgioli	Noise ordinance for Downtown	Larkin/Ramirez	TBD
10/2/19	Spring	CCC Parking Enforcement (coordinate with Lumber Yard Development Project)	Ghione	Staff Memo upon completion of project

revised 9.13.2024



Memorandum

Date: September 10, 2024

To: City Council

From: Christina Turner, City Manager

Subject: Draft Policy on Code of Conduct for Public Meetings

The purpose of this memorandum is to provide the City Council with an update on the development and history of the proposed Code of Conduct for Public Meetings policy.

Background:

On August 22, 2022, Governor Gavin Newsom signed into law SB 1100, designed to address disruptions at public local government meetings to protect the public and public officials from threats and ensure that public access is not impeded by disruptive behavior. In response, staff presented to the City Council a draft Code of Conduct Policy for Public Meetings in the Council Chamber and Conference Rooms at the [September 6, 2023](#), Council meeting for their consideration. City Council provided feedback to staff, and a revised draft Policy was brought back at the [September 27, 2023](#), Mid-Year Goal Review Workshop for discussion, which resulted in direction to staff to further refine the language. Following this meeting, the City Council decided not to pursue the policy.

However, on [February 21, 2024](#), Council Member Borgioli requested a renewed discussion on the Code of Conduct to address disturbances within the Council Chamber during meetings to prevent unacceptable behaviors and on [April 24, 2024](#), Council approved staff returning with a revised draft policy.

Recommendation:

City Council discuss the draft policy and determine whether to adopt it.

CITY OF MORGAN HILL

CITY COUNCIL POLICIES AND PROCEDURES

CP-xx-xx

SUBJECT: CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBER AND CONFERENCE ROOMS

EFFECTIVE DATE: XXXXXXXX, 2023

ORIGINATING DEPARTMENT: CITY ATTORNEY

PURPOSE

The purpose of this policy is to establish rules of decorum for members of the public, City staff, and elected officials attending, bringing signs or other objects to, and/or addressing the legislative or policy body at meetings held in the Council Chamber and Conference Rooms, including meetings of the City Council and Commissions. The policy is intended to facilitate the conduct of public meetings in an open and orderly manner and in an environment safe for all persons in attendance.

SCOPE

This policy applies to persons attending public meetings in the Council Chamber and Conference Rooms.

POLICY

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in attendance will refrain from behavior which will disrupt the public meeting. This includes any activity that disturbs, disrupts, or impedes the orderly conduct of the meeting.
- b) Persons in attendance will refrain from creating, provoking, or participating in any type of disturbance involving unwelcome physical contact.

2. Signs, Objects, or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Conference Rooms, with the following restrictions:
 - i. No objects will be larger than 2 feet by 3 feet.
 - ii. No sticks, posts, poles, or other such items will be attached to the signs or other symbolic materials.

- iii. The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chamber and Conference Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms , toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, sharp objects, pepper spray, and aerosol containers; and large backpacks and suitcases that contain items unrelated to the meeting.

3. Addressing the Council or Commission:

- a) Please see Section 6. Public Comment of City Council Policy 97-01, for information on addressing the City Council or Commission.
- b) Speakers should discuss topics related to City business on the agenda unless they are speaking during public comment for items not on the agenda.
- c) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Commissioners, or staff in conversation will not be honored. Abusive language is inappropriate and may cause removal from meeting.
- d) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- e) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- f) Speakers and any other members of the public will not approach the dais at any time during the meeting without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which may disturb, disrupt, or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.

This policy shall remain in effect until modified by the City Council.

APPROVED:

MARK TURNER, MAYOR



2024 City Council Mid-Year Goal Check-In Workshop



September 18, 2024

Workshop Agenda



Receive PG&E Update

Review and discuss:

1. Team Morgan Hill Department Updates
2. 2024-2025 Sustainable Morgan Hill, including Vision, Ongoing Priorities, and Strategic Priorities
3. 2024-2025 Strategic Priorities Workplan
4. Future Council Initiated Agenda Items
5. Update on Encampments
6. City Council Disturbance Policy
7. City Council Conference, Travel, and Meeting Spending Policy

City Council Consent Item



***Pacific Gas and
Electric Company®***

Team Morgan Hill Department Updates





2024-2025 Sustainable Morgan Hill



SUSTAINABLE MORGAN HILL



Vision

To sustain a safe, inclusive, socially responsible, environmentally conscious, and economically sound community.

