



# CITY OF MILPITAS

455 East Calaveras Boulevard, Milpitas, California 95035-5479 • [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov)

GENERAL INFORMATION: 408.586.3000

## Pre approval for construction water customers

What will the water be used for? (check applicable):

1. Potable water meter (PW)
  - drinking/ hand washing
  - potable waterline construction such as pressure testing, flushing, disinfection, etc.
  
2. Recycled water meter (RW)
  - grading operation including: lime treatment, compaction and dust control
  - street sweeping
  - sewer cleaning
  - mixing concrete, see SBWR website for water quality:  
<http://www.sanjoseca.gov/index.aspx?nid=1606>
  - other uses, see SBWR website: <http://www.sanjoseca.gov/index.aspx?NID=1614>

If none of the above uses, explain how you will use the water:

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Please complete the contact information for you:

Name	Company Name	Phone #	Intended Site of Water Usage, address	Duration	Estimated Volume, Gallons

FOR CITY USE; City sign off to confirm of intended meter uses

Initial (inspector, engineer), Date	Comment	Related information: PJ, permit

If your construction water uses indicate you need a recycled water meter, then you must fill out: 1) this form, 2) SBWR Recycled Water Access Point Program User Agreement and, 3) Finance Temporary Permit for Purchase of Construction Water Form and submit for pre-approval.

If your construction water uses indicate you need a potable water meter, then you must fill out: 1) this form and 2) Finance Temporary Permit for Purchase of Construction Water Form and submit for pre-approval. If you need both types of meters, you must fill out separate forms for each. The meters are not interchangeable and the connection fittings of the meters are not compatible.

Allow 1 week for processing of the pre-approval. Once approval is granted you will be notified by City Staff and you will be required to come to the 1st floor Cashier Counter at City Hall to pay the required deposit of \$2,000. Once paid, the Finance Department will issue the appropriate construction meter for the designated use(s). You are reminded of the required inspections such as the tanker truck inspection; call Rob Hill at (408) 586 3252 (cell 408 829-3643).

The initial deposit for the meter is not returned to you until the meter has been serviced and tested for a new customer. A charge will be assessed for any damages and deducted from the initial deposit. This testing/serving period is estimated to be 2 months.

You must also have a current Milpitas Business License for working within the limits of City of Milpitas, see [http://www.ci.milpitas.ca.gov/business/biz\\_license\\_app.asp](http://www.ci.milpitas.ca.gov/business/biz_license_app.asp)

Please complete the pre-approval form and send back to Marilyn, Rob and myself for processing (allow 1 week for processing), thx.

jleung@ci.milpitas.ca.gov  
mnickel@ci.milpitas.ca.go  
rhill@ci.milpitas.ca.go

After pre-approval note:

SBWR form user agreement must be completed (preferably in advance) and submitted as part of payment for RW const meter and is required for tanker truck inspection. Finance only accepts cash or check (no credit card) for construction meters, also a business license is required. Tanker truck inspection is required before you are given the combination to pad lock at the fill stations.

CITY OF MILPITAS  
455 E. CALAVERAS BOULEVARD  
MILPITAS, CA 95035

Temporary Permit No.: \_\_\_\_\_  
Meter Type:  POTABLE  RECYCLED  
Date: \_\_\_\_\_, 20\_\_\_\_

**TEMPORARY PERMIT FOR PURCHASE OF CONSTRUCTION WATER**

1. I hereby request that I be granted a temporary permit to purchase construction water from the City of Milpitas Water Department.
2. I agree to meter all water through the meter assigned to me or if no meter is available for assignment, I agree to keep adequate records, to the satisfaction of the Water Department, of all water taken from the Milpitas Water Distribution System.
3. I agree to take all water from the location as designated on this permit.
4. I agree to abide by all rules and regulations of the City of Milpitas Water Department and to pay a monthly meter charge of \$ \_\_\_\_\_ for each full or partial calendar month the meter is used, and to pay for all water used at the commercial rate in effect at the time (\$ \_\_\_\_\_ per hundred cubic foot). In the event that I fail to keep satisfactory records, I agree to pay the Water Department on the basis of an estimate made by the Accounting Officer of the City of Milpitas.
5. I agree to use only a spanner wrench approved by the City for opening and closing fire hydrant valves and I understand that the use of any other tool for this purpose will render this permit void.
6. I agree to open and close fire hydrant valves slowly to avoid causing a surge, turbulence and water hammer impacts in the water main.
7. I agree to place a deposit of \$2,000 for the loan of the meter. I agree to forfeit part or all of the deposit to pay for any damage to the meter during the term of this agreement, and to forfeit the deposit in full if the meter is not returned on or before the expiration date.
8. I understand that one six-month extension to this agreement may be granted. This permit shall not exceed one year from date of initial issuance.
9. I understand that the deposit, less the water use and meter charges, will be returned upon return of the meter in satisfactory and working condition. No interest shall be paid on the deposited amount. Should water charges exceed the deposit amount, I agree to pay the additional charges upon demand.
10. I agree, when connecting to the City potable water system, to protect the public water supply from backflow by providing 1) an air gap if the water is piped directly to a truck or; 2) a reduced pressure principle backflow prevention device in all other situations.
11. I agree to limit the use of potable water construction meters to potable water line connections, and recycled construction meters to recycled water line connections.

