REGULAR

NUMBER: **238.3**

TITLE: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS ESTABLISHING WATER CONSERVATION IN LANDSCAPING REGULATIONS**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, upon motion by _____ and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Robert Livengood, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, a reliable minimum supply of potable water is essential to the public health, safety and welfare of the people and the economy of the City of Milpitas.

WHEREAS, the California Water Conservation in Landscaping Act, also known as the State Landscape Model Ordinance ("Model Ordinance"), has been implemented by a Statewide Landscape Task Force which was overseen by the California Urban Water Conservation Council. The California Water Conservation in Landscaping Act was amended pursuant to AB 2717 (Chapter 682, Stats. 2004) and AB 1881 (Chapter 559, Stats. 2006).

WHEREAS, AB 1881 requires cities and counties, no later than January 1, 2010, to adopt the updated Model Ordinance or an equivalent document which is "at least as effective as" the Model Ordinance in conserving water. In the event cities and counties do not take such action, the State's Model Ordinance will be deemed to be automatically adopted by statute.

WHEREAS, the City of Milpitas has developed this local Water Conservation in Landscaping Ordinance to meet the requirements and guidelines of the Model Ordinance and to address the unique physical characteristics, including average landscaped areas, within the City of Milpitas' jurisdiction in order to ensure that this Ordinance will be "at least as effective as" the Model Ordinance in conserving water.

WHEREAS, although this Water Conservation in Landscaping Ordinance is more streamlined and simplified than the Model Ordinance, the City Council finds that it is "at least as effective as" the Model Ordinance for the following reasons: (1) this Ordinance applies to more accounts than the Model Ordinance does because it lowers the size threshold for single family and multi-family residences from 5,000 to 2,500 square feet to better reflect the typical landscaped areas located within the City of Milpitas boundaries; (2) this Ordinance includes a default turf restriction of 25% of the irrigated area and requires that at least 80% of the plants in non-turf areas be native plants, low-water using plants, or no-water using plants (unless the applicant elects to perform a water budget); and (3) this Ordinance expands the requirements for dedicated irrigation meters to all accounts with landscaping 2,500 square feet or greater. The Model Ordinance does not contain any such default turf restrictions or specified plant requirements and only requires dedicated irrigation meters on non-residential accounts with landscaping greater than 5,000 square feet.

WHEREAS, although this Water Conservation in Landscaping Ordinance is more streamlined and simplified than the Model Ordinance, the City Council further finds that is it "at least as effective as" the Model Ordinance because this Ordinance includes water budget parameters and values and landscape parameters that are consistent with the Model Ordinance. By using the same water budget parameters as the Model Ordinance (e.g., plant factors, irrigation efficiency), this Ordinance will be as effective as the Model Ordinance in developing water budgets. By using the same landscape parameters as the Model Ordinance for, among other things, slope restrictions and width restrictions for turf, irrigation times, and minimum mulch requirements, this Ordinance will be at least as effective as the Model Ordinance in achieving water savings.

WHEREAS, Article X, Section 2 of the California Constitution and Section 100 of the California Water Code declare that the general welfare requires water resources be put to beneficial use, waste or unreasonable use or unreasonable method of use of water be prevented, and conservation of water be fully exercised with a view to the reasonable and beneficial use thereof.

WHEREAS, the San Francisco Public Utilities Commission has imposed an interim water supply limitation on its wholesale customers, including local water suppliers, until at least 2018.

WHEREAS, current supply and demand projections for the Bay Area Water Supply and Conservation Agency ("BAWSCA") member agencies indicate that, in the absence of increased water conservation, water demands will exceed available water supplies in 2015 and implementation of water conserving ordinances is one mechanism by which agencies can reduce future water demands and remain within existing supplies.

WHEREAS, the City of Milpitas finds and determines that this Ordinance is consistent with the provisions requiring reductions in outdoor water use for landscaping in the California Green Building Standards Code, as such provisions will be implemented in the coming years. Such requirements include the development of a water budget for landscape irrigation in accordance with methodology outlined in either the Model Ordinance or pursuant to a locally adopted ordinance.

WHEREAS, the State Legislature has identified the provision of a more reliable water supply and the protection, restoration and enhancement of the Delta ecosystem as a high priority for the State. Pursuant to this, in November 2009, the State Legislature passed Senate Bill 7 (7^{th} Extraordinary Session) requiring certain urban water suppliers to reduce per capita urban water use by 20% by the year 2020. Accordingly, the City Council finds that implementation of this Ordinance is consistent with the policies and goals established by the State Legislature in enacting SB 7 (7^{th} Extraordinary Session).

WHEREAS, Article XI, Section 7 of the California Constitution declares that a city or county may make and enforce within its limits all local, policy, sanitary, and other ordinances and regulation not in conflict with general laws.

WHEREAS, the City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act (Public Resources Code, Section 2100 *et seq*.) ("CEQA") pursuant to Section 15307 (the activity assures the maintenance, restoration, enhancement, or protection of a natural resource) and Section 15378 (b)(2) (the activity is not a project as it involves general policy and procedure making) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, since it makes and implements policies and procedures to ensure that water resources are conserved by reducing water consumption through the establishment of a structure for planning, designing, installing, maintaining and managing water-efficient landscapes.

WHEREAS, the adoption and enforcement of this Ordinance is necessary to manage the City of Milpitas' potable water supply in the short and long term and to avoid or minimize the effect of drought and shortage within the City of Milpitas. This Ordinance is essential to ensure a reliable and sustainable minimum supply of water for the public health, safety and welfare.