Choose Morgan Hill

The City of Morgan Hill is the best community for people to live, work, visit, and operate their businesses.

Sustainable Morgan Hill



City Council Ongoing Priorities

- Enhancing Public Safety and Quality of Life
- Protecting the Environment and Preserving Open Space and Agricultural Land
- Maintaining and Enhancing Infrastructure
- Supporting our Youth, Seniors, and Entire Community
- Fostering a Positive Organizational Culture
- Preserving and Cultivating Public Trust
- Preserving our Community History
- Enhancing Diversity and Inclusiveness
- Advocating for Local, Regional, and State Initiatives

Sustainable Morgan Hill



Strategic Priorities 2024-2025

- Fiscal Sustainability
- Affordable Housing and Homelessness
- Community Engagement
- Economic Development and Tourism
- Transportation
- Healthy Community

2024-2025 Strategic Priorities Workplan



Strategic Priorities Workplan



City of Morgan Hill Strategic Priorities Workplan 2024-2025

REVISED SEPTEMBER 2024

		Strategic Priorities 2024-2025									
#	Activity Goals	Fiscal Sustainability	Affordable Housing & Homelessness	Community Engagement	Economic Development & Tourism	Transportation	Healthy Community		Status	% Complete for In Process Activities	Estimated Completion By
City Manager											
1	Ensure Departments maintain focus on cost containment and continue to actively pursue County, State, and Federal funding	X							Ongoing		
2	Advocate with regional partners for the clearly identified traffic and transportation issues, including the High-Speed Rail, expansion of Highway 101, electrification of commuter rail, and funding for priority projects in South Santa Clara County	X				X	X		Ongoing		
3	Represent the City's interests by regularly meeting with County of Santa Clara, MHUSD, Santa Clara Valley Transportation Agency (VTA), Chamber of Commerce, Gilroy, South County Regional Wastewater Authority (SCRWA), and Cal Cities	X	X		X						
4	Work with the City departments to implement a work plan for Diversity, Equity, and Inclusion		X	X	X						
Communications and Engagement											
5	Continue outreach and bilingual communication with a focus on maximizing opportunities to provide information on events and resources to the Community in English and Spanish.		X	X							
6	Continue implementing the Communications, Outreach and Engagement Plan with a focus on Priority 4 - Ensure a Well-Informed City Workforce and Priority 5 - Reinforce Brand Identity			X							
Human Resources											
11	Implement new NEOGOV Attract module for recruiting							X		Complete	100%
12	Implement and enhance organizational values by providing robust diversity, equity and inclusion (DEI), harassment prevention, succession planning, customer service, and manager/supervisor development training							X		Ongoing	
13	Work with Work On Wellness (WOW) committee to promote and encourage a healthy and active lifestyle for our teammates						X			Ongoing	
Council Services and Records Management											
14	Continue to improve accessibility of information: Continue adding resources and documents to the newly launched online portal for public access to City documents and records.	X			X					Ongoing	
15	Implement electronic voting for City Council and Commission Meetings				X					On Hold	
16	Facilitate the November 2024 election process for the Mayor, two City Council seats, the Treasurer, and two ballot measures	X			X					In Process	55% Winter 2024
Finance/Budget/Utility Billing											
17	Explore new or expand existing tax revenue sources to address City's unfunded needs	X			X					Ongoing	
18	Implement new Enterprise Resource Planning System to replace the outdated system	X			X					In Process	75% December 2024
19	Review and adjust certain impact and user fees to ensure the long-term sustainability of the City's critical infrastructure and services	X								Ongoing	

Future Council Initiated Agenda Items



Future Council Initiated Agenda Items

Meeting Date	Council Member	Request	Teammate	Estimated Completion
AWAITING COUNCIL APPROVAL				
9/4/2024	Spring	Expand non-smoking ordinance to all residential properties	Larkin	October 23, 2024
5/15/2024	Spring	Public discussion on festival policies	Palsgrove	After debriefs with festival organizers
APPROVED BY COUNCIL TO BE AGENDIZED OR STAFF MEMO				
5/15/2024	Martinez Beltran	Bring Viva Calle to Morgan Hill	Ghione	TBD
12/6/2023	Librers	Elected vs Appointed City Treasurer	Bigelow	Revisit Spring 2026
2/21/2024	Borgioli	Policy on City Council Meeting disturbances	Turner/Larkin	September 18, 2024 Goal Setting
10/4/2023	Turner	Funding mechanism for public art	Ramirez	Oct/Nov 2024
6/7/2023	Turner	Fundraising or panhandling around medians	Larkin/Palsgrove	TBD
2/16/22	Borgioli	Noise ordinance for Downtown	Larkin/Ramirez	TBD
10/2/19	Spring	CCC Parking Enforcement (coordinate with Lumber Yard Development Project)	Ghione	Staff Memo upon completion of project