*I understand that a copy of this permit must be kept on hand at all times by the person taking water and must be available to show as evidence to any authorized representative of the City of Milpitas that a permit has been obtained.*

1. BUSINESS NAME (Print)	METER # _____
2. ADDRESS (Print)	READING WHEN TAKEN OUT _____
3. TELEPHONE _____	CONDITION WHEN TAKEN OUT _____
4. PRINT NAME _____	SIGNATURE _____
5. PROJECT NAME _____	STATE LIC CONTRACTOR # _____ CLASS _____ EXP DATE _____
6. PROJECT NUMBER _____	CITY BUSINESS # _____
7. PROJECT LOCATION (Site Address) _____	BUILDING PERMIT# _____
_____	ENCROACHMENT PERMIT # _____

City water system connection location (if different from above): \_\_\_\_\_

8. ASSIGNED INSPECTOR \_\_\_\_\_

**SUBJECT TO CONDITIONS ABOVE WITH SPECIAL NOTE GIVEN TO USE OF SPANNER WRENCH ONLY; USE OF ANY OTHER DEVICE ON THE HYDRANT MAY CAUSE PERMIT TO BE REVOKED AND DEVICE TO BE CONFISCATED.**

\*\*\*\*\*

Date meter is to be returned _____	Date extended to _____
Deposit \$ _____ Receipt # _____	Accepted by _____ City of Milpitas
Date meter returned _____	Reading when returned _____
Condition when returned _____	_____

(PERMIT HOLDER TO INITIAL)

**\*\*ORIGINAL PERMIT MUST BE RETURNED WITH METER\*\***

Distribution: Original – Finance Green - PW Utility Maintenance Canary - Cashier Pink - Finance Goldenrod - PW Inspection



# SBWR RECYCLED WATER ACCESS POINT PROGRAM USER AGREEMENT



PRODUCER: San Jose/Santa Clara Regional Wastewater Facility, 700 Los Esteros Road, SJ, CA 95134

RETAILER: City of Milpitas  
455 East Calaveras Blvd  
Milpitas, CA 95035

EFFECTIVE DATES OF PERMIT: \_\_\_\_\_ TO \_\_\_\_\_ [TO BE FILLED OUT BY RETAILER]

## USER INFORMATION

USER NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_  
COMPANY: \_\_\_\_\_  
COMPANY ADDRESS: \_\_\_\_\_ CONTRACTOR LICENSE NUMBER: \_\_\_\_\_  
TRUCK LICENSE NUMBER: \_\_\_\_\_

A USER AGREEMENT MUST BE COMPLETED FOR EACH VEHICLE OPERATOR AND MUST BE RETAINED DURING ACQUISITION AND APPLICATION OF RECYCLED WATER. USERS AND USERS' COMPANIES SHALL ADHERE TO THE ATTACHED SBWR TERMS OF USE. USER AGREEMENT IS SUBJECT TO RWQCB ORDER 95-117.

## RECYCLED WATER USE INFORMATION (CHECK ALL THAT APPLY)

APPROXIMATE VOLUME OF RECYCLED WATER TO BE USED: \_\_\_\_\_ GALLONS PER DAY.

METHOD OF WATER DISTRIBUTION:  RECYCLED WATER ACCESS POINT  
 TEMPORARY SITE METER  
 OTHER: \_\_\_\_\_

APPLICATION METHOD:  TANKER-TRUCK SPRAY  
 OTHER: \_\_\_\_\_

USE OF RECYCLED WATER\*:  CONSTRUCTION (COMPACTION AND DUST CONTROL)  
 STREET SWEEPING  
 SEWER CLEAN OUT  
 OTHER\*\*: \_\_\_\_\_

\* REFER TO THE FULL TEXT OF THE LATEST VERSION OF TITLE-22: CALIFORNIA WATER RECYCLING CRITERIA, ARTICLE 3. USES OF RECYCLED WATER, JUNE 18, 2014.

SIGNS REQUIRED:  TRUCK  
 PROJECT SITE  
 OTHER: \_\_\_\_\_

## LOCATIONS WHERE APPLIED:

ADDRESS: \_\_\_\_\_ RESPONSIBLE PERSON AT SITE: \_\_\_\_\_ DATES OF USE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ RESPONSIBLE PERSON AT SITE: \_\_\_\_\_ DATES OF USE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_ RESPONSIBLE PERSON AT SITE: \_\_\_\_\_ DATES OF USE: \_\_\_\_\_

## CERTIFICATION

I HEREBY CERTIFY THAT THE INFORMATION PROVIDED IN THIS APPLICATION AND ALL ATTACHMENTS ARE TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I ALSO CERTIFY THAT I HAVE READ AND AGREE TO ABIDE BY THE SBWR TERMS OF USE AND ALL APPLICABLE RULES AND REGULATIONS OF THE RWQCB ORDER No. 95-117 AND HAVE SUCCESSFULLY COMPLETED INSPECTION BY THE LOCAL RETAILER.

TRUCK CONTRACTOR/DROVER SIGNATURE \_\_\_\_\_ PRINTED NAME \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_

I HEREBY AGREE TO TRAIN ALL USERS ON THE SAFE USE OF RECYCLED WATER AND ABIDE BY THE TERMS OF USE AS LISTED IN THIS AGREEMENT.

