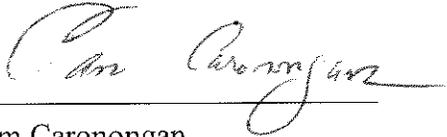


CERTIFICATION OF CITY CLERK
ORDINANCE NO. 120.47

I, Pam Caronongan, Deputy City Clerk of the City of Milpitas, do hereby certify that the attached Ordinance is a true and correct copy of Ordinance No. 120.47 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 15th day of December 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 18th day of December 2015.



Pam Caronongan
Milpitas Deputy City Clerk

REGULAR

NUMBER: 120.47

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 1 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO WATER SERVICE CHARGES

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of October 6, 2015, upon motion by Councilmember Giordano, and was adopted (second reading) by the City Council at its meeting of December 15, 2015, upon motion by Councilmember Giordano. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

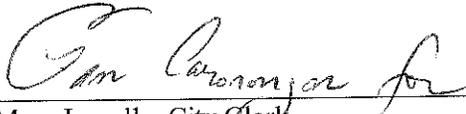
AYES: (4) Mayor Esteves, Vice Mayor Montano, Councilmembers Giordano and Grilli

NOES: (1) Councilmember Barbadillo

ABSENT: (0)

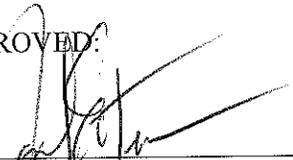
ABSTAIN: (0)

ATTEST:



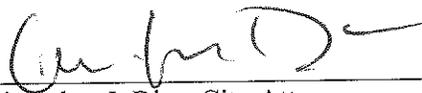
Mary Lavelle, City Clerk

APPROVED:



Jose S. Esteves, Mayor

APPROVED AS TO FORM:



Christopher J. Diaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the provision of potable and recycled services by the City of Milpitas (“City”) require the City to incur capital, operating, maintenance, replacement, and other costs related to the provision of such services; and

WHEREAS, the City engaged Bartle Wells Associates to prepare a cost of service analysis and water rate study (the “Rate Study”); and

WHEREAS, as a result of the Rate Study, the City Council has determined that increases in the rates for its water service charges are in the best interests of the City and in keeping with sound business and financial management of the water enterprises; and

WHEREAS, the City Council hereby finds and determines the following with regard to the proposed rate increases to the water service charges:

1. The rate structure for the water service charges has two components: (a) a Water Meter Charge, which is a fixed bimonthly charge determined on the basis of the size of the water meter (in inches) serving a customer’s property and calculated to recover a portion of the City’s fixed costs in providing water service; and (b) a Volumetric Charge, which is a uniform rate imposed on the basis of the amount of water delivered to a customer in hundreds of cubic feet (“HCF”) and calculated to recover a portion of the City’s fixed and variable costs of providing water service; and
2. The rate structure also has a Fire Meter Charge which is: (a) imposed on certain properties requiring a large private fire suppression system, and upon the request of the customer or property owner for the delivery of water to the property for the purpose of fire service protection; and (b) established on the basis of the size of the fire service line (in inches) and calculated to recover the cost of providing water to such properties for private fire service protection; and
3. Beginning April 1, 2016, the rate structure will also include a Capital Surcharge, which will be imposed on the basis of the amount of water delivered to a customer in HCF and calculated to recover capital costs of the water system; and

WHEREAS, the City hereby finds and determines that in accordance with the provisions of California Constitution article XIII D, section 6 (“Article XIII D”):

1. The City identified the parcels upon which the water service charges are proposed to be imposed, and calculated the amount of the water service charges proposed to be imposed on each parcel; and
2. The City caused a written notice to be mailed to the record owners of property upon which the proposed water service charges will be imposed and the customers of each parcel upon which the proposed increases to the water service charges are proposed for imposition, which explained: (a) the amount of the water service charges; (b) the basis on which they were calculated; (c) the reason for the increases; and (d) the date, time, and location of the public hearing on the proposed increases; and
3. On December 15, 2015, (more than 45 days after mailing the notice), the City conducted a public hearing and considered all written protests against the proposed increases to the rates for the water service charges; and

4. At the conclusion of the public hearing, written protests against the proposed increases to the rates for the water service charges were not presented by a majority of property owners of record and customers subject to the proposed water service charges; and

WHEREAS, the adoption of the proposed increases to water service charges are statutorily exempt from the requirements of the California Environmental Quality Act under California Resources Code Section 21080(b)(8).