revised 9.13.2024

Update on Encampments



SCOTUS Ruling on Encampments



- June 28, 2024 – U.S. Supreme Court ruled cities have a right to limit or prohibit homeless encampments on public property
- Enforcement of encampments does not violate the Eighth Amendment's protections against cruel and unusual punishment

SCOTUS Ruling on Encampments (continued)



- The court did not address the criminalization of homelessness, so it is unclear what happens to the prior law
 - Under prior law, cities could not criminalize sleeping in public, but could regulate time, place, and manner
 - Even if prior law is still valid, cities can prohibit encampments and encroachments onto public property

Next Steps

- Prior to the recent SCOTUS ruling, the City was not enforcing its current camping bans
- Current ordinances prohibit overnight sleeping in parks and camping on public property
- No changes to current ordinances are recommended right now, but we will continue to monitor their effectiveness

City Council Disturbance Policy



Background



- SB 1100 passed August 22, 2022, to protect public officials from threats and ensure public access is not impeded by disruptive behavior
- September 6, 2023, staff received Council feedback on draft “Code of Conduct” policy
- September 27, 2023, staff presented a revised policy, and it was decided not to proceed

Background (continued)



- February 21, 2024, Council Member requested the Council revisit the Code of Conduct conversation
- April 24, 2024, Council voted for staff to return for further discussion
- Staff recommended this item be included in the Mid-Year Goal Check-In

City Council Conference, Travel, and Meeting Spending Policy



Current Practice



- Adopted City Council Conference and Meetings Budget = \$25K
 - \$3K per Council Member (\$15K total)
 - \$2K per Council Member for CalCities Annual League Conference (\$10K total)

Policy Considerations



- Consider adopting a City Council Policy
 - Include definitions of allowable expenditures
 - League – Policy Committee, Caucus, Leaders, Legislative Days, New Mayor/Council Academy, Division Mtgs
 - Mileage to outside assignments
 - Define if allocations can be shared by Council Members

Questions & Discussion



CITY COUNCIL STAFF REPORT

MEETING DATE: September 18, 2024

PREPARED BY:

Kim Mancera, Deputy City Clerk

APPROVED BY: City Manager

ADOPT ORDINANCE NO. 2356, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL ADDING CHAPTER 8.42 (“SMOKING IN MULTIUNIT BUILDINGS”) OF TITLE 8 (“HEALTH AND SAFETY”) TO THE MORGAN HILL MUNICIPAL CODE TO PROHIBIT SMOKING IN AND AROUND MULTIUNIT RESIDENCES

RECOMMENDATION(S)

Waive the reading, adopt Ordinance No. 2356, New Series, and declare that said title, which appears on the agenda, shall be determined to have been read by title and further reading waived.

COUNCIL PRIORITIES, GOALS & STRATEGIES

City Council Ongoing Priorities

Supporting Our Youth, Seniors, and Entire Community

Enhancing Public Safety and Quality of Life

2024-2025 Strategic Priorities

Healthy Community

REPORT NARRATIVE:

On September 4, 2024, the City Council introduced Ordinance No. 2356 New Series, by the following roll call vote: AYES: Turner, Borgioli, Librers, Martinez Beltran, Spring; NOES: None; ABSTAIN: None; ABSENT: None.

The purpose of this Ordinance is for the City of Morgan Hill to to reduce the serious negative health effects of smoking for residents in multifamily residences. Although there has been progress over the last few decades in reducing smoking and exposure to secondhand smoke, tobacco use and tobacco-related deaths continue to be an urgent public health issue for smokers and nonsmokers alike. Therefore, the City aims to reduce the public’s exposure to the greatest number of families by banning smoking in multifamily units, where smoke can pass into nonsmokers’ adjacent units in the form of secondhand smoke, or even remain in the unit long after a smoker has moved out of the unit in the form of thirdhand smoke.