\*\*SITE MANAGER OR FOREMAN SIGNATURE \_\_\_\_\_ PRINTED NAME \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_

INSPECTION SCHEDULED FOR \_\_\_\_\_

WATER RETAILER SIGNATURE \_\_\_\_\_ PRINTED NAME \_\_\_\_\_ TITLE \_\_\_\_\_ DATE \_\_\_\_\_



# SBWR RECYCLED WATER ACCESS POINT PROGRAM



## TERMS OF USE

CHECK	THIS USER AGREEMENT LIMITS THE USE OF RECYCLED WATER TO THE FOLLOWING CONDITIONS:	
<input type="checkbox"/>	1.	FOR NONPOTABLE USES ONLY - NO DRINKING
<input type="checkbox"/>	2.	Recycled water shall not be exposed to food or used within designated eating areas.
<input type="checkbox"/>	3.	Recycled water shall not be discharged to storm drains.
<input type="checkbox"/>	4.	Recycled water is not allowed within 50 feet of any domestic well.
<input type="checkbox"/>	5.	There shall be no cross-connection between recycled water and any potable water supply.
<input type="checkbox"/>	6.	Recycled water shall not be plumbed into potable landscape systems or any onsite plumbing.
<input type="checkbox"/>	7.	Recycled water meters shall be routinely inspected by the local agency for appropriate use.
<input type="checkbox"/>	8.	Recycled water meters will be prohibited from connecting to any potable hydrant and shall be labeled, "not for use on potable hydrants".
<input type="checkbox"/>	9.	Overspray, ponding, and runoff of recycled water shall not be permitted.
<input type="checkbox"/>	10.	Tanker-trucks must have appropriate equipment to maintain an air gap of at least twice the diameter of the supply hose, such that water overflows the tank before reaching the fill pipe.
<input type="checkbox"/>	11.	Tanker-trucks must have water-tight fittings to ensure no leakage will occur.
<input type="checkbox"/>	12.	All piping and hoses used with tanker-trucks must be fully drained before transport and prior to every connection.
<input type="checkbox"/>	13.	Recycled water tanker-trucks must not transport potable water for potable uses.
<input type="checkbox"/>	14.	All recycled water use areas must be approved by the local water retailer and SBWR.
<input type="checkbox"/>	15.	All tanker-trucks accessing and hauling recycled water must satisfy local and state safety requirements and will carry a certificate of commercial auto and trucking liability insurance.
<input type="checkbox"/>	16.	The volume of recycled water used must be reported, as specified by the local recycled water retailer.
<b>SPECIAL APPROVAL, TRAINING, AND SITE INSPECTION REQUIRED</b>		
<input type="checkbox"/>	17.	If recycled water is transferred to other storage container, the container/reservoir shall be labeled with signage equivalent to the tanker-truck and shall follow the safety guidelines in this User Agreement.
<input type="checkbox"/>	18.	The general public shall not be exposed to overspray when recycled water is used (pressure washing, etc.)
<input type="checkbox"/>	19.	Recycled water may be used for washing equipment and vehicles, if the recycled water is not heated and where the general public is excluded from the washing process.
<b>ADVISORY SIGNS</b>		
<input type="checkbox"/>	1.	<b>Tanker-Truck Sign:</b> Tanker-trucks hauling recycled water must have an SBWR approved adhesive sign issued by retailer at least six (6) inches by twelve (12) inches on the tank, in a location clearly visible to users and workers, with the following wording in one (1) inch, or larger, letters on a purple background.
<input type="checkbox"/>	2.	<b>Tanker-Truck Inspection Decal:</b> Tanker-trucks hauling recycled water must have an SBWR approved adhesive decal issued by retailer at least three (3) inches by six (6) inches signifying that the tanker-truck has passed inspection and met all SBWR requirements.
<input type="checkbox"/>	3.	<b>Appurtenance Sign:</b> Appurtenances serving recycled water must have an SBWR approved adhesive or bolted sign issued by retailer at least six (6) inches by eight (8) inches, in a location clearly visible to users and workers, with the following wording in one (1) inch, or larger, letters on a purple background:
<b>Tanker-Truck Sign:</b> NONPOTABLE WATER ONLY DO NOT DRINK NO BEBER		<b>Tanker-Truck Inspection Decal:</b> VEHICLE INSPECTED FOR HAULING RECYCLED WATER Inspected by: _____ Expires: _____
<b>Appurtenance Sign:</b> RECYCLED WATER DO NOT DRINK NO BEBER		



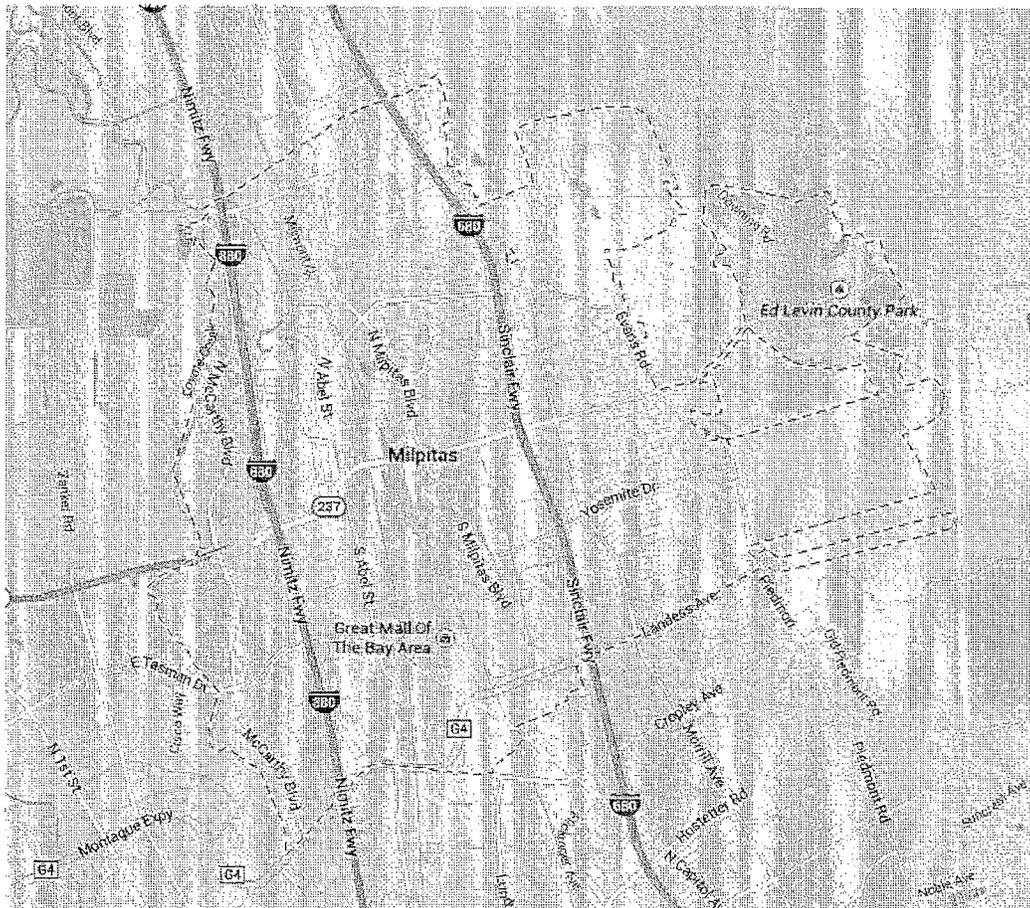
# SBWR RECYCLED WATER ACCESS POINT PROGRAM



THE CONTRACTOR SHALL NOTIFY THE LOCAL AUTHORITY WHEN THE TEMPORARY ON-SITE RECYCLED WATER CONNECTION IS READY FOR INSPECTION. COMPLETION OF THE SBWR RWAP USER AGREEMENT AND INSPECTION IS REQUIRED PRIOR TO USE OF RECYCLED WATER.

NON-ADHERENCE TO THE TERMS OF USE IN THIS SBWR RWAP USER AGREEMENT CAN RESULT IN DISCONNECTION AND/OR FINES, AS ENFORCED BY THE LOCAL GOVERNMENT AGENCY.

**CITY OF MILPITAS RECYCLED WATER SYSTEM MAP**



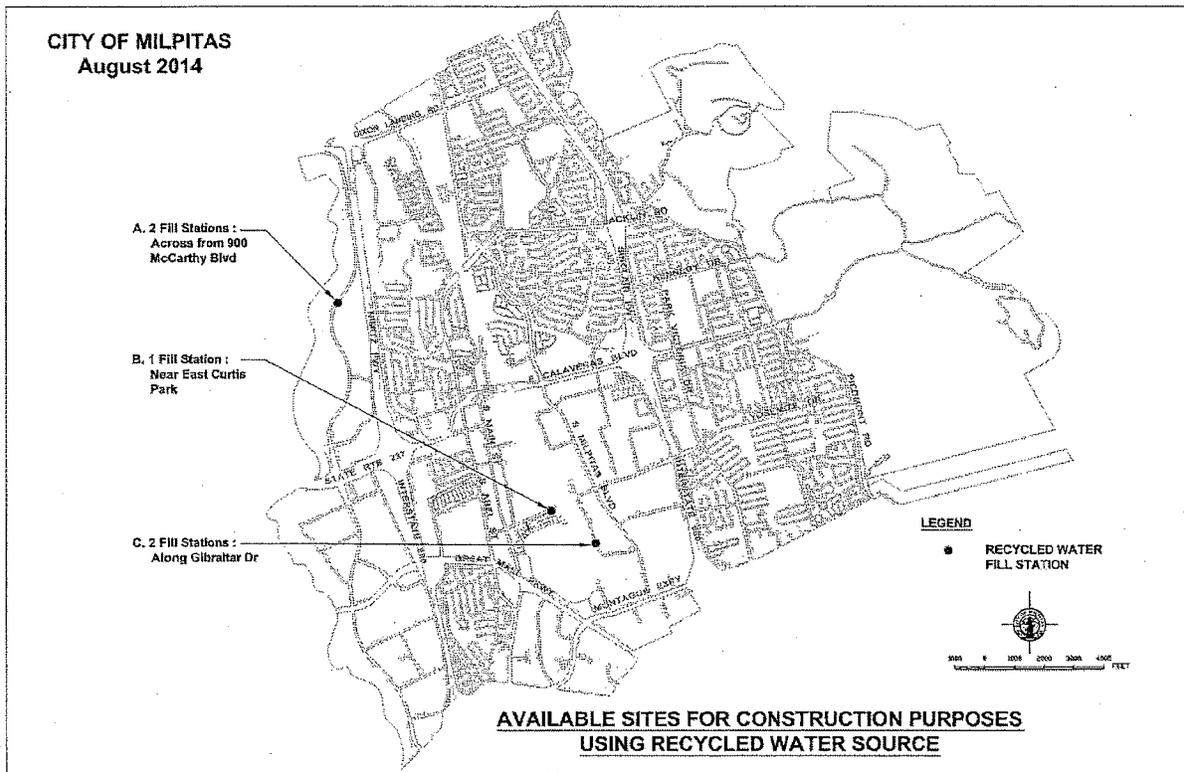


# City of Milpitas South Bay Water Recycling Recycled Water Access Points Program Implementation Plan

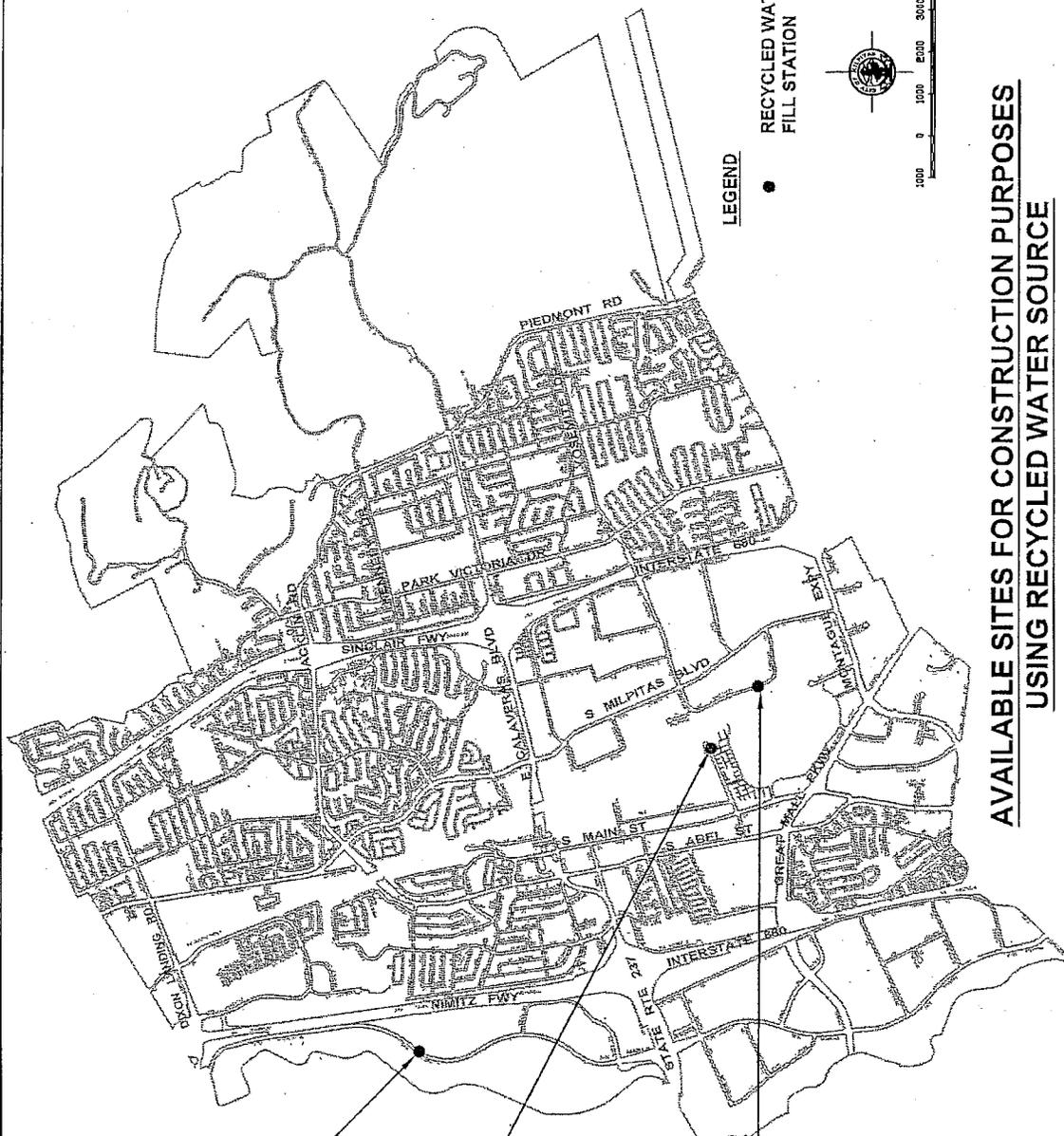
## Enforcement (Continued)

Users will be required to comply with their user agreement and withdraw only from metered locations. Failure to comply with these requirements may result in:

- A Stop Work Notice
- Fines in accordance with Milpitas Municipal Code I-1-4.09:
  - 1<sup>st</sup> violation: \$100/day
  - 2<sup>nd</sup> violation: \$200/day
  - Subsequent violations: \$500/day



**CITY OF MILPITAS**  
August 2014



A. 2 Fill Stations :  
