



# City of Banning

## Office of the City Clerk

January 27, 2010

Mr. Simon Eching  
California Department of Water Resource  
Water Use and Efficiency Branch  
P.O. Box 942836  
Sacramento, CA 94236-0001

**Subject: Water Conservation in Landscaping Act (AB 1881)**

Dear Mr. Eching:

As required by AB 1881, enclosed with this letter is a certified copy of City Council Resolution No. 2010-06 adopted on January 26, 2010 making certain findings that the City's adopted landscaping ordinance and water conservation ordinance are as effective as the State's model water efficiency landscape ordinance.

If you have questions regarding this correspondence, please contact Zai Abu Bakar, Community Development Director at (951) 922-3131.

Regards,

A handwritten signature in cursive script that reads 'Marie A. Calderon'.

Marie A. Calderon  
City Clerk

encl.

**RESOLUTION NO. 2010-06**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING MAKING CERTAIN FINDINGS THAT THE CITY'S WATER EFFICIENT LANDSCAPE ORDINANCE IS AS EFFECTIVE AS THE STATE'S MODEL WATER EFFICIENT LANDSCAPE ORDINANCE (MWELO) IN CONNECTION WITH AB 1881 WATER CONSERVATION IN LANDSCAPING ACT.**

**WHEREAS**, California is experiencing its third consecutive year of sustained drought and historically drought has been a part of the California environment; and

**WHEREAS**, it is estimated that about half of urban water use is from landscape irrigation; and

**WHEREAS**, Assembly Bill (AB) 1881 the *Water Conservation in Landscaping Act* was approved by the Governor of the State of California on September 28, 2006; and

**WHEREAS**, AB 1881 requires local agencies to adopt a water efficient landscape ordinance by January 1, 2010, or the State's Model Water Efficient Landscape Ordinance prepared by the Department of Water Resources shall apply; and

**WHEREAS**, on February 14, 2006 the City Council for the City of Banning adopted new zoning regulations by approving Ordinance No. 1339; the new zoning regulations include Chapter 17.32 *Landscaping Standards* that correspond to the requirements of AB 1881. Additionally, Chapter 13.16 *Water Conservation* and Chapter 13.24 *Stormwater Code* of the municipal code contain elements that correspond to the various requirements of AB 1881; and

**WHEREAS**, the City now desires to notify the Department of Water Resources of compliance with AB 1881 requirements;

**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of Banning does hereby find, determine, and resolve as follows:

1. That the adopted regulations codified in Chapter 17.32 *Landscaping Standards*, Chapter 13.16 *Water Conservation*, and Chapter 13.24 *Stormwater Code*, copies of which are included as Exhibit "A" of this resolution and specifically detailed in the comparison chart listed below, are at least as effective in conserving water as the State's Model Water Efficient Landscape Ordinance.
2. That the City Clerk is directed to submit a copy of this resolution to the Department of Water Resources in accordance with the requirements of AB 1881.

CERTIFIED TO BE A TRUE AND CORRECT  
COPY OF THE ORIGINAL DOCUMENT ON  
FILE IN THE OFFICE OF THE CITY CLERK.

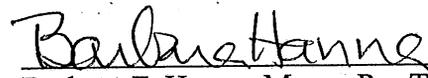
BY *Maria A. Callahan*  
TITLE *CITY CLERK*  
DATE *1-27-10*