Through this Ordinance, the City is introducing updates to the City’s current

secondhand smoking ban in public and private spaces, to now include all residential spaces where more than one family unit resides, including but not limited to apartments, townhouses, condos, attached single-family homes, duplexes, triplexes, etc. The Ordinance will prohibit smoking inside those residences, and prohibit smoking in the outdoor common areas shared and used by all the residents. Smoking will be permitted outdoors, but only in designated smoking areas. The Ordinance provides property owners with the option to create a designated smoking area that is a reasonable distance from windows, clearly defined with appropriate signage, and with the proper receptacles for disposal.

The Ordinance will have a 6-month phase in period, which will allow for notification to current tenants, and for property owners to have time to incorporate the requirements into new tenants' leases. Although the Ordinance does allow for law enforcement and code officers to fine violators, enforcement will center around education and establishing a complaint system for residents. It is not expected that the City's enforcement agents will experience a dramatic increase in reports, violations, or prosecution under the ordinance immediately.

COMMUNITY ENGAGEMENT:

As described above, the City has been awarded grant funds that will be used to assist with the cost of signage and in the education efforts with landlords, property managers, and tenants. The ordinance has a built-in implementation period, which will provide ample time to perform outreach to multiunit buildings within the City.

ALTERNATIVE ACTIONS:

The Council could choose not to prohibit smoking in multiunit buildings, or could recommend modifications to the ordinance as drafted.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On April 5, 2023, Councilmember Borgioli identified smoking in multiunit buildings as a future agenda item. On May 3, 2023, the Council voted 5-0 to direct the City Attorney to come back with an ordinance prohibiting smoking in multiunit buildings.

The City has regulated exposure to secondhand smoke through its Smoking Pollution Control ordinance, adopted in 1985. This ordinance was updated in 2012. Consistent with state law, the City prohibits smoking in indoor workplaces. Additionally, smoking is prohibited in recreational areas, outdoor dining areas, building entryways, service areas (e.g., bus stops, ATMS), and public events (Chapter 8.44).

Additionally, the City requires a license to sell tobacco products; prohibits the sale of flavored tobacco products; and prohibits the sale of electronic cigarette products. (See Chapter 5.64).

FISCAL AND RESOURCE IMPACT:**Fiscal:**

The City has received a grant from County Public Health that covers \$38,164. Staff does not anticipate any other significant costs.

Resource:

The County grant will reimburse the City for staff time implementing this ordinance. Staff work on the ordinance is not expected to significantly interfere with other priorities.

CEQA (California Environmental Quality Act):

This Ordinance is not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment, either directly or ultimately.

ORDINANCE NO. 2356, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL ADDING CHAPTER 8.42 (“SMOKING IN MULTIUNIT BUILDINGS”) OF TITLE 8 (“HEALTH AND SAFETY”) TO THE MORGAN HILL MUNICIPAL CODE TO PROHIBIT SMOKING IN AND AROUND MULTIUNIT RESIDENCES

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

Section 1. Chapter 8.42 (“Smoking in Multiunit Buildings” of Title 8 (“Health and Safety”)) is hereby established to read as follows:

8.42.010 Definitions

For the purpose of this chapter, unless the context clearly requires a different meaning, the words, terms, and phrases set forth in this section or another portion of the Morgan Hill Municipal Code, shall have the meanings that are given them in this section:

- A. “Adjacent Unenclosed Property” means any unenclosed area of a property—publicly or privately owned—that is next to or has a common boundary with a multi-unit residence. This does not include a single-family home.
- B. “Common Area” means every enclosed and every unenclosed area of a multiunit residence that residents of more than one unit are entitled to enter or use, including, but not limited to, halls, pathways, lobbies, courtyards, elevators, stairs, community rooms, playgrounds, gym facilities, swimming pools, parking garages, parking lots, grassy or landscaped areas, recreational area, restrooms, laundry rooms, cooking areas, and eating areas.
- C. “Common Interest Development” as defined:
 - 1. A community apartment project as defined in California Civil Code section 4105, in this code, or any successor legislation;
 - 2. A condominium project as defined in California Civil Code section 4125, in this code, or any successor legislation;
 - 3. A planned development as defined in California Civil Code section 4175, in this code, or any successor legislation;
 - 4. A real property development as defined in California Civil Code section 1351(c), in this code; or any successor legislation;
 - 5. A stock cooperative as defined in California Civil Code section 4190, in this code, or any successor legislation;
- D. “Enclosed Area” means an area closed in by a roof and four walls with appropriate openings for air to enter and exit with appropriate ventilation. It encompasses all the space between a floor and a ceiling that is bounded by walls, doorways, or windows—