Across from 800  
McCarthy Blvd

B. 1 Fill Station :  
Near East Curtis  
Park

C. 2 Fill Stations :  
Along Gibraltar Dr

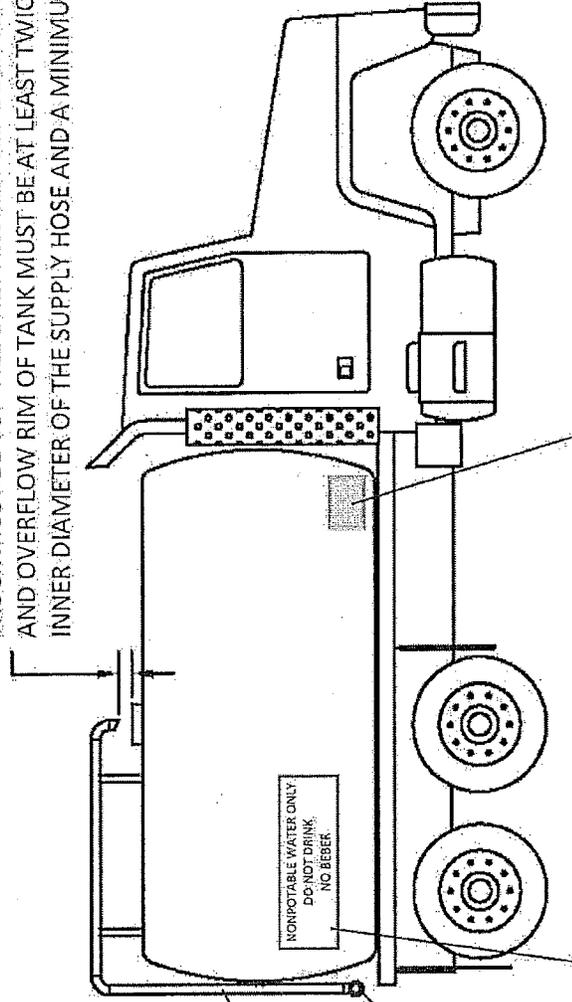
**AVAILABLE SITES FOR CONSTRUCTION PURPOSES  
USING RECYCLED WATER SOURCE**

TRUCK MUST BE TOP-FILL ONLY AND AIR GAP BETWEEN PIPE AND OVERFLOW RIM OF TANK MUST BE AT LEAST TWICE THE INNER DIAMETER OF THE SUPPLY HOSE AND A MINIMUM OF 1"

ALL FITTINGS MUST BE WATER-TIGHT AND TRUCK MUST BE DEPENDABLE IN ORDER TO PREVENT LEAKS AND SPILLS

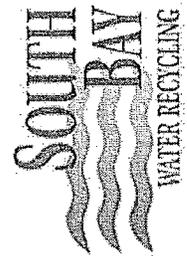
SUPPLY HOSES AND PIPES MUST BE FULLY DRAINED BEFORE TRANSPORT AND PRIOR TO EVERY CONNECTION

HOSE CONNECTION MUST NOT BE COMPATIBLE WITH POTABLE HYDRANTS



TRUCK MUST BE AFFIXED WITH TRUCK INSPECTION DECAL WITH VISIBLE IDENTIFICATION NUMBER (OBTAINED FROM LOCAL WATER RETAILER)

