

CERTIFICATION OF CITY CLERK
URGENCY ORDINANCE NO. 240.2

I, Mary Lavelle, City Clerk of the City of Milpitas, do hereby certify that the attached Urgency Ordinance is a true and correct copy of Urgency Ordinance No. 240.2 of the City of Milpitas, that said Ordinance was duly enacted and adopted by the City Council of the City of Milpitas at a meeting of said City Council held on the 19th day of August 2014, and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of Milpitas, California, this 26th day of August 2014.



Mary Lavelle
City Clerk

URGENCY

NUMBER: 240.2

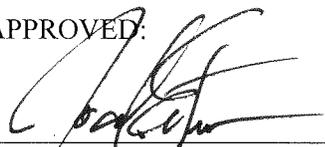
TITLE: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 6 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO SUPPLEMENTAL WATER USE RESTRICTIONS AS REQUIRED BY STATE LAW

HISTORY: This Ordinance was introduced by the City Council at its meeting of August 19, 2014, upon motion by Councilmember Giordano and was adopted immediately as an urgency ordinance pursuant to provisions of California Government Code Sections 36934 and 36937. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

- AYES: (5) Mayor Esteves, Vice Mayor Polanski, Councilmembers Giordano, Gomez, and Montano
- NOES: (0) None
- ABSENT: (0) None
- ABSTAIN: (0) None

ATTEST:


Mary Lavelle, City Clerk

APPROVED:


Jose S. Esteves, Mayor

APPROVED AS TO FORM:


Michael J. Ogaz, City Attorney

RECITALS:

WHEREAS, Government Code Sections 36934 and 36937 authorize a city to adopt an urgency ordinance for the immediate preservation of the public peace, health or safety; and

WHEREAS, water is a precious resource shared by all and is needed to sustain life; and

WHEREAS, California Water Code Sections 10610 through 10657 require urban water retailers, such as the City of Milpitas, to adopt an Urban Water Management Plan and Water Shortage Contingency Plan every five (5) years; and

WHEREAS, the Milpitas City Council adopted the 2010 Urban Water Management Plan and Water Shortage Contingency Plan on June 7, 2011; and

WHEREAS, on January 17, 2014, the Governor issued a Proclamation declaring a State of Emergency due to severe drought conditions; and

WHEREAS, on January 28, 2014, the Santa Clara Valley Water District, one of the City's water suppliers, declared a water supply shortage and requested ten percent (10%) conservation; and

WHEREAS, on January 31, 2014, the San Francisco Public Utilities Commission, one of the City's water suppliers, declared a water supply shortage and requested ten percent (10%) voluntary conservation; and

WHEREAS, on February 25, 2014, the Santa Clara Valley Water District requested mandatory twenty percent (20%) conservation due to the continued drought conditions in the State of California; and

WHEREAS, on April 25, 2014, the Governor suspended the application of the California Environmental Quality Act's applicability to the State Water Resource Control Board's adoption of emergency regulations pursuant to Water Code Section 1058.5; and

WHEREAS, on July 15, 2014, the State Water Resources Control Board adopted Resolution No. 2014-0038 adopting an emergency regulation for statewide urban water conservation requiring water retailers to implement their Water Shortage Contingency Plans; and

WHEREAS, on July 22, 2014, the Santa Clara Valley Water District approved funding additional staffing to augment community outreach regarding water conservation tips; and

WHEREAS, drought conditions that formed the basis of the Governor's Emergency Proclamations continue to exist and the drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to further promote conservation; and

WHEREAS, the City Council of the City of Milpitas declares a water shortage and requests the community to implement water conservation measures with a goal of reducing consumption by twenty percent (20%); and

WHEREAS, in light of the continued water supply shortage in the State of California as set forth above, the City Council must take such action to be effective immediately and to do so requires an urgency ordinance to preserve the public peace, health and safety of its residents.

NOW THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD, BASIS FOR ACTION AND FINDINGS

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above and the findings and justifications in the supporting staff report for this Ordinance are found to be true and correct and are incorporated herein by reference and adopted as the findings of this City Council.

SECTION 2. AMENDMENT OF MUNICIPAL CODE TITLE VIII, CHAPTER 6

Title VIII, Chapter 6 of the Milpitas Municipal Code is hereby amended to add a new Section 5 to read as follows:

VIII-6-5.00 Supplemental Water Use Restrictions

Notwithstanding Section VIII-6-3.00 or any other provision of the Municipal Code, the following uses of Potable Water are prohibited:

- 5.01 Use of Potable Water for cleaning of any hard surfaces, such as sidewalks, streets, buildings, and parking lots.
- 5.02 Use of Potable Water for construction purposes including dust control and compaction.
- 5.03 Construction of new swimming pools or ponds not currently permitted.
- 5.04 Use of Potable Water for cleaning, filling, or operating water features, such as decorative fountains.
- 5.05 Use of Potable Water for irrigation of golf courses, except greens and tees area.
- 5.06 Use of Potable Water for watering or irrigation of any plants, lawn, grass, landscaping or turf areas between the hours of 8:00 a.m. and 8:00 p.m., adjusted for Daylight Savings Time, and for more than two (2) days during any seven (7) day period.
- 5.07 Use of Potable Water for installation of new landscape unless served by Reclaimed Water.
- 5.08 Exceptions to the prohibitions enumerated 5.01 through 5.07 may be granted in the discretion of the City Council.

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision, or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with California Government Code Sections 36934 and 36937, this Ordinance is effective immediately upon adoption by the City Council as an Urgency Ordinance. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.