- whether open or closed—covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. It can additionally include an area that has:
1. Overhead cover, regardless of whether the area includes vents or other overhead openings, or at least 3 walls or vertical constraints; or
 2. 4 walls or other vertical wall constraints to airflow, regardless of composition; or as defined in the Code.
- E. “Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
- F. “Existing Unit” means any unit that is not a new unit by the effective date of this code.
- G. “Homeowners’ association” or “HOA” means a nonprofit or unincorporated organization, or entity established for the purpose of managing or maintaining a common interest development. A homeowners’ association shall also mean “association” as defined in California Civil Code section 4080, in this code, or any successor legislation.
- H. “Hotel” as defined by California Civil Code Section 1940 or elsewhere in this Code. It can but is not limited to meaning a similar establishment in which the operator has the status of an innkeeper (e.g. a motel, motor inn, bed and breakfast, boarding house, etc.)
- I. “Landlord” means any person or agent of a person who owns, manages, or is otherwise legally responsible for a unit in a multiunit residence that is leased to a residential tenant. For purposes of this ordinance, a tenant who sublets their unit (e.g., a sublessor) is not a landlord.
- J. “Lot” means a separate parcel of land shown and identified as such on the record of the county recorder, or in the final map of an approved and recorded subdivision.
- K. “Marijuana” or “Cannabis” as defined pursuant to Business and Professions Code Section 26001(f), in Section 9.16.020 of this Code, and by other state law. However, in all parts of this code is shall mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds of such plants. “Cannabis” does not mean “industrial hemp” as defined by Health and Safety Code Section 11018.5.
- L. “Marijuana or Cannabis product” means a product where the cannabis plant has undergone a process and been turned into a concentrate for the purpose of smoking.

- M. “Multiunit Residence” means a property containing two or more attached units, including, but not limited to, apartment buildings, common interest developments, senior and assisted living facilities, and long-term health care facilities.
1. Multiunit Residences do not include the following:
- a. a hotel or motel that meets the requirements of California Civil Code section 1940, established under our code, or other applicable state and local law;
 - b. mobile home park;
 - c. a campground;
 - d. a marina or port;
 - e. a single-family home with a detached or attached in law, except if used as a health care facility subject to licensing requirements; and
 - f. a single-family home with an accessory dwelling unit or second unit permitted pursuant to California Government Code sections 65852.1, 65852.2, or 65852.22; or an ordinance of the municipal code of Morgan Hill adopted pursuant to those sections, except where the accessory dwelling unit or second unit is rented or is used as a health care facility subject to licensing requirements.
- N. “New Unit” means a unit that is issued a certificate of occupancy more than 180 days after the effective date of this ordinance, or one that is now available for residential use 180 days for the first time more than 180 days after the effective date of this ordinance.
- O. “Nonsmoking Area” means any enclosed or unenclosed area that has been designated as an area in which smoking is prohibited in this chapter, elsewhere in this code, or by other applicable law.
- P. “Person” means any natural person, firm, partnership, corporation, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity, including government agencies.
- Q. “Reasonable distance” as defined in this code, means twenty-five feet in any direction from an area in which smoking is prohibited.
- R. “Rental Complex” means a property where 50% of the units are rented by or on behalf of the same landlord.
- S. “Smoke” as defined in this code, but also means inhaling, exhaling, or burning, any tobacco, nicotine, marijuana, marijuana plant product, whether natural or synthetic.
- T. “Smoking” as previously enumerated by Section 8.44 of this Code, but also can mean:
- 1. carrying any lighted, heated, or activated tobacco, nicotine, marijuana, or plant product, whether natural or synthetic, intended for inhalation; or
 - 2. using an “electronic smoking device,” that delivers nicotine or other substances;
- or