TRUCK MUST BE MARKED AFFIXED WITH SIGN AS SHOWN, AT LEAST 6"X12" WITH 1" LETTERING

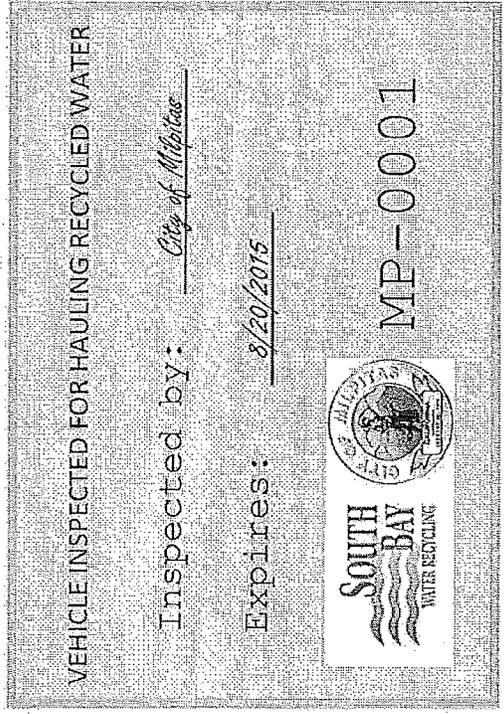


## RECYCLED WATER TANKER TRUCK REQUIREMENTS DETAIL

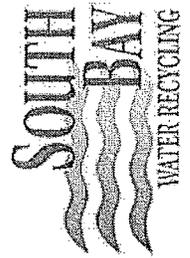
SCALE: NOT TO SCALE

DATE: 9/11/2014

6 inches



3 inches



# TANKER TRUCK INSPECTION DECAL DETAIL

SCALE: NOT TO SCALE      DATE: 9/11/2014

URGENCY

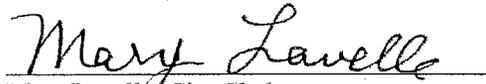
NUMBER: 240.2

TITLE: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 6 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO SUPPLEMENTAL WATER USE RESTRICTIONS AS REQUIRED BY STATE LAW

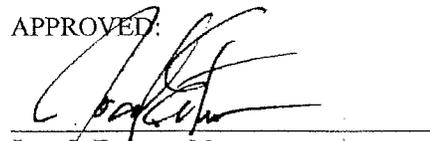
HISTORY: This Ordinance was introduced by the City Council at its meeting of August 19, 2014, upon motion by Councilmember Giordano and was adopted immediately as an urgency ordinance pursuant to provisions of California Government Code Sections 36934 and 36937. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

- AYES: (5) Mayor Esteves, Vice Mayor Polanski, Councilmembers Giordano, Gomez, and Montano
- NOES: (0) None
- ABSENT: (0) None
- ABSTAIN: (0) None

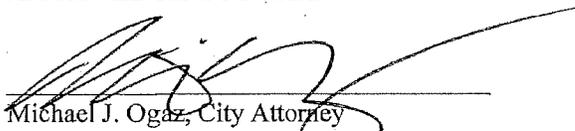
ATTEST:

  
Mary Lavelle, City Clerk

APPROVED:

  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

  
Michael J. Ogaz, City Attorney

Const meter flat fee \$75 monthly and  
Recycled water \$2.65 per HCF  
Potable water \$5.29 per HCF  
\* on case by case basis such as potable water system installation  
see page 3 of urgency orb 240.2

**RECITALS:**

**WHEREAS**, Government Code Sections 36934 and 36937 authorize a city to adopt an urgency ordinance for the immediate preservation of the public peace, health or safety; and

**WHEREAS**, water is a precious resource shared by all and is needed to sustain life; and

**WHEREAS**, California Water Code Sections 10610 through 10657 require urban water retailers, such as the City of Milpitas, to adopt an Urban Water Management Plan and Water Shortage Contingency Plan every five (5) years; and

**WHEREAS**, the Milpitas City Council adopted the 2010 Urban Water Management Plan and Water Shortage Contingency Plan on June 7, 2011; and

**WHEREAS**, on January 17, 2014, the Governor issued a Proclamation declaring a State of Emergency due to severe drought conditions; and

**WHEREAS**, on January 28, 2014, the Santa Clara Valley Water District, one of the City's water suppliers, declared a water supply shortage and requested ten percent (10%) conservation; and

**WHEREAS**, on January 31, 2014, the San Francisco Public Utilities Commission, one of the City's water suppliers, declared a water supply shortage and requested ten percent (10%) voluntary conservation; and

**WHEREAS**, on February 25, 2014, the Santa Clara Valley Water District requested mandatory twenty percent (20%) conservation due to the continued drought conditions in the State of California; and

**WHEREAS**, on April 25, 2014, the Governor suspended the application of the California Environmental Quality Act's applicability to the State Water Resource Control Board's adoption of emergency regulations pursuant to Water Code Section 1058.5; and

**WHEREAS**, on July 15, 2014, the State Water Resources Control Board adopted Resolution No. 2014-0038 adopting an emergency regulation for statewide urban water conservation requiring water retailers to implement their Water Shortage Contingency Plans; and

**WHEREAS**, on July 22, 2014, the Santa Clara Valley Water District approved funding additional staffing to augment community outreach regarding water conservation tips; and

**WHEREAS**, drought conditions that formed the basis of the Governor's Emergency Proclamations continue to exist and the drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to further promote conservation; and

**WHEREAS**, the City Council of the City of Milpitas declares a water shortage and requests the community to implement water conservation measures with a goal of reducing consumption by twenty percent (20%); and

**WHEREAS**, in light of the continued water supply shortage in the State of California as set forth above, the City Council must take such action to be effective immediately and to do so requires an urgency ordinance to preserve the public peace, health and safety of its residents.

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

**SECTION 1. RECORD, BASIS FOR ACTION AND FINDINGS**

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 and the findings and justifications in the supporting staff report for this Ordinance are found to be true and correct and are incorporated herein by reference and adopted as the findings of this City Council.

**SECTION 2. AMENDMENT OF MUNICIPAL CODE TITLE VIII, CHAPTER 6**

Title VIII, Chapter 6 of the Milpitas Municipal Code is hereby amended to add a new Section 5 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 Potable Water for construction purposes including dust control and compaction.
- 5.03 Construction of new swimming pools or ponds not currently permitted.
- 5.04 Use of Potable Water for cleaning, filling, or operating water features, such as decorative fountains.
- 5.05 Use of Potable Water for irrigation of golf courses, except greens and tees area.
- 5.06 Use of Potable Water for watering or irrigation of any plants, lawn, grass, landscaping or turf areas between the hours of 8:00 a.m. and 8:00 p.m., adjusted for Daylight Savings Time, and for more than two (2) days during any seven (7) day period.
- 5.07 Use of Potable Water for installation of new landscape unless served by Reclaimed Water.
- 5.08 Exceptions to the prohibitions enumerated 5.01 through 5.07 may be granted in the discretion of the City Council.

**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 California Government Code Sections 36934 and 36937, this Ordinance is effective immediately upon adoption by the City Council as an Urgency Ordinance. 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.

**CERTIFICATION OF CITY CLERK**

**ORDINANCE NO. 240.3**

I, Mary Lavelle, City Clerk of the City of Milpitas, do hereby certify that the attached Ordinance is a true and correct copy of Ordinance No. 240.3 of the City of Milpitas, that this Ordinance was duly enacted and adopted by the City Council of the City of Milpitas at a meeting of the City Council held on the 16<sup>th</sup> of June, 2015, and that the Ordinance was published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of Milpitas, California, this 22<sup>nd</sup> day of June, 2015.



Mary Lavelle  
Milpitas City Clerk

**URGENCY**

**NUMBER:** 240.3

**TITLE:** AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 6 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO SUPPLEMENTAL WATER USE RESTRICTIONS AS REQUIRED BY STATE LAW

**HISTORY:** This Ordinance was introduced by the City Council at its meeting of June 16, 2015, upon motion by Councilmember Giordano and was adopted immediately as an urgency ordinance pursuant to provisions of California Government Code Sections 36934 and 36937 and Water Code Sections 350, et seq. and 375, et seq. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES: (5) Mayor Esteves, Vice Mayor Montano, Councilmembers Barbadillo, Giordano, and Grilli

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST:

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

APPROVED:

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

APPROVED AS TO FORM:

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

**RECITALS:**

**WHEREAS**, Government Code Sections 36934 and 36937 authorize a city to adopt an urgency ordinance for the immediate preservation of the public peace, health or safety; and

**WHEREAS**, water is a precious resource shared by all and is needed to sustain life; and

**WHEREAS**, California Water Code Sections 10610 through 10657 require urban water retailers, such as the City of Milpitas, to adopt an Urban Water Management Plan and Water Shortage Contingency Plan every five (5) years; and

**WHEREAS**, the Milpitas City Council adopted the 2010 Urban Water Management Plan and Water Shortage Contingency Plan on June 7, 2011; and

**WHEREAS**, on January 17, 2014, the Governor issued a Proclamation declaring a State of Emergency due to severe drought conditions; and

**WHEREAS**, on January 28, 2014, the Santa Clara Valley Water District, one of the City's water suppliers, declared a water supply shortage and requested ten percent (10%) conservation; and

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**WHEREAS**, on February 25, 2014, the Santa Clara Valley Water District requested mandatory twenty percent (20%) conservation due to the continued drought conditions in the State of California; and

**WHEREAS**, on April 25, 2014, the Governor suspended the application of the California Environmental Quality Act's applicability to the State Water Resource Control Board's adoption of emergency regulations pursuant to Water Code Section 1058.5; and

**WHEREAS**, on July 15, 2014, the State Water Resources Control Board adopted Resolution No. 2014-0038 adopting an emergency regulation for statewide urban water conservation requiring water retailers to implement their Water Shortage Contingency Plans; and

**WHEREAS**, on August 19, 2014, the Milpitas City Council adopted an Urgency Ordinance No. 240.2 declaring a water shortage and adding supplemental water use restrictions to the Municipal Code as required by State law; and

**WHEREAS**, on March 17, 2015, the State Water Resources Control Board adopted Resolution No. 2015-0013 adopting an emergency regulation for Statewide urban water conservation requiring water retailers to implement additional conservation measures as part of their Water Shortage Contingency Plans; and

**WHEREAS**, on March 24, 2015, the Santa Clara Valley Water District (one of the City of Milpitas water suppliers) requested mandatory thirty percent (30%) conservation reflecting its supply conditions with the continued drought conditions in the State of California; and

**WHEREAS**, on April 1, 2015, the Governor declared a requirement of Statewide twenty-five percent (25%) mandatory reduction with enforcement regulations; and

**WHEREAS**, on April 15, 2015, the San Francisco Public Utilities Commission (another City of Milpitas water supplier), declared a water supply shortage and requested ten percent (10%) voluntary conservation reflecting its supply conditions; and

**WHEREAS**, on May 5, 2015, the State Water Resources Control Board adopted additional emergency regulations for Statewide urban water conservation requiring water retailers to implement additional conservation measures as part of their Water Shortage Contingency Plan, assigned a water conservation target to water retailers such as Milpitas, and imposing fines if retailers exceed their targets; and

**WHEREAS**, on May 12, 2015, the Santa Clara Valley Water District adopted a wholesale water rate structure that includes a 10% penalty for water volume purchased above the contract amount; and

**WHEREAS**, drought conditions that formed the basis of the Governor's Emergency Proclamations continue to exist and the drought conditions will likely continue for the foreseeable future and additional action by both the State Water Resources Control Board and local water suppliers will likely be necessary to further promote conservation; and

**WHEREAS**, the City Council of the City of Milpitas declares the continuation of a water shortage for the year 2015 (Stage 2 of the Milpitas Water Shortage Contingency Plan) and add these additional conservation measures as required by State law; and require the community to implement water conservation measures with a goal of reducing consumption by thirty percent (30%); and

**WHEREAS**, in light of the continued water supply shortage in the State of California as set forth above, the City Council must take such action to be effective immediately and to do so requires an urgency ordinance to preserve the public peace, health and safety of its residents; and

**WHEREAS**, in accordance with Water Code Sections 350 et seq., 375 et seq., and the laws and regulations cited above, 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 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, BASIS FOR ACTION AND FINDINGS**

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 and the findings and justifications in the supporting staff report for this Ordinance are found to be true and correct and are incorporated herein by reference and adopted as the findings of this City Council.

