

**REGULAR**

**NUMBER: 208.51**

**TITLE: AN ORDINANCE OF THE CITY OF MILPITAS AMENDING SECTION 5.38 OF CHAPTER 2, ARTICLE V, TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO WASTEWATER DISCHARGE PERMITS**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of June 2, 2015, upon motion by Councilmember Giordano, and was adopted (second reading) by the City Council at its meeting of \_\_\_\_\_, 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 (“City”) contracts for sanitary wastewater treatment at the San Jose/Santa Clara Water Pollution Control Plant (“WPCP”) under the 1983 “Master Agreement for Wastewater Treatment between City of San Jose, City of Santa Clara, and City of Milpitas” (“Agreement”); and

**WHEREAS**, the Agreement requires that the City and other tributary agencies adopt, amend, and revise their sanitary ordinances whenever the City of San Jose amends their ordinance to comply with current regulatory requirements established by the WPCP’s National Pollutant Discharge Elimination System (“NPDES”) permit; and

**WHEREAS**, the City of San Jose revised their sanitary ordinance initiated by a combination of recommendations and audit requirements from the United States Environmental Protection Agency; and

**WHEREAS**, the San Jose City Council adopted revisions to their sanitary ordinance on September 30, 2014, and based on those revisions, the City’s sanitary ordinance now requires the same revisions to comply with the Agreement.

**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 TITLE VIII, CHAPTER 2, ARTICLE V, SECTION 5.38**

Title VIII, Chapter 2, Article V, Section 5.38 of the Milpitas Municipal Code is hereby amended to read as follows:

VIII-2-5.38 - No Transfer of Wastewater Discharge Permit Allowed

Wastewater discharge permits are issued to a specific user for a specific operation. A discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without prior approval of the Director. However, nothing in this Chapter shall be construed to prevent the application of terms and conditions of this Chapter, including enforcement penalties, from applying to a succeeding owner, successor in interest, or other assigns of an existing contract of permit holder.

**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.