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

SECTION 1. RECORD AND BASIS FOR ACTION

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 are found to be true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE CHAPTER 5, TITLE VIII

Chapter 5, Title VIII of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

CHAPTER 5. WATER EFFICIENT LANDSCAPE ORDINANCE

Section 1 PURPOSE

VIII-5-1.01 The City Council has found:

A. That the limited supply of City waters are subject to ever increasing demands;

B. That the City's economic prosperity depends on adequate supplies of water;

C. That City policy promotes conservation and efficient use of water;

D. That landscapes provide recreation areas, clean the air and water, prevent erosion, offer fire protection, and replace ecosystems displaced by development; and

E. That landscape design, installation, and maintenance can and should be water efficient.

VIII-5-1.02 Consistent with the findings, the purpose of this Chapter is to:

A. Promote the values and benefits of landscapes while recognizing the need to invest water and other resources as efficiently as possible;

B. Establish a structure for designing, installing, and maintaining water efficient landscapes in new projects; and

C. Establish provisions for water management practices and water waste prevention for established landscapes.

D. Insure efficient landscape irrigation water use. This Chapter is applicable to all new and rehabilitated landscapes 2,500 square feet or greater, all common area landscapes in single-family and multi-family subdivisions or planned unit developments, and all existing landscapes one acre or more in size, irrigated with potable water.

Section 2 DEFINITIONS

The words used in this Ordinance have the meanings set forth below:

1. **Antidrain valve** or **check valve:** a valve located under a sprinkler head to hold water in the system so it minimizes drainage from the lower elevation sprinkler heads.

2. **Application rate:** the depth of water applied to a given area, usually measured in inches per hour.

3. **Applied water:** the portion of water supplied by the irrigation system to the landscape.

4. **Automatic controller:** a mechanical or solid state timer, capable of operating valve stations to set the days and length of time of a water application. Automatic irrigation controllers schedule irrigation events using either evapotranspiration (weather based) or soil moisture data.

5. **Backflow prevention device:** a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

6. **Certified Irrigation Designer:** a person certified to design irrigation systems by an accredited academic institution, a professional trade organization or other program such as the U.S. Environmental Protection Agency's WaterSense irrigation designer certification program and Irrigation Association's Certified Irrigation Designer Program.

7. **Certified Landscape Irrigation Auditor (CLIA):** a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the U.S. Environmental Protection Agency's WaterSense irrigation auditor certification program and Irrigation Associations Certified Landscape Irrigation Auditor program.

8. **Certified or Authorized Professional:** a certified irrigation designer, a certified landscape irrigation auditor, a licensed landscape architect or a licensed landscape contractor, or any other person authorized to design a landscape.

9. **City of Milpitas (City):** the entity that is responsible for adopting and implementing this Ordinance. The City is also responsible for enforcement of this Ordinance, including but not limited to: approval of a permit and plan check or design review or a project.

10. **Conversion factor (0.62):** a number that converts the maximum applied water allowance from inches per acre per year to gallons per square foot per year (1 inch/acre/yr = 0.62 gallons/sf/yr). The conversion factor is calculated as follows:

    325,829 gallons/43,560 square feet/12 inches = 0.62
    325,829 gallons = 1 acre-foot
    43,560 square feet = 1 acre
    12 inches = 1 foot

    To convert gallons per year to 100 cubic feet per year, another common billing unit for water, divide gallons per year by 748 (748 gallons = 100 cubic feet).

11. **Ecological restoration project:** a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

12. **Effective precipitation or usable rainfall:** the portion of total precipitation that is used by the plants. Precipitation is not a reliable source of water but can contribute to some degree toward the

water needs of the landscape. For the purpose of this document, "effective precipitation" is 25 percent of local annual mean precipitation.

13. **Emitter:** drip irrigation fittings that deliver water slowly from the system to the soil.

14. **Established landscape:** the point at which plants in the landscape have developed roots into the soil adjacent to the root ball.

15. **Establishment period:** the first year after installing the plant in the landscape; or the first two years if irrigation will be terminated after establishment. Typically, most plants are established after one or two years of growth.

16. **Estimated Applied Water Use:** the portion of the Estimated Total Water Use that is derived from applied water. The Estimated Applied Water Use shall not exceed the Maximum Applied Water Allowance. The Estimated Applied Water Use may be the sum of the water recommended through the irrigation schedule as referenced in VIII-5-3.03(B).

17. **Estimated Total Water Use (ETWU):** the annual total amount of water estimated to be needed to keep the plants in the landscaped area healthy. It is based upon such factors as the local evapotranspiration (ET) rate, the size of the landscaped area, the types of plants, and the efficiency of the irrigation system, as described in VIII-5-3.03(B).

18. **ET adjustment factor (ETAF):** a factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape.

    A combined plant mix with a site-wide average of 0.5 is the basis of the plant factor portion of this calculation. The irrigation efficiency for the purpose of the ET Adjustment Factor is 0.7.

    Therefore, the ET adjustment factor (0.71) = (0.5/ 0.7).

19. **Evapotranspiration:** the quantity of water evaporated from adjacent soil surfaces and transpired by plants during a specific time.

20. **Flow rate:** the rate at which water flows through pipes and valves (gallons per minute or cubic feet per second).

21. **Hardscape:** any durable material (pervious or non-pervious).

22. **Hydrozone:** a portion of the landscaped area having plants with similar water needs that are served by a valve or set of valves with the same schedule. A hydrozone may be irrigated or non-irrigated. For example, a naturalized area planted with native vegetation that will not need supplemental irrigation once established is a non-irrigated hydrozone.

23. **Infiltration rate:** The rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

24. **Irrigation efficiency:** the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum irrigation efficiency for purposes of this Ordinance is 0.7. Greater irrigation efficiency can be expected from well designed and maintained systems.

25. **Landscape Architect:** a person who holds a license to practice landscape architecture in California as further defined by the California Business and Professions Code, Section 5615.

26. **Landscape irrigation audit:** a process to perform site inspection, evaluate irrigation systems, and develop efficient irrigation schedules.

27. **Landscaped area:** the entire parcel less the building footprint, driveways, non-irrigated portions of the parking lots, hardscape such as decks and patios, and other nonporous areas. Water features are included in the calculation of the landscaped area. Areas dedicated to edible plants such as orchards or vegetable gardens are not included.