## Comparison Chart

AB 1881 Requirement	Corresponding City Code/Program
<p>65595. (a) (1) To the extent funds are appropriated, not later than January 1, 2009, by regulation, the department shall update the model water efficient landscape ordinance adopted pursuant to Chapter 1145 of the Statutes of 1990, after holding one or more public hearings. The updated model ordinance shall be based on the recommendations set forth in the report prepared pursuant to Chapter 682 of the Statutes of 2004 and shall meet the requirements of Section 65596.</p> <p>(c) On or before January 1, 2010, a local agency shall adopt one of the following:</p> <p>(1) A <b>water efficient landscape ordinance</b> that is, based on evidence in the record, at least as effective in conserving water as the updated model ordinance adopted by the department pursuant to subdivision (a).</p> <p>(2) The updated model ordinance described in paragraph (1).</p> <p>(d) If the local agency has not adopted, on or before January 1, 2010, a water efficient landscape ordinance pursuant to subdivision (c), the updated model ordinance adopted by the department pursuant to subdivision (a) shall apply within the jurisdiction of the local agency as of that date, shall be enforced by the local agency, and shall have the same force and effect as if adopted by the local agency.</p>	<p>The Zoning Code as adopted on February 14, 2006 contains Chapter 17.32 <i>Landscaping Standards</i> that corresponds with the requirements of AB 1881;</p> <p>also,</p> <p>Chapter 13.16 <i>Water Conservation</i> adopted in 1965.</p>
<p>65596. The updated model ordinance adopted pursuant to Section 65595 shall do all the following in order to reduce water use:</p> <p>(a) <b>Include provisions for water conservation</b> and the appropriate use and groupings of plants that are well-adapted to particular sites and to particular climatic, soil, or topographic conditions. The model ordinance shall not prohibit or require specific plant species, but it may include conditions for the use of plant species or encourage water conserving plants. However, the model ordinance shall not include conditions that have the effect of prohibiting or requiring specific plant species.</p>	17.32.070; Chapter 13.16
<p>(b) <b>Include a landscape water budget component</b> that establishes the maximum amount of water to be applied through the irrigation system, based on climate, landscape size, irrigation efficiency, and plant needs.</p>	17.32.090
<p>(c) <b>Promote the benefits</b> of consistent local ordinances in neighboring areas.</p>	17.32.030(A)
<p>(d) Encourage the capture and <b>retention of stormwater</b> onsite to improve water use efficiency or water quality.</p>	13.24.120
<p>(e) <b>Include provisions for the use of automatic irrigation systems</b> and irrigation schedules based on climatic conditions, specific terrains and soil types, and other environmental</p>	17.32.030(H)

conditions. The model ordinance shall include references to local, state, and federal laws and regulations regarding standards for water-conserving irrigation equipment. The model ordinance may include climate information for irrigation scheduling based on the California Irrigation Management Information System.	
(f) Include <b>provisions for onsite soil assessment</b> and soil management plans that include grading and drainage to promote healthy plant growth and to prevent excessive erosion and runoff, and the use of mulches in shrub areas, garden beds, and landscaped areas where appropriate.	17.32.090(A)(8)
(g) <b>Promote the use of recycled water</b> consistent with Article 4 (commencing with Section 13520) of Chapter 7 of Division 7 of the Water Code.	17.32.090
(h) Seek to <b>educate water users</b> on the efficient use of water and the benefits of doing so.	17.32.100
(i) Address regional differences, including fire prevention needs.	17.32.160(A); 17.32.170(C); 8.16.020
(j) Exempt landscaping that is part of a registered historical site.	13.16.030(D)(3)
(k) Encourage the use of <b>economic incentives</b> to promote the efficient use of water.	13.08.040 – escalating commodity charge.
(l) Include provisions for <b>landscape maintenance practices</b> that foster long-term landscape water conservation. Landscape maintenance practices may include, but are not limited to, performing routine irrigation system repair and adjustments, conducting water audits, and prescribing the amount of water applied per landscaped acre.	17.32.050
(m) Include provisions to <b>minimize landscape irrigation overspray</b> and runoff.	17.32.090
65598. Any model ordinance adopted pursuant to this article shall <b>exempt cemeteries</b> from all provisions of the ordinance except those set forth in subdivisions (h), (k), and (l) of Section 65596. In adopting language specific to cemeteries, the department shall recognize the special landscape management needs of cemeteries.	13.16.030(D)(2)
535: (a) A water purveyor shall require as a condition of new retail water service on and after January 1, 2008, the installation of <b>separate water meters</b> to measure the volume of water used exclusively for landscape purposes.	Include in conditions of approval for applicable projects.

**PASSED, APPROVED, AND ADOPTED** this 26<sup>th</sup> day of January, 2010.

  
\_\_\_\_\_  
Barbara F. Hanna, Mayor Pro Tem  
City of Banning

APPROVED AS TO FORM AND  
LEGAL CONTENT:

  
\_\_\_\_\_  
David J. Aleshire, City Attorney  
Aleshire & Wynder, LLP

ATTEST:

  
\_\_\_\_\_  
Marie A. Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-06, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26<sup>th</sup> day of January, 2010.