**SECTION 2. AMENDMENT OF MUNICIPAL CODE TITLE VIII, CHAPTER 6**

Section VIII-6.500 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 Potable Water for construction purposes including dust control and compaction.
- 5.03 Construction of new swimming pools or ponds not currently permitted.
- 5.04 Use of Potable Water for cleaning, filling, or operating water features, such as decorative fountains.
- 5.05 Use of Potable Water for irrigation of golf courses, except greens and tees area.
- 5.06 Use of Potable Water for watering or irrigation of any plants, lawn, grass, landscaping or turf areas except between the hours of 6:00 A.M. through 10:00 A.M. and 7:00 P.M. through 9:00 P.M., adjusted for Daylight Saving Time, and for no more than two (2) days during any seven (7) day period. The days of watering shall be:

Address Ending in Odd Number - Monday and Thursday  
 Address Ending in Even Number - Tuesday and Friday  
 No address - Monday and Thursday

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. 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 two (2) days in any seven (7) day period.

- 5.07 Use of Potable Water for installation of new landscape unless served by Reclaimed Water.
- 5.08 Exceptions to the prohibitions enumerated in 5.01 through 5.07 may be granted in the discretion of the City Council.

Title VIII, Chapter 6 of the Milpitas Municipal Code is hereby amended to add new Sections 6, 7, 8 and 9 to read as follows:

#### VIII-6-6.00 Additional Supplemental Water Use Restrictions

Notwithstanding Section VIII-6-3.00, Section VIII-6-5.00 or any other provision of the Municipal Code, the following uses of Potable Water are prohibited:

- 6.01 The application of Potable Water to outdoor any plants, lawn, grass, landscaping or turf areas during and within forty-eight (48) hours after measurable rainfall.
- 6.02 To promote water conservation, owners and operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.
- 6.03 Newly constructed homes and buildings shall be designed with drip or microspray irrigation systems, provided any new landscaping shall continue to be restricted from installation during the declared drought as set forth in Section VIII-5-5.07.
- 6.04 The application of Potable Water to street medians containing ornamental turf.
- 6.05 Hydrant flushing, except for health and safety purposes.
- 6.06 Pools and spas shall be covered when not in use to prevent evaporation.
- 6.07 The prohibitions enumerated in 6.01, 6.03, and 6.04 do not apply to any water treatment features, such as landscaping and green roofs, to meet the requirements of Municipal

Regional Stormwater National Pollutant Discharge Elimination System Permit No CAS612008, C3 Provision.

6.08 Exceptions to the prohibitions enumerated in 6.01 through 6.06 may be granted in the discretion of the City Council.

VIII-6-7.00 Drought Penalties

7.01 Residential Properties

a. The following penalties will be imposed to residential customers who fail to limit their use:

Residential Water Tiers	FY15/16 Rate	Penalties
1. 0-10 hcf	\$3.62	No Penalty
2. >10 – 20 hcf	\$4.80	No Penalty
3. >20 – 30 hcf	\$6.47	No Penalty
4. > 30 hcf	\$7.30	+10 %

FY = Fiscal Year

1 hcf = One Hundred Cubic Feet = 748 Gallons

7.02 Commercial, Industrial and Institutional Properties

a. Commercial, industrial, and institutional accounts shall be assigned water allotments equal to ninety percent (90%) of their usage during the same billing period in calendar year 2013. The following penalties will be imposed to commercial, industrial and institutional customers who fail to limit their use within the assigned allotment:

	FY15/16 Rate	Penalty
Commercial / Industrial / Institutional / Construction Meter	\$7.30	+10%

FY = Fiscal Year

1 hcf = One Hundred Cubic Feet = 748 Gallons

7.03 Irrigation Accounts

a. Irrigation accounts shall be assigned water allotments equal to fifty percent (50%) of their usage during the same billing period in calendar year 2013. The following penalties will be imposed to irrigation customers who fail to limit their use within the assigned allotment:

	FY 15/16	
	Rate	Penalty
Irrigation (potable)	\$7.30	+10%

FY = Fiscal Year

1 hcf = One Hundred Cubic Feet = 748 Gallons

- 7.04 The Drought Penalties set forth in this Section will be imposed in addition to the customer's normal rates charged pursuant to Section VIII-1-6.13 of the Municipal Code, as may be amended.
- 7.05 The Director of Engineering is authorized to assign allotments for water accounts that did not exist in 2013 or had a change in land use based on review of similar types of properties and uses.
- 7.06 The FY 15/16 water rates are shown here for convenience only and the real values shall be as set forth in Section VIII-1-6.13 of the Municipal Code, as may be amended.

#### VIII-6-8.00 Non-Compliance

Any violation of this Chapter shall be subject to the penalties provision set forth in Section I-1-4.09 (Penalty Provision), Section V-500-8.00 (Administrative Citation), or any other penalty provisions in the Municipal Code or State law.

#### VIII-6-9.00 Applicability

The prohibitions and rationing requirements identified in this Chapter are not applicable to fountains, irrigation systems, cooling towers, and dual-plumb sites that use non-potable water such as recycled water.

### **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 California Government Code Sections 36934 and 36937, this Ordinance is effective immediately upon adoption by the City Council as an Urgency Ordinance. 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.