28. **Landscape Contractor:** a person licensed by the State of California to construct, maintain, repair, install or subcontract the development of landscape systems.

29. **Landscape Project:** total area comprising the landscape area, as defined in this Ordinance.

30. **Lateral line:** the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

31. **Local annual mean precipitation:** the Department of Water Resources 20-year historical rainfall data.

32. **Low Volume Irrigation:** the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as a drip, drip lines and bubblers.

33. **Low Water Use Plant:** a plant species whose water needs are compatible with local climate and soil conditions. Species classified as “very low water use” and “low water use” by the Water Use Classification of Landscape Species (WUCOLS), having a regionally adjusted plant factor of 0.0 through 0.3, shall be considered low water use plants.

34. **Main line:** the pressurized pipeline that delivers water from the water source to the valve or outlet.

35. **Maximum Applied Water Allowance (MAWA):** for design purposes, the upper limit of annual applied water for the established landscaped area as specified in VIII-5-3.03(B). It is based upon the area’s reference evapotranspiration, the ET Adjustment Factor, and the size of the landscaped area. The Estimated Applied Water Use shall not exceed the Maximum Applied Water Allowance.

36. **Mulch:** any organic material such as leaves, bark, straw, or other materials left loose and applied to the soil surface to reduce evaporation.

37. **Native Plant:** a plant indigenous to a specific area of consideration. For the purposes of these guidelines, the term shall refer to plants indigenous to the costal ranges of Central and Northern California, and more specifically to such plants that are suited to the ecology of the present or historic natural community(ies) of the project’s vicinity.

38. **New Construction:** construction of a new building or structure containing a landscape or other new land improvement, such as a park, playground, or greenbelt without an associated building.

39. **No-Water Using Plant:** a plant species with water needs that are compatible with local climate and soil conditions such that regular supplemental irrigation is not required to sustain the plant after it has become established.

40. **Operating pressure:** the pressure at which a system of sprinklers is designed to operate, usually indicated at the base of a sprinkler.

41. **Overhead Sprinkler Irrigation System:** System that delivers water through the air (e.g. spray heads and rotors).

42. **Overspray:** the water which is delivered beyond the landscaped area, wetting pavements, walks, structures, or other non-landscaped areas.

43. **Permit:** an authorizing document issued by the City of Milpitas for a new construction or rehabilitated landscape.

44. **Pervious:** any surface or material that allows the passage of water through the material and into the underlying soil.

45. **Plant factor:** a factor that when multiplied by reference evapotranspiration, estimates the amount of water used by plants. For purposes of this Ordinance, the average plant factor of low water-using plants range from 0 to 0.3, for average water-using plants the range is 0.4 to 0.6, and for high water-using plants the range is 0.7 to 1.0.

46. **Precipitation Rate:** the rate of application of water measured in inches per hour.

47. **Project Applicant:** the individual or entity submitting a Landscape Documentation Package required by the Milpitas Municipal Code, Title VIII, Chapter 5, Sections 1-8, to request a permit, plan check or design review from the City or requesting new or expanded water service from the City. The project applicant may be the property owner or his/her designee.

48. **Rain sensing device:** a system which automatically shuts off the irrigation system when it rains.

49. **Record drawing** or **as-builts:** a set of reproducible drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the contractor.

50. **Recreational area:** areas of active play or recreation such as sports fields, school yards, picnic grounds, or other areas with intense foot traffic.

51. **Recycled water, reclaimed water,** or **treated sewage effluent water:** treated or recycled wastewater of a quality suitable for non-potable uses such as landscape irrigation; not intended for human consumption.

52. **Reference evapotranspiration** (**ETo):** a standard measurement of environment parameter which affect the water use of plants. ETo is given in inches per day, month, or year as represented in VIII-5-6 and is an estimate of the evapotranspiration of a large field of 4- to 7-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis in determining the Maximum Applied Water Allowance so that regional differences in climate can be accommodated.

53. **Rehabilitated landscape:** any re-landscaping project that requires a permit.

54. **Runoff:** water which is not absorbed by the soil or landscape to which it is applied and flows from the area. For example, runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a severe slope.

55. **Soil moisture sensing device:** a device that measures the amount of water in the soil.

56. **Soil texture:** the classification of soil based on the percentage of sand, silt, and clay in the soil.

57. **Special Landscape Area (SLA):** an area of the landscape dedicated solely to edible plants, areas irrigated with recycled water, water features using recycled water and areas dedicated to active play, such as parks, sports fields, golf courses, and where turf provides a playing surface.

58. **Sprinkler head:** a device which sprays water through a nozzle.

59. **Static water pressure:** the pipeline or municipal water supply pressure when water is not flowing.

60. **Station:** an area served by one valve or by a set of valves that operate simultaneously.

61. **Turf:** a surface layer of earth containing mowed grass with its root. Annual bluegrass, Kentucky bluegrass, perennial ryegrass, red fescue, and tall fescue are cool-season grasses. Bermuda grass, Kikuyu grass, Seashore paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are warm-season grasses.

62. **Valve:** a device used control the flow of water in the irrigation system.

63. **Water conservation concept statement:** a one-page checklist and a narrative summary of the project as shown in VIII-5-3.03(A).

64. **Water Feature:** a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied).

65. **WUCOLS:** means the Water Use Classification of Landscape Species published by the University of California Cooperative Extension, the Department of Water Resources and the Bureau of Reclamation, 2000.

Section 3 PROVISIONS FOR NEW OR REHABILITATED LANDSCAPES

VIII-5-3.01 APPLICABILITY

A. Except as provided in VIII-5-3.01(C), below, this Section shall apply to:

1. All new construction and rehabilitated landscapes for public agency projects and private development projects with an irrigated landscape area 2,500 square feet or greater requiring a building or landscape permit, plan check or design review, or requiring new or expanded water service;

2. All new construction and rehabilitated landscapes which are developer-installed in single-family and multi-family projects with a landscape area equal to or greater than 2,500 square feet requiring a building or landscape permit, plan check or design review, or requiring new or expanded water service;

3. All new construction landscapes which are homeowner-provided and/or homeowner-hired in single family and multi-family residential projects with a total project landscape area equal to or greater than 2,500 square feet requiring a building or landscape permit, plan check or design review, or requiring new or expanded water service;

4. All existing landscapes over one acre in size are subject to Section 4, Provision for Existing Landscapes, VIII-5-4.01, Water Management.