AYES: Councilmembers Franklin, Hanna, Machisic, Robinson  
NOES: None  
ABSTAIN: None  
ABSENT: Mayor Botts



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Marie A. Calderon, City Clerk  
City of Banning, California

Exhibit "A"  
to  
Resolution No. 2010-06

Copies of municipal code:

*Chapter 17.32 Landscaping Standards*

*Chapter 13.16 Water Conservation*

*Chapter 13.24 Stormwater Code (including Ordinance No. 1415  
amending Chapter 13.24)*

## Chapter 17.32

## LANDSCAPING STANDARDS

## Sections:

## Article I.

## General Provisions

- 17.32.010 Purpose.  
 17.32.020 Application.  
 17.32.030 General regulations.  
 17.32.040 Setback and parkway treatments.  
 17.32.050 Installation and maintenance.  
 17.32.060 Removal or destruction of trees.

## Article II.

## Water Conservation

- 17.32.070 Purpose and definitions.  
 17.32.080 Applicability.  
 17.32.090 Landscape documentation package.  
 17.32.100 Public education.  
 17.32.110 Provisions for existing landscapes.  
 17.32.120 Fees for initial review and program monitoring.  
 17.32.130 Appeals.

## Article IV.

## Landscape Design Guidelines

- 17.32.140 Purpose.  
 17.32.150 Applicability.  
 17.32.160 General guidelines.  
 17.32.170 Installation and maintenance.

## Article I.

## General Provisions

## 17.32.010 Purpose.

The purpose of this chapter is to establish landscaping regulations that are intended to:

A. Protect and preserve the natural environment in the City of Banning, and to incorporate green space, vegetation, and shade into the urban landscape.

B. Enhance the aesthetic appearance of development in all areas of the City by providing standards for quality, quantity and functional aspects of landscaping and landscape screening.

C. Reduce the heat and glare generated by development

D. Increase the compatibility between residential land uses and those abutting commercial and industrial land uses.

E. Provide privacy within residential developments, and to provide privacy on the perimeter of residential areas from various residential, commercial or other uses outside of the development.

F. Protect the public health, safety and welfare by minimizing the impact of all forms of physical and visual pollution, controlling soil erosion, screening incompatible land uses, preserving the integrity of neighborhoods, and enhancing pedestrian, cyclist and vehicular traffic and safety.

G. Increase the liveability of the City of Banning for children, adults, and visitors. (Zoning Ord. dated 1/31/06, § 9108.01.)

## 17.32.020 Application.

A. A concept landscaping plan shall be submitted as part of a planning permit application. The concept plan shall meet the intent of this chapter by exhibiting a generalized design layout which adequately demonstrates the desired landscaping program in terms of location, size/scale, function, theme and other attributes.

B. The concept plan shall provide the review authority with a clear understanding of the landscaping program prior to the preparation of a detailed, comprehensive landscaping plan. All landscaping plans must take into account the preservation of natural features including hills, topography, trees, shrubs, wildlife habitat, etc. The landscaping plan should refer to such natural elements, and enhance rather than detract from such elements.

C. Landscaping plans shall rely primarily on indigenous plant and tree species which are suitable to the local climate and soil types, rather than relying on foreign or invasive species which often compete with, and displace local species. The use of indige-

nous plant, shrub and tree types is also important in providing continuity of habitat for wildlife species, including local birds. The use of invasive species which have proven to be detrimental to flora species native to Southern California are strongly discouraged in all landscaping plans. Such species include the tamarisk (or salt cedar tree), and the Russian olive. Likewise many plants and trees from other areas (such as the tropics or the American southeast) have much greater water requirements than native species, and the planting and maintenance of such flora species will undermine the City's goal of water conservation. (Zoning Ord. dated 1/31/06, § 9108.02.)

**17.32.030 General regulations.**

A comprehensive landscaping plan shall be prepared following approval of the permit application by the review authority, and shall be submitted at the same time as the grading plan and related documents and reports. The landscape and irrigation plans shall be approved by the Community Development Department, and this department may obtain any necessary input from the Public Works Department. Landscaping requirements include the following:

- A. Designs shall be in harmony with the surrounding environment.
- B. Landscape design and construction shall emphasize drought-tolerant landscaping whenever and wherever possible.
- C. A comprehensive landscape and irrigation plan shall include, but not be limited to:
  - 1. List of all plants (common and Latin) including trees and shrubs;
  - 2. Size of plants;
  - 3. Location of plants;
  - 4. Irrigation plan for the plants;
  - 5. Hardscape;
  - 6. Water elements;
  - 7. Any other information deemed necessary by the City.
- D. Planting of trees and shrubs shall comply with the following installation requirements:
  - 1. Landscape areas shