

**PLEASE NOTE:**

This copy of Ordinance No. 120.49 is a “redlined” version for your convenience. Text additions are designated by an underline and text deletions are designated with a strikethrough.

**REGULAR**

**NUMBER: 120.49**

**TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING TITLE VIII (PUBLIC WORKS), CHAPTER 1 (WATER SYSTEM) OF THE MILPITAS MUNICIPAL CODE RELATING TO DISCONTINUANCE AND RESTORATION OF WATER SERVICE**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of \_\_\_\_\_, 2019, upon motion by \_\_\_\_\_ and was adopted (second reading) by the City Council at its meeting of \_\_\_\_\_, 2019 upon motion by \_\_\_\_\_. The Ordinance was duly passed and published in accordance with the law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Rich Tran, Mayor

APPROVED AS TO FORM:

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

**RECITALS:**

**WHEREAS**, the City of Milpitas (“City”) is a municipal corporation, duly organized under the California Constitution and laws of the State of California; and

**WHEREAS**, the City operates a public water system that supplies water to residential, commercial, and industrial customers throughout the City’s jurisdiction; and

**WHEREAS**, in 2018, the California Legislature adopted Senate Bill 998 (“SB 998”) which adopted new and expanded protections regarding discontinuation of residential water service for nonpayment and related matters; and

**WHEREAS**, the City Council desires to amend the Title VIII, Chapter 1 of the Milpitas Municipal Code to ensure consistency with the requirements of SB 998, and for related purposes.

**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 1, SECTION 6.10**

Title VIII, Chapter 1, Section 6.10 of the Milpitas Municipal Code is hereby amended to read as follows:

**VIII-1-6.10 - Discontinuance of Residential and Non-Residential Service**

6.10-1 Residential Service may be discontinued for any infraction of City rules or regulations relating to the provision of water service and shall be discontinued for any account, which is more than ~~thirty-sixty-three (3063)~~ days delinquent. Prior to discontinuing service for delinquent accounts, ~~a final one or more notices~~ shall be issued to delinquent accounts. If payment has not been received by 5:00 p.m. of the due date of a bill, which is twenty-one (21) days from when the bill is mailed, a penalty fee equal to five percent of the amount then due shall be imposed and a “Reminder Notice” will be mailed. If payment has not been received by 5:00 p.m. of the forty-ninth (49th) day of delinquency, an additional late fee equal to five percent of the amount then due shall be imposed, and a Final Notice will be mailed. If payment has not been received by 5:00 p.m. on the fifty-sixth (56th) day of delinquency, a twentyfour-eight-four (4824) hour warning notice regarding the discontinuance of water service shall be placed on an exterior door of the building where service is provided and for which payments are delinquent. If the City posts a warning notice, an additional service charge of ten dollars (\$10) shall be imposed on the delinquent account.

Said warning notice shall state that water service will be discontinued if payment of the delinquent account is not received by 5:00 p.m. of the due date indicated on the warning notice. If payment has not been received by 5:00 p.m. of the due date on the warning notice, water service shall be discontinued.

The City Council may, by resolution, adopt a policy for discontinuance of residential water service for nonpayment. Such policy may include, but may not be limited to, additional provisions concerning billing procedures, discontinuance of service, notification procedures, restoration of service, procedures to contest or appeal a water bill, extensions or other alternative payment arrangements, protections available to qualified low-income customers, procedures for becoming a customer of the City under specified circumstances, and related matters. To the extent a policy adopted pursuant to this Section conflicts with any provisions of this Chapter, the policy shall control.

6.10-2 Non-Residential service may be discontinued for any infraction of City rules or regulations relating to the provision of water service and shall be discontinued for any account, which is more than sixty-three (63) days

delinquent. Prior to discontinuing service for delinquent accounts, one or more notices shall be issued to delinquent accounts. If payment has not been received by 5:00 p.m. of the due date of a bill, which is twenty-one (21) days from when the bill is mailed, a penalty fee equal to five percent of the amount then due shall be imposed and a Reminder Notice will be mailed. If payment has not been received by 5:00 p.m. of the forty-ninth (49th) day of delinquency, an additional late fee equal to five percent of the amount then due shall be imposed, and a Final Notice will be mailed. If payment has not been received by 5:00 p.m. on the fifty-sixth (56th) day of delinquency, a forty-eight (48) hour warning notice regarding the discontinuance of water service shall be placed on an exterior door of the building where service is provided and for which payments are delinquent. If the City posts a warning notice, an additional service charge shall be imposed on the delinquent account. Said warning notice shall state that water service will be discontinued if payment of the delinquent account is not received by 5:00 p.m. of the due date indicated on the warning notice. If payment has not been received by 5:00 p.m. of the due date on the warning notice, water service shall be discontinued.

### **SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE VIII, CHAPTER 1, SECTION 6.11**

Title VIII, Chapter 1, Section 6.11 of the Milpitas Municipal Code is hereby amended to read as follows:

#### **VIII-1-6.11 - Restoration of Discontinued Service**

Restoration of service, which has been discontinued for nonpayment of a bill, may be had by payment of all outstanding charges to date plus a ~~fifty dollar (\$50.00)~~ restoration of service charge, at the offices of City. If restoration is requested outside of normal business hours, an additional service charge of ~~twenty five (\$25)~~ shall be imposed. Restoration of service, which has been discontinued for any other infraction of a rule, may be had by presentation of evidence of compliance and payment of a ~~fifty dollar (\$50.00)~~ restoration of service charge at the offices of the City. The City Manager shall have authority to vary the strict application of this rule where he deems it necessary for the good of the City or to prevent undue hardship. In addition, the restoration of service charge and additional service charge for after-hours restoration as annually adopted by the Council shall be subject to the limits set forth in the City's policy on discontinuance of residential water service, or as otherwise required by law.

### **SECTION 4. 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.

### **SECTION 5. EFFECTIVE DATE AND POSTING**

This Ordinance shall take effect thirty (30) days from and after the date of its passage, or on February 1, 2020, whichever is later. The provisions of this Ordinance shall apply to all water bills issued after the effective date. 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.