B. Projects subject to this Section shall conform to the provisions in of this Chapter.

C. This Ordinance shall not apply to:

1. cemeteries;
2. registered historical sites;
3. ecological restoration projects that do not require a permanent irrigation system;
4. any project with a landscaped area less than 2,500 square feet;
5. designated cultural resources, community gardens or plant collections, as part of a botanical garden or arboretums open to the public, agricultural uses, commercial nurseries and sod farms; or
6. Landscapes or portions of landscapes, that are only irrigated for an establishment period.

VIII-5-3.02 LANDSCAPE DOCUMENTATION PACKAGE

A. A copy of the landscape documentation package conforming to this Chapter shall be submitted to the City Engineer or his or her designee. No permit shall be issued until the City reviews and approves the landscape documentation package.

B. A copy of the approved landscape documentation package shall be provided to the property owner or site manager along with the record drawings and any other information normally forwarded to the property owner or site manager.

C. In applying for a landscape permit, the project applicant has the choice of one of two options, the Water Budget Calculation Option or the Planting Restrictions Option. For either option, each landscape documentation package shall include the following elements, which are described in VIII-5-3.03:

1. Water Conservation Concept Statement
   Water Budget Calculation
   Planting Restrictions Option*

2. Water Budget Calculation Option

Calculation of the Maximum Applied Water Allowance*
Calculation of the Estimated Applied Water Use*
Calculation of the Estimated Total Water Use*

3. Landscape Design Plan
   - Plant Selection and Grouping
   - Water Features
   - Landscape Design Plan Specifications
4. Irrigation Design Plan
   - Irrigation Design Criteria
   - Recycled Water
   - Irrigation Design Plan Specifications
5. Irrigation Schedules
6. Maintenance Schedules
7. Landscape Irrigation Audit Schedules
8. Grading Design Plan
9. Soil Analysis
10. Certification
    - Certificate of Substantial Completion

D. If effective precipitation is included in the calculation of the Estimated Total Water Use, then an Effective Precipitation Disclosure Statement* from the landscape professional and the property owner shall be submitted with the Landscape Documentation Package.
**Project applicants using the Planting Restrictions Option are not subject to calculation of the Maximum Applied Water Allowance, the Estimated Applied Water Use, the Estimated Total Water Use, and/or the Effective Precipitation Disclosure Statement.*

VIII-5-3.03 ELEMENTS OF LANDSCAPE DOCUMENTATION PACKAGE

A. Water Conservation Concept Statement

All landscape documentation packages shall include a cover sheet referred to as the Water Conservation Concept Statement similar to the attached example. It serves as a checklist to verify that the elements of the landscape documentation package have been completed and has a narrative summary of the project. The Water Conservation Concept Statement shall be completed by a Certified Landscape Architect or Irrigation Designer.

The Water Conservation Concept Statement Worksheet gives the project applicant two options to demonstrate that the landscape meets the Ordinance's water efficiency goals. Regardless of which option is selected, the applicant must complete and comply with all applicable elements of this Ordinance. The two options include:

1. The Water Budget Calculation Option; or
2. The Planting Restrictions Option:
   a. The turf area may not be more than 25% of the landscape area or no more than 1300 square feet, whichever is lesser; and
   b. At least 80% of the plants in the non-turf landscape areas shall be native plants, low- or no-water using plants. Water features are considered high-use for purposes of this calculation.

WATER CONSERVATION CONCEPT STATEMENT

Project Site:	Water Account Number:
Project Location:	

Certified Landscape Architect/Irrigation Designer

Select Option One or Two:

☐ ***Option One:*** **Water Budget Calculation** (Check to indicate completion) _____

☐	Maximum Applied Water Allowance:	_____	Gallons/year
☐	Estimated Applied Water Use:	_____	Gallons/year
☐	Estimated Amount of Water Expected from Effective Precipitation*:	_____	Gallons/year
☐	Estimated Total Water Use:	_____	Gallons/year

NOTE: *If the design assumes that a part of the Estimated Total Water Use will be provided by precipitation, the Effective Precipitation Disclosure Statement in VIII-5-5.00 shall be completed and submitted. The Estimated Amount of Water Expected from Effective Precipitation shall not exceed 25 percent of the local annual mean precipitation (average rainfall).

☐ ***Option Two:*** **Planting Restrictions** (Check to indicate completion) _____

☐	Turf Area Square Footage (Not to exceed 1300 square feet)	_____	Square Feet
☐	Turf Area Percentage (Maximum 25% of total landscape area)	_____	%
☐	Percentage of native, low- and/or no-water using plants (minimum 80%)	_____	%

Regardless of which option is chosen above, ALL project applicants are to complete all the items listed below:

☐	Landscape Design Plan	☐	Landscape Irrigation Audit Schedule
☐	Irrigation Design Plan	☐	Grading Design Plan
☐	Irrigation Schedule	☐	Soil Analysis
☐	Maintenance Schedule		

Description of Project: Briefly describe the planning and design actions that are intended to achieve conservation and efficiency in water use.

Prepared by:	Date:

B. Water Budget Calculation Option
(Applicable only to applicants who choose Water Budget Calculation Option)

1. Water Budget Calculations must be completed by a certified or authorized professional.

2. The plant factor used shall be from WUCOLS. The plant factor ranges from 0.0 to 0.3 for low water use plants, from 0.4 to 0.6 for moderate water use plants, and from 0.7 to 1.0 for high water use plants.