3. For purposes of this Code, smoking does not include the use of traditional, sacred tobacco as part of an Indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.
- U. “Unenclosed area” means any area that is not in an enclosed area as defined by this Code, including but not limited to a balcony, terrace, patios, or porch.
- V. “Unit” means a personal dwelling space, even one lacking cooking facilities or private plumbing facilities, and includes any associated exclusive use, enclosed or unenclosed area, such as a private balcony, porch, deck, or patio. “Unit” includes, without limitation, an apartment unit; a condominium unit; a townhouse; a room in a senior facility; a room in a long-term health care facility, assisted living facility, community care facility, or hospital; a room in a hotel or motel; a dormitory room; a room in a single-room occupancy facility; a room in a homeless shelter; a mobile home; a camper vehicle or tent; a single-family home; and an accessory dwelling unit or second unit.
- W. “Wall” means any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

8.42.020 Smoking Restrictions.

- A. Effective 180 days from the effective date of this ordinance, smoking is prohibited in new and existing multi-unit residences.
- B. No person shall smoke inside any new or existing unit of a multi-unit residence including any associated or unassociated common area, with the exception of it being within a designated smoking area as defined by this code below.
 1. Designated smoking area is defined by this code in Morgan Hill Code Section 8.44.030, but it is defined as:
 - a. an unenclosed area;
 - b. at least twenty-five (25) feet from an adjacent or an unenclosed area primarily used by children, unenclosed areas of K-12 school campuses, or unenclosed areas with improvements that facilitate physical activity including, for example, playgrounds, tennis courts, and swimming pools;
 - c. has been clearly marked and with defined perimeter;
 - d. has conspicuous signage as defined in this chapter that includes text not less than one inch in height and with imagery relating to the international “no smoking” sign with the red circle and bar across it as defined in this chapter and elsewhere in this code;
 - e. located a reasonable distance from any enclosed area that is in a multi-unit residence, including an operable doorway, window, opening or vent that has been designated by this chapter;
 - f. shall have ashtrays, ashcans, or other receptacles designed for or primarily used for disposal of smoking waste within the area;
 - g. not more than 10% total of the outdoor area of designated property; and

- h. not within any enclosed or unenclosed area where smoking is otherwise prohibited by this chapter, state, or other law;
- C. The landlord will maintain and ensure that the designated smoking area remain free of smoking and tobacco waste by providing ash trays, trash cans, or other receptacles.
- D. The prohibitions contained in this Section do not apply to a person who is smoking while actively passing on the way to another destination.
- E. No person shall intimidate, harass, harm, threaten, or otherwise retaliate against any person who seeks compliance with this ordinance.
- F. Violation of this subsection shall effectuate penalties and relevant criminal charges.

8.42.030 Requirements for Rental Properties.

The following requirements apply to multiunit residences other than units in a common interest development that are not being rented:

- A. Within one hundred eighty (180) days of the effective date of this ordinance codified in this chapter, every landlord shall deliver to each unit a copy of this chapter and a written notice clearly stating:
 - 1. All units are designated nonsmoking units and smoking is prohibited in a unit, including any associated private balcony, porch, deck, or patio, as of the effective date; and
 - 2. Smoking in all common areas or outdoor areas except for specifically designated smoking areas, is a violation of chapter as of the effective date.
- B. Within one hundred eighty (180) days of the effective date of this ordinance codified in this chapter, every landlord shall provide prospective tenants with written notice clearly stating that:
 - 1. Smoking is prohibited in units, including any associated unenclosed area including a private balcony, porch, deck, or patio, as of the effective date; and
 - 2. Smoking is prohibited in all common areas and outdoor areas, except for specifically designated smoking areas as defined above or by the Morgan Hill municipal code previously, as of the effective date.
- C. As of the effective date, the person or persons with legal control over common areas shall post and maintain clear and unambiguous “No Smoking” signs at entrances and exits, in common areas, and in conspicuous places adjoining the property grounds.
 - 1. In addition, as of the effective date, the person or persons with legal control over the multiunit residence shall post and maintain signs in sufficient numbers and locations in the multiunit residence to indicate that smoking is prohibited in all units.

2. The absence of signs shall not be a defense to a violation of any provision of this chapter.
 3. "No Smoking" signs shall be clearly, sufficiently, and conspicuously posted on the building or other places where smoking is regulated by this chapter by the owner, operator, manager or other person having control of such building or other places.
 - (i) They are not required inside or on doorways of units except for hotels or motels that meet the criteria listed in California Civil Code section 1940, subdivision (b)(2)
 4. As defined in this code, and this chapter, "No Smoking" signage shall include:
 - (i) letters not less than one inch in height and
 - (ii) the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it)
- D. Landlords with knowledge of violations shall take reasonable steps to investigate and enforce the regulations, including a written notice to the resident of the landlord's knowledge of the violation, a request to cease the violation, and the course of action to be taken if the violation is not corrected.

