

**REGULAR**

**NUMBER: 240.5**

**TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 6 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO THE CONTINUED WATER SHORTAGE EMERGENCY AND SUPPLEMENTAL WATER USE RESTRICTIONS**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of August 2, 2016 upon motion by Councilmember Giordano 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

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher J. Diaz, City Attorney

**RECITALS AND FINDINGS:**

**WHEREAS**, on August 19, 2014, the Milpitas City Council adopted Urgency Ordinance No. 240.2 declaring a water shortage, adding supplemental water use restrictions to the Water Shortage Contingency Plan (“WSCP”) as required by State law, and requested the community to implement water conservation measures with a goal of reducing consumption by twenty percent (20%); and

**WHEREAS**, on June 16, 2015, the City Council of the City of Milpitas declared the continuation of a water shortage, added additional conservation measures as required by State law; and required the community to implement water conservation measures with a goal of reducing consumption by thirty percent (30%); and

**WHEREAS**, the residents and businesses of the City of Milpitas responded to the new water use restrictions and conservation education programs by reducing water use by 24% in the 12 months from June 2015 to June 2016; and

**WHEREAS**, as a result of increasing water supplies in many parts of the State, on May 9, 2016, Governor Brown issued Executive Order B-37-16 directing the State Water Resources Control Board to adjust and extend the emergency regulations for urban water conservation through the end of January 2017; and

**WHEREAS**, in response to the Governor’s directive, the State Water Resources Control Board adopted new emergency regulations, which continued a statewide conservation approach while replacing the prior percentage reduction-based water conservation standard with a localized approach that requires urban water suppliers to adopt a locally developed conservation standard based on each supplier’s specific circumstances; and

**WHEREAS**, in order to develop a localized conservation standard, each urban water supplier is required to self-certify the level of available water supplies it has by assuming three additional dry years, and then adopting a conservation standard necessary to assure adequate supply over that time; and

**WHEREAS**, on June 7, 2016, the City Council adopted Resolution No. 8549, “A Resolution Adopting The 2015 Urban Water Management Plan (“UWMP”),” which includes a WSCP that sets forth five water conservation stages designed to reduce overall water usage during a declared water shortage; and

**WHEREAS**, on June 14, 2016, the Santa Clara Valley Water District adopted a resolution calling for a 20% water use reduction through January 31, 2017, and restrictions on outdoor watering of ornamental landscapes or lawns with potable water to a maximum of three days per week.

**WHEREAS**, pursuant to California Water Code section 375, the City of Milpitas is authorized to adopt and enforce a water conservation program to reduce the quantity of water used by persons within its jurisdiction for the purpose of conserving the water supplies of the City; and

**WHEREAS**, the City Council of the City of Milpitas declares the continuation of a water shortage for the year 2016, implements Stage One of the WSCP, modifies the supplemental water use restrictions, and requests the community to implement water conservation measures with a goal of reducing consumption by twenty percent (20%); and

**WHEREAS**, in accordance with Water Code Section 375 *et seq.*, and the laws and regulations cited above, a certified copy of the full text of this Ordinance was posted in the City Clerk's Office at least five (5) days prior to the public hearing and a summary will be published in a newspaper of general circulation within fifteen (15) days of adoption of this Ordinance.

**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**

Section 5 of Chapter 6 of Title VIII of the Milpitas Municipal Code is hereby amended 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 a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.

5.03 Use of Potable Water for construction purposes including dust control and compaction.

5.04 Use of Potable Water for cleaning, filling, or operating water features, such as decorative fountains, except where the water is part of a recirculating system.

5.05 Use of Potable Water for watering or irrigation of any plants, lawn, grass, landscaping or turf areas except between the hours of 6:00 p.m. through 9:00 a.m. and for no more than three days during any seven-day period. The days of watering shall be:

Address Ending in Odd Number: Monday, Thursday, and Saturday;

Address Ending in Even Number: Tuesday, Friday, and Sunday;

No address: Monday, Thursday, and Sunday.

The following activities are exempt from the day and time restrictions on watering or irrigation:

- (a) Use of Potable Water for short periods during timer adjustment and repair of irrigation system are exempt from the time and day restriction set forth above.
- (b) Watering by hand.
- (c) Watering plants slated for sale in nursery/garden centers.
- (d) Watering using drip irrigation systems.

The Public Works Director and/or the Director of Engineering is also authorized to approve a variation of the time and day schedule restriction, provided the variation meets the required reduction above of only three days in any seven-day period.

5.06 The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.

5.07 Exceptions to the prohibitions enumerated in 5.01 through 5.09 may be granted where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency, or where otherwise allowed by law.

Section 6.08 of Chapter 6 of Title VIII of the Milpitas Municipal Code is hereby amended to read as follows:

6.08 Exceptions to the prohibitions enumerated in 6.01 through 6.06 may be granted where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency, or where otherwise allowed by law.

### **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.