3. All Special Landscape Areas (SLA) shall be identified and their water use included in the water budget calculations. A statement shall be included with the landscape design plan, designating areas to be used for such purposes and specifying any needed amount of additional water above the Maximum Applied Water Allowance.

4. The referenced evapotranspiration adjustment factor (ETAF) for the SLA shall not exceed 1.0. The ETAF for all other landscaped areas shall not exceed 0.7.

5. Irrigation efficiency shall be greater than, or equal to 0.7.

6. Calculating the Maximum Applied Water Allowance (MAWA)

   a. A project's Maximum Applied Water Allowance shall be calculated using the following formula:

   MAWA = (ETo) (.62) [(0.7 x LA) + (0.3 x SLA)] where:
   MAWA = Maximum Applied Water Allowance (gallons per year)
   ETo = Reference Evapotranspiration (inches per year)
   0. 0.7 = Evapotranspiration Adjustment Factor (ETAF)
   LA = Landscaped Area (square feet)
   0.62 = Conversion Factor
   0.3 = Additional Water Allowance for SLA
   SLA = Special Landscape Area (square feet)

7. Calculating Estimated Applied Water Use

   a. The Estimated Applied Water Use shall not exceed the Maximum Applied Water Allowance.

   b. A calculation of Estimated Applied Water Use shall be submitted with the Landscape Documentation Package. It may be calculated by summing the 12 monthly amounts of applied water recommended in the irrigation schedule on an annual basis.

8. Calculating Estimated Total Water Use

   a. A calculation of the Estimated Total Water Use shall be submitted with the Landscape Documentation Package. The Estimated Total Water Use may be calculated by summing the amount of water recommended in the irrigation schedule and adding any amount of water expected from effective precipitation (not to exceed 25% of the local annual mean precipitation) or may be calculated from a formula such as the following:

   b. The Estimated Total Water Use for the entire landscaped area equals the sum of the Estimated Water Use of all hydrozones in that landscaped area.

   $$ETWU = (ETo)\,(0.62)\left(\frac{PFxHA}{IE} + SLA\right)$$

   ETWU = Estimated Total Water Use (gallons/year)

ETo	=	Reference Evapotranspiration (inches/year)
PF	=	Plant factor from WUCOLS
HA	=	Hydrozone area (square feet)
0.62	=	Conversion factor
IE	=	Irrigation efficiency (minimum 0.7)

If the Estimated Total Water Use is greater than the Estimated Applied Water Used due to precipitation being included as a source of water, an Effective Precipitation Disclosure Statement such as the one in VIII-5-5.00 shall be included in the Landscape Documentation Package.

C. Landscape Design Plan

The components of the Landscape Design Plan shall be prepared by, and bear the signature of a licensed landscape architect, licensed landscape contractor, or that of a certified or authorized professional. A landscape design plan meeting the following requirements shall be submitted as part of the landscape documentation package.

1. Plant Selection and Grouping

a. If using the Water Budget Calculation Option, any plants may be used in the landscape, provided the Estimated Applied Water Use recommended does not exceed the Maximum Applied Water Allowance and that the plants meet the specifications set forth (Section VIII-5-3.03 B). Mixed use hydrozones, such as moderate/high and low/moderate, may be allowed if the plant factor calculation is based on the proportion of the respective plant water uses or if the plant factor of the higher water using plant is used. Individual hydrozones that mix high and low/no-water using plants is strictly prohibited.

b. If using the Planting Restrictions Option, plants having similar water use shall be grouped together in distinct hydrozones. Mixed use hydrozones are prohibited.

c. Groundcover other than turf will be used on all slopes exceeding 10% or in areas less than eight feet wide in any direction, unless irrigated with subsurface irrigation or a low volume irrigation system.

d. Plants shall be selected appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the site. Protection and preservation of native species and natural areas is encouraged. The planting of trees is encouraged wherever it is consistent with the other provisions of this Ordinance.

e. Avoid fire prone plant materials and highly flammable mulches. Fire prevention needs shall be addressed in areas that are fire prone. Information about fire prone areas and appropriate landscaping for fire safety is available from the California Department of Forestry.

f. The architectural guidelines of a common interest development shall not prohibit or include conditions that have the effect of prohibiting the use of low- and/or no-water use plants as a group.

2. Water Features

a. Re-circulating water shall be used for decorative water features.

b. Pool and spa covers are encouraged.

c. Water features will be considered a high water use plant. The surface area of a water feature shall not exceed 10% of the landscape area.

3. Landscape Design Plan Specifications

The landscape design plan shall be drawn on project base sheets at a scale that accurately and clearly identifies:

a. Designation of hydrozones, identifying each as low-, moderate-, high-water, or mixed use.

b. Landscape materials, trees, shrubs, ground cover, turf, and other vegetation. Planting symbols shall be clearly drawn and plants labeled by botanical name, common name, container size, spacing, and quantities of each group of plants indicated.

c. Property lines and street names.

d. Streets, driveways, walkways, paved areas, and any other pervious and non-pervious hardscapes.

e. Pools, ponds, water features, fences, and retaining walls. Identify the type and surface area of water features.

f. Existing and proposed buildings and structures including elevation if applicable.

g. Natural features including, but not limited to, rock outcroppings, existing trees, shrubs that will remain.

h. Tree staking, plant installation, soil preparation details, and any other applicable planting and installation details.

i. A calculation of the total landscaped area.

j. Designation of Special Landscape Areas (i.e., recreational areas, areas permanently and solely dedicated to edible plants, areas irrigated with recycled water).

k. Identify type of mulch and application depth.

D. Irrigation Design Plan

The irrigation design portion shall be prepared by, and bear the signature of a licensed landscape architect, certified irrigation designer, licensed landscape contractor, or that of a certified or authorized professional. An irrigation design plan meeting the following conditions shall be submitted as part of the Landscape Documentation Package.

