

REGULAR

NUMBER: 284

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS ADDING MILPITAS MUNICIPAL CODE SECTION I-210-5.20 REQUIRING DISCLOSURE OF DEVELOPER CONTRIBUTIONS TO CITY COUNCIL

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, 2013, upon motion by _____ and was adopted (second reading) by the City Council at its meeting of _____, 2013, upon motion by _____. Said 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

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the City of Milpitas finds that persons or entities desiring to develop properties within the City are often also amongst those making contributions to City Council or Mayoral election campaigns; and

WHEREAS, the public perception of such contributions made by persons seeking Council approval on development projects might be that it undermines the objectiveness of the decision making process and gives the appearance of unfairness; and

WHEREAS, principles of freedom of expression, as guaranteed by the Federal and State Constitutions, prevent the City from banning contributions to Council or Mayoral campaigns by those seeking development approval for projects within the City of Milpitas; and

WHEREAS, full disclosure of contributions from those seeking Council approval of their development projects protects the public interest by informing the public, fellow members of the City Council, and all other interested persons of the fact of a Council Person having received campaign contributions from such project proponents; and

WHEREAS, the City Council finds that the requirements imposed by this Ordinance are intended to provide for the public safety and well being of the community; and

WHEREAS, the City Council finds that this Ordinance is a reasonable time, place and manner regulation of speech; and

WHEREAS, the City Council finds that this Ordinance is content neutral and is not intended and does not restrict the right of free speech or alternative channels of communication; and

WHEREAS, the City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment.

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. ADDITION OF MILPITAS MUNICIPAL CODE SECTION I-210-5.20

Section I-210-5.20 is hereby added to Chapter 210 of Title I as follows:

I-210-5.20 Disclosure of Developer Contributions.

- (a) At such time as a Development Project comes before the City Council for approval, each Council Person and the Mayor shall identify any contribution received from the Applicant in the prior 12-month period aggregating \$100 or more.
- (b) Disclosure shall be made in response to a request by the City Attorney to disclose all developer contributions required under section (a). The City Attorney shall make such request immediately after the Development Project agenda item is announced and before the staff presentation.
- (c) For purposes of this Section, “Development Project” shall mean any land use approval including tentative map approval, site development permit approval, conditional use permit approval, variance approval, Development Agreement approval, zoning change approval, General Plan amendment approval, Planned Unit Development approval or similar land use approval.
- (d) For purposes of this Section, “Applicant” shall mean any individual named on the Planning and Zoning Project Application form as Project Owner or Project Contact. If a partnership or corporation is listed as Applicant, Applicant includes any employee or officer of the partnership or corporation.
- (e) In determining the aggregate amount of contributions in the 12-month reporting period, the provisions of Section I-210-3.10(e) shall govern.

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.