8.42.040. Requirements for Common Requirements for Common Interest Developments.

The following requirements apply to common interest developments:

- A. As of the effective date, the HOA shall provide to all owners of units a copy of this chapter and written notice clearly stating that:
 1. Smoking is prohibited in units, including any associated private balcony, porch, deck, or patio; and
 2. Smoking is prohibited in all common areas and outdoor areas except for specifically designated smoking areas as designated by this code or the persons with legal control over the property as defined by this Code.
- B. As of the effective date, every seller of a unit shall provide prospective buyers or renters, a copy of this chapter and written notice clearly stating that:
 1. Smoking is prohibited in units, including any associated private balcony, porch, deck, or patio; and
 2. Smoking is prohibited in all common areas and outdoor areas except for specifically designated smoking areas as designated by this code and/or the persons with legal control over the property as defined by this ordinance.
- C. As of the effective date, the HOA, or any person having legal ownership or control over common areas, shall post and maintain clear and unambiguous "No Smoking" signs in sufficient numbers and locations in the common interest development to make it obvious to a reasonable person that smoking is prohibited throughout the common interest

development. The absence of signs shall not be a defense to a violation of any provision of this chapter.

- D. HOAs with knowledge of violations shall take reasonable steps to investigate and enforce the regulations, including a written notice to the resident of the HOA's knowledge of the violation, a request to cease the violation, and the course of action to be taken if the violation is not corrected.
- E. The HOA shall also distribute resources provided for free by the City of Morgan Hill and/or the County of Santa Clara to assist with nicotine dependence, such as referrals to quitline or any other educational online resources.

18.24.050 Interpretation.

- A. The provisions of this chapter shall be liberally construed to protect the public health to the maximum effect possible.
- B. Notwithstanding (1) any provision of this chapter or of this code, (2) any failure by any person to restrict smoking under this chapter, or (3) any explicit or implicit provision of this code that allows smoking in any place—nothing in this code shall be interpreted to limit any person's legal rights under other laws with regard to smoking, including rights in nuisance, trespass, property damage, and personal injury or other legal or equitable principles.
- C. Any violation of this chapter is hereby declared to be a public nuisance. Nonconsensual exposure to smoke from smoking occurring on or drifting into residential property is a nuisance.

18.24.060 Violations and Penalties.

- A. No landlord, his or her designee, or person with legal control over any multiunit residence shall permit smoking anywhere on the premises of the multiunit residence outside of the designated smoking areas as stated in this code.
- B. Any person who violates any provision of this chapter shall be guilty of an infraction punishable by:
 - 1. A fine, not exceeding one hundred dollars (\$100), for the first violation;
 - 2. A fine, not exceeding two hundred fifty dollars (\$250), for a second violation of this chapter;
 - 3. A fine, not exceeding five hundred dollars (\$500), for each additional violation of this chapter.
- C. Every violation of this ordinance that occurs shall be considered a separate violation.
- D. If three violations occur in one calendar year, the person shall be found guilty of a misdemeanor. However, Title 1 of the Morgan Hill Municipal Code allows for the City Attorney and/or his designee to exercise discretionary authority.

- E. No person shall intentionally or recklessly expose another person to smoke in response to that person's effort to achieve compliance of this chapter. Causing, permitting, aiding, abetting, or supporting the actions of any person in this code shall also constitute a violation of this chapter.
- F. Any person may bring a civil action to enforce this article to prevent future violations and may sue to recover actual or statutory damages, including court costs, and attorney fees.

Section 2. Severability. Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

Section 3. Effective Date; Posting. This Ordinance shall take effect on the 31st day after adoption. The City Clerk is hereby directed to publish this Ordinance or a summary thereof pursuant to Government Code Section 36933.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 4th DAY OF SEPTEMBER, 2024, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 18th DAY OF SEPTEMBER, 2024, 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:

ATTEST:

MARK TURNER, Mayor

MICHELLE BIGELOW, City Clerk

CERTIFICATE OF THE CITY CLERK

I, MICHELLE BIGELOW, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2356, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 18th day of September, 2024.

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

DATE: _____

MICHELLE BIGELOW, City Clerk