1. Irrigation Design Criteria

a. **Runoff and Overspray.** Soil types and infiltration rate shall be considered when designing irrigation systems. All irrigation systems shall be designed to minimize runoff, low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, or structures. Proper irrigation equipment and schedules, including features such as repeat cycles, shall be used to closely match application rates to infiltration rates, therefore, minimizing runoff.

Low volume irrigation is required in mulched areas, in areas with slopes greater than 25%, and within 24-inches of a non-permeable surface, or in areas that are less than eight feet wide in any direction.

b. **Irrigation Efficiency.** For the purpose of determining the Maximum Applied Water Allowance, irrigation efficiency is assumed to be 0.7. Irrigation systems shall be designed, maintained, and managed to meet or exceed 0.7 efficiency.

c. **Equipment:** Location, type and size of all components of the irrigation system shall be noted**.**

Water meters. Separate landscape water meters shall be required for all projects 2,500 square feet or greater, except for single-family and duplex homes.

Controllers. Automatic control systems utilizing either evapotranspiration or soil moisture sensor data shall be required for all irrigation systems and must be able to accommodate all aspects of the design.

Valves. Plants which require different amounts of water shall be irrigated by separate valves. Each valve shall irrigate a hydrozone with similar site, slope, sun exposure, soil conditions, and plant materials with similar water use. Where feasible, trees shall be placed on separate valves from shrubs, groundcover and turf. Antidrain (check) valves shall be installed in strategic points to minimize or prevent low-head drainage.

Sprinkler heads. Heads and emitters shall have consistent application rates within each control valve circuit. Sprinkler heads shall be selected for proper area coverage, application rate, operating pressure, adjustment capability, and ease of maintenance.

Sensors (rain, freeze, wind, etc.). Either integral or auxiliary, that suspend or alter irrigation operation during unfavorable weather conditions shall be required on all irrigation systems.

Soil Moisture Sensing Devices. It is recommended that soil moisture sensing devices be considered where appropriate.

Backflow Prevention Assemblies. Backflow protection shall be in accordance with Chapter 3, Title VIII of the Milpitas Municipal Code which establishes backflow prevention and cross-connection control.

2. Recycled Water

a. The installation of recycled water irrigation systems (dual distribution systems) shall be required to allow for the current and future use of recycled water, unless a written exemption has been granted as described in the following Section (b).

b. Irrigation systems shall make use of recycled water unless a written exemption has been granted by the City Engineer, stating that recycled water is not available and will not be available in the foreseeable future. Non-shared landscaped areas of residential projects are categorically exempt from recycled water use and waivers are not necessary.

c. The recycled water irrigation systems shall be designed and operated in accordance with all local and state codes.

3. Irrigation Design Plan Specifications

Irrigation system shall be designed to be consistent with hydrozones.

The irrigation design plan shall be drawn on project base sheets. It should be separate from, but use the same format as the landscape design plan. The scale shall be the same as that used for the landscape design plan described in VIII-5-3.03(C-3).

The irrigation plan shall accurately and clearly identify:

a. Location and size of separate water meters for the landscape.

b. Location, type, and size of all components of the irrigation system, including automatic controllers, main and lateral lines, valves, sprinkler heads, pressure regulators, moisture sensing devices, rain switches, quick couplers, and backflow prevention devices.

c. Static water pressure at the point of connection to the public water supply.

d. Flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (psi) for each station.

e. Recycled water irrigation systems as specified in the VIII-5-3.03(D-2).

E. Irrigation Schedules

Irrigation schedules satisfying the following conditions shall be submitted as part of the Landscape Documentation Package.

1. The irrigation schedule shall:

   a. include run time (in minutes per cycle), suggested number of cycles per day, and frequency of irrigation for each station; and

   b. provide the amount of applied water (in hundred cubic feet, gallons, or in whatever billing units the local water supplier uses) recommended on a monthly and annual basis.

2. With the exception of testing, maintenance and audits, the landscape irrigation shall be scheduled during non-daylight hours, 8:00 p.m. to 10:00 a.m., unless unfavorable weather prevents it or otherwise renders it unnecessary.

The following is applicable only to project applicants who use the Water Budget Calculation Option:

3. The total amount of water for the project shall include water designated in the Estimated Total Water Use calculation plus water needed for any water features which shall be considered as a high water using hydrozone.

4. SLAs designated in the landscape design plan shall be highlighted and the irrigation schedule shall indicate if any additional water is needed above the Maximum Applied Water Allowance because of high plant factors (but not due to irrigation inefficiency).

5. Whenever possible, irrigation scheduling shall incorporate the use of evapotranspiration data such as those from the California Irrigation Management Information System (CIMIS) weather stations to apply the appropriate levels of water for different climates.

F. Maintenance Schedules

A regular maintenance schedule satisfying the following conditions shall be submitted as part of the Landscape Documentation Package:

1. Landscape shall be maintained to ensure water efficiency. A regular maintenance schedule shall include, but not be limited to, checking, adjusting, and repairing irrigation equipment; resetting the automatic controller; aerating and dethatching turf areas; replenishing mulch; fertilizing; pruning, weeding in all landscaped areas; and removing obstructions to emission devices.

2. Whenever possible, repair of irrigation equipment shall be done with the originally specified materials or their equivalents.

3. A project applicant is encouraged to implement sustainable or environmentally-friendly practices for overall landscape maintenance.

G. Landscape Irrigation Audit Schedules

A schedule of landscape irrigation audits, for all but single-family residences, satisfying the following conditions shall be submitted to the City as part of the Landscape Documentation Package.

1. Landscape irrigation audits for new or rehabilitated landscapes shall be conducted by a Certified Landscape Irrigation Auditor (CLIA) after the landscaping and irrigation system has been installed.

2. At a minimum, audits shall be in accordance with the State of California Landscape Water Management Program as described in the most current version of the Landscape Irrigation Auditor Handbook, the entire document, which is hereby incorporated by reference.

