

**REGULAR**

**NUMBER: 274.1**

**TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 1100 OF TITLE V OF THE MILPITAS MUNICIPAL CODE RELATING TO PUBLIC NUISANCES AND THEIR ABATEMENT**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of August 17, 2010, upon motion by Vice Mayor McHugh 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:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Robert Livengood, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

## **RECITALS AND FINDINGS:**

**WHEREAS**, the City wishes to update its public nuisance ordinance; and

**WHEREAS**, the City finds that the non-payment of duly adopted fees and services that relate to the use and enjoyment of real property, buildings and improvements reduces the funding available to the regulatory system, which in turn impedes the City's capability to protect its residents and provide necessary services to them. To ensure sufficient municipal funds to identify and rectify threats to public health, welfare and safety, the City enacts this section of the Municipal Code, which expands the definition of a public nuisance to include, but not be limited to, conditions relating to the failure to pay for police and fire department false alarms, municipal utility bills, annual fire inspection fees, and land use applications.

**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 ARTICLE V, CHAPTER 1100, TITLE V**

Article V of Chapter 1100 of Title V of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

#### **V-1100-1.00 Expanded Definition of Public Nuisance**

Any property, building, or other improvement found to be maintained in such condition as to constitute a public nuisance as defined anywhere in this Code, the statutes of the State of California or in the common law is declared to constitute a public nuisance subject to abatement and lien for recovery of abatement costs. For purposes of this section, the failure to pay for any duly adopted and approved application, processing, regulatory, inspection or safety fee imposed by the City in connection with the use and enjoyment of any property, building or improvement shall constitute a public nuisance. Examples of such public nuisances include, but are not limited to, conditions relating to the failure to pay for police and fire department false alarms, municipal utility bills, annual fire inspection fees, and land use applications.

#### **V-1100-2.00 Abatement Procedures for Nuisances**

A violation of this Chapter may be abated pursuant to the procedures set forth in Milpitas Municipal Code Sections V-500-3.01, V-500-3.01.1, V-500-3.02, V-500-3.03, V-500-3.04, V-500-3.05, V-500-3.06, V-500-3.07, V-500-3.08, V-500-4.00, V-500-4.01, V-500-4.02, V-500-4.03, V-500-4.04, V-500-4.05, V-500-5.01, V-500-5.02, V-500-6.00, V-500-6.01, V-500-6.02, and be subject to those provisions allowing for cost recovery and the imposition of liens, at the discretion of the City Manager. Any notices of liens shall state the basis for which the lien is claimed.

### **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.