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 Rate Study, 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 VIII-1-6.13

Section VIII-1-6.13 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

VIII-1-6.13 Quantity Charges

The quantity charges include a volumetric charge and a capital surcharge. The uniform rates for the quantity charges are billed bimonthly and imposed per hundred cubic feet (“HCF”) for metered water service. The rates and effective dates for the quantity charges shall be those set forth below.

RATES AND EFFECTIVE DATES FOR QUANTITY CHARGES (\$/HCF)			
Customer Class	Volumetric Charge 1/15/2016	Volumetric Charge 4/1/2016	Capital Surcharge 4/1/2016
Residential:	\$4.75	\$5.13	\$1.30
Commercial / Industrial / Institutional / Construction Meter	\$4.75	\$5.13	\$1.30
Irrigation (potable)	\$4.75	\$5.13	\$1.30
City Accounts (potable)	\$4.75	\$5.13	\$1.30
Ed Levin Park	\$3.75	\$3.79*	NA
Recycled - Irrigation	\$2.42	\$2.78	NA
Recycled - Industrial / Dual Plumbed/ Construction Water	\$2.42	\$2.78	NA
City Accounts (recycled)	\$2.42	\$2.78	NA

The County of Santa Clara rate is established by contract to be equivalent to the San Francisco Public Utilities Commission (“SFPUC”) wholesale rate. The FY 2016-17 SFPUC rate is estimated to be \$3.79/HCF and staff will revise to actual rate once SFPUC adopts the FY 2016-17 wholesale rate.

FY = Fiscal Year

1 HCF = One Hundred Cubic Feet = 748 Gallons

SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.14

Section VIII-1-6.14 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

VIII-1-6.14 Bimonthly Water Meter Charges

(a) Water Meter Charges: The rates and the effective dates for the bimonthly water meter charges, determined on the basis of the size of the water meter, shall be as follows:

RATES AND EFFECTIVE DATES FOR WATER METER CHARGES (\$/METER SIZE)		
Water Meter Size	Charge 1/15/2016	Charge 4/1/2016
5/8"	\$18.00	\$19.44
3/4"	\$27.00	\$29.16
1"	\$45.00	\$48.60
1-1/2"	\$90.00	\$97.20
2"	\$144.00	\$155.52
3"	\$270.00	\$291.60
4"	\$450.00	\$486.00
6" and above	\$900.00	\$972.00

(b) For Temporary Construction Meter Customers, the bimonthly water meter charges shall be equal to the bimonthly water meter charges for 3" water meters set forth in Section 6.14(a).

No adjustments shall be granted to any water account holder due to variation in the days of service for any bimonthly billing period. Acceptable days of service range from 50 to 69 days per bimonthly billing period.

SECTION 4. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.15

Section VIII-1-6.15 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

VIII-1-6.15 Fire Service Charges

The rates and effective dates for the bimonthly fire service charges, determined on the basis of the size of the fire service, shall be as follows:

RATES AND EFFECTIVE DATES FOR FIRE SERVICE CHARGE (\$/SIZE OF FIRE SERVICE LINE)		
Fire Service Line Size	Charge 1/15/2016	Charge 4/1/2016
2"	\$28.80	\$31.10
3"	\$54.00	\$58.32
4"	\$90.00	\$97.20
6" and above	\$180.00	\$194.40

Water flowing through fire suppression systems shall be used solely for the purpose of fire protection and testing of such fire protection systems. In the event that water service provided through fire suppression systems is used for purposes other than for fire protection or the testing of such fire

protection systems, the quantity charges equal to the quantity charge rates (per HCF) for Commercial/ Industrial/ Institutional customers shall be imposed .

SECTION 5. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.16

Section VIII-1-6.16 of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

VIII-1-6.16 Billing and Effective Dates of Water Rates and Charges

Billing. After the Ordinance adopting the charges set forth in this Section goes into effect, customers shall be subject to the water service charges at the rates and on the effective dates set forth in 6.13 (Quantity Charges), 6.14 (Bimonthly Water Meter Charges), and 6.15 (Fire Service Charges), for services provided on or after January 15, 2016, and April 1, 2016, respectively. In the absence of amendment of the rates set forth herein or adoption of a new rate ordinance, the rates in effect on April 1, 2016, and set forth herein shall remain in effect until amended or repealed.

SECTION 6. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional, provided, however, that if any decision of a court of competent jurisdiction invalidates the increase of the water service charges set forth in this Ordinance, then the water service charges in effect on the date of adoption shall continue in existence.

SECTION 7. ORDINANCE PREVAILS

To the extent that any other provision of local law relating to the establishment of water charges is inconsistent with this Ordinance, the provisions of this Ordinance shall prevail. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

SECTION 8. EFFECTIVE DATE AND POSTING

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.