3. The City has the right to administer ongoing landscape efficiency requirements that may include, but are not limited to, irrigation audits, surveys, water use analysis, post installation landscape inspection and water budget calculations to evaluate compliance with the MAWA (applicable to those who use the Water Budget Calculation Option). Owners of applicable landscapes shall comply, at the owner's expense, with the City's ongoing landscape efficiency requirements when deemed necessary by the City, to maintain landscape irrigation facilities in order to prevent waste water and runoff.

H. Grading Design Plan

Grading design plans satisfying the following conditions shall be submitted as part of the Landscape Documentation Package:

1. A grading design plan shall be drawn on project base sheets. It should be separate from, but use the same format as the landscape design plan.

2. The grading design plan shall indicate finished configurations and elevations of the landscaped area, including the height of graded slopes, drainage patterns, pad elevations, and finish grade.

3. The grading design plan shall maintain all irrigation and normal rainfall within property lines and avoid drainage onto non-permeable hardscapes.

4. The grading design plan shall avoid disruption of natural drainage patterns and undisturbed soil.

5. The grading design plan shall avoid soil compaction in landscape areas.

6. The grading design plan shall be consistent with the City grading Ordinance.

I. Soil Analysis

1. A soil analysis satisfying the following conditions shall be submitted as part of the Landscape Documentation Package:

    a. Determination of soil texture, indicating the percentage of organic matter.

    b. An approximate soil infiltration rate (either measured or derived from soil texture/infiltration rate tables). A range of infiltration rates should be noted where appropriate.

    c. Measure of pH and total soluble salts.

2. A mulch of at least 3 inches shall be applied to all planting areas except turf.

3. Decomposed organic matter or polymer products shall be incorporated into the soil to improve infiltration, water retention and soil structure.

J. Certification

1. Upon completing the installation of landscaping and irrigation systems, an irrigation audit shall be conducted by a Certified Landscape Irrigation Auditor (CLIA) prior to the final field observation. The CLIA shall be certified by the Irrigation Association. (See Landscape Irrigation Auditor Handbook as referenced in VIII - 5 - 3.03 [G-2].)

2. A licensed irrigation designer, landscape architect or other licensed or Certified Professional in Horticulture or in a field related to Horticulture shall conduct a final field observation to confirm that the irrigation system was installed as designed, that plants were installed as specified, and that an irrigation audit has been performed.

3. A licensed Landscape Architect, Irrigation Designer or Licensed or Certified Professional in Horticulture or in a field related to Horticulture shall provide a certificate of substantial completion to the City and to the owner of record. This certificate shall specifically indicate that plants were installed as specified, that the irrigation system was installed as designed on the plan, and that an irrigation audit has been performed. Any deficiencies shall also be identified on the certificate of substantial completion.

4. A Certificate of Substantial Completion shall be submitted to the City and to the owner of record. A sample of such a form, provided by the City, is attached.

CERTIFICATE OF SUBSTANTIAL COMPLETION

Project Site:	Water Account Number:
Project Location:	

Preliminary Project Documentation Submitted:

☐ **Option One: Water Budget Calculation** (Check to indicate completion)

☐	Maximum Applied Water Allowance:	_____ Gallons/year
☐	Estimated Applied Water Use:	_____ Gallons/year
☐	Estimated Amount of Water Expected from Effective Precipitation*:	_____ Gallons/year
☐	Estimated Total Water Use:	_____ Gallons/year

NOTE: *If the design assumes that a part of the Estimated Total Water Use will be provided by precipitation, the Effective Precipitation Disclosure Statement in VIII-5-5 shall be completed and submitted The Estimated Amount of Water Expected from Effective Precipitation shall not exceed 25 percent of the local annual mean precipitation (average rainfall)

☐ **Option Two: Planting Restrictions** (Check to indicate completion)

☐	Turf Area Square Footage (Not to exceed 1300 square feet)	_____ Square Feet
☐ .	Turf Area Percentage (Maximum 25% of total landscape area)	_____ %
☐	Percentage of native, low- and/or no-water using plants (minimum 80%)	_____ %

The following seven elements must be completed by all applicants, regardless of which option was chosen above (Check to indicate completion) **:**

☐	Landscape Design Plan	☐	Landscape Irrigation Audit Schedule
☐	Irrigation Design Plan	☐	Grading Design Plan
☐	Irrigation Schedule	☐	Soil Analysis
☐	Maintenance Schedule		

Post-Installation Inspection (Check to indicate completion)**:**

☐ A Plants installed as specified

☐ B Irrigation system installed as designed

- ☐ dual distribution system for recycled water, as applicable
- ☐ minimal runoff or overspray

☐ C Landscape Irrigation Audit performed

Project submittal package and a copy of this certification has been provided to property owner/manager and local water agency
Comments:

I/we certify that work has been installed in accordance with the contract documents.

Contractor

Signature	Date	State License Number

I/we certify that based upon periodic site observations, the work has been substantially completed in accordance with the Water Efficient Landscape Ordinance and that the landscape planting and irrigation conform with the approved plans and specifications.

Landscape Architect, Irrigation Designer or Licensed or Certified Professional in Horticulture or in a field related to Horticulture.

Signature	Date	State License Number

I/we certify that I/we have received all of the contract documents and that it is our responsibility to see that the project is maintained in accordance with the contract documents.

Owner

Signature	Date

VIII-5-3.04 PUBLIC EDUCATION

A. Publications

The City will maintain public information materials on water efficient landscaping at the public information counter at City Hall.

B. Model Homes

At least one model home that is landscaped in each project consisting of eight or more homes shall demonstrate via signs and information the principles of water efficient landscape described in this Ordinance.

1. Signs shall be used to identify the model as an example of water efficient landscape and featuring elements such as hydrozones, irrigation equipment, and others which contribute to the overall water efficient theme.

2. Information shall be provided about designing, installing, and maintaining water efficient landscapes.

Section 4 PROVISIONS FOR EXISTING LANDSCAPES

VIII-5-4.01 WATER MANAGEMENT

All existing landscaped areas to which the City provides potable water that are one acre or more, including golf courses, green belts, common areas, schools, businesses, parks, and publicly owned landscapes: (1) shall comply with the City's Ordinance relating to irrigation audits, surveys, and water use analysis; and (2) shall maintain landscape irrigation facilities to prevent water waste and runoff. If an audit is required, at a minimum, the audit shall be in accordance with the California Landscape Water Management Program as described in the most current version of the Landscape Irrigation Auditor Handbook, the entire document which is hereby incorporated by reference.

If the project's water bills indicate that they are using less than or equal to the Maximum Applied Water Allowance for that project site, an audit shall not be required.

VIII-5-4.02 WATER WASTE PREVENTION

Water waste resulting from inefficient landscape irrigation such as runoff, low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures is prohibited.

Section 5 EFFECTIVE PRECIPITATION

VIII-5-5.00 If effective precipitation is included in the calculation of the Estimated Total Water Use, an Effective Precipitation Disclosure Statement (similar to the following Effective Precipitation Disclosure Statement sample) shall be completed, signed, and submitted with the Landscape Documentation Package. No more than 25% of the local annual mean precipitation shall be considered effective precipitation in the calculation of the Estimated Total Water Use.

EFFECTIVE PRECIPITATION DISCLOSURE STATEMENT

I certify that I have informed the project owner and developer that this project depends on _____ gallons of effective precipitation per year. This represents _____ percent of the local mean precipitation of _____ inches per year.

I have based my assumptions about the amount of precipitation that is effective upon:

_____

_____

_____

_____

_____

_____

I certify that I have informed the project owner and developer that in times of drought, there may not be enough water available to keep the entire landscape alive.

_____ _____

Licensed or Certified Landscape Professional Date

I certify that I have been informed that in times of drought, there may not be enough water available to keep the entire landscape alive.

_____ _____

Owner Date

_____ _____

Developer Date

Section 6 REFERENCE EVAPOTRANSPIRATION

In Inches (Historical Data, Extrapolated from 12-Month Normal Year ETo Maps and U.C. Publication 21426)

County	City	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann
Alameda	Livermore	1.2	1.5	2.9	4.4	5.9	6.6	7.4	6.4	5.3	3.2	1.5	0.9	47.2
	Oakland	1.5	1.5	2.8	3.9	5.1	5.3	6.0	5.5	4.8	3.1	1.4	0.9	41.8
Contra Costa	Benicia	1.3	1.4	2.7	3.8	4.9	5.0	6.4	5.5	4.4	2.9	1.2	0.7	40.3
	Brentwood	1.0	1.5	2.9	4.5	6.1	7.1	7.9	6.7	5.2	3.2	1.4	0.7	48.3
	Courtland	1.9	1.5	2.9	4.4	6.1	6.9	7.9	6.7	5.3	3.2	1.4	0.7	48.0
	Concord	1.1	1.4	2.4	4.0	5.5	5.9	7.0	6.0	4.8	3.2	1.3	0.7	43.4
	Martinez	1.2	1.4	2.4	3.9	5.3	5.6	6.7	5.6	4.7	3.1	1.2	0.7	41.8
	Pittsburg	1.0	1.5	2.8	4.1	5.6	6.4	7.4	6.4	5.0	3.2	1.3	0.7	54.4
Marin	Novato	1.3	1.5	2.4	3.5	4.4	6.0	5.9	5.4	4.4	2.8	1.4	0.7	39.8
	San Rafael	1.2	1.3	2.4	3.3	4.0	4.8	4.8	4.9	4.3	2.7	1.3	0.7	35.8
San Benito	Hollister	1.5	1.8	3.1	4.3	5.5	5.7	6.4	5.9	5.0	3.5	1.7	1.1	45.1
San Francisco	San Francisco	1.5	1.3	2.4	3.0	3.7	4.6	4.9	4.8	4.1	2.8	1.3	0.7	35.1
San Mateo	Half Moon Bay	1.5	1.7	2.4	3.0	3.9	4.3	4.3	4.2	3.5	2.8	1.3	1.0	33.7
	Redwood City	1.5	1.8	2.9	3.8	5.2	5.3	6.2	5.6	4.8	3.1	1.7	1.0	42.8
Santa Clara	Gilroy	1.3	1.8	3.1	4.1	5.3	5.6	6.1	5.5	4.7	3.4	1.7	1.1	43.6
	Los Gatos	1.5	1.8	2.8	3.9	5.0	5.6	6.2	5.5	4.7	3.2	1.7	1.1	42.9
	Milpitas	1.5	1.8	3.1	4.1	5.5	5.8	6.5	5.9	5.2	3.3	1.8	1.0	45.3
	Palo Alto	1.5	1.8	2.8	3.8	5.2	5.3	6.2	5.6	5.0	3.2	1.7	1.0	43.0
	San Jose	1.5	1.8	3.1	4.1	5.5	5.8	6.5	5.9	5.2	3.3	1.8	1.0	45.3
Santa Cruz	Santa Cruz	1.5	1.8	2.6	3.5	4.3	4.4	4.8	4.4	3.8	2.8	1.7	1.2	36.6
	Watsonville	1.5	1.8	2.7	3.7	4.6	4.5	4.9	4.2	4.0	2.9	1.8	1.2	37.7

Section 7 PENALTIES

VIII-5-7.00 Any person or persons, company, corporation or association, who shall violate any of the provisions of this Chapter or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, shall severally for each and every violation and non-compliance respectively, be guilty of an infraction, punishable in accordance with the provisions of I-1-4.09-1 of the Milpitas Municipal Code. The imposition of one fine for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

Section 8 SEVERABILITY

VIII-5-8.00 If any section, subsection, provision or part of this Ordinance, or its application to any person or circumstance, is held to be unconstitutional or otherwise invalid, the remainder of this Ordinance, and the application of such provision to other person or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this Ordinance are severable.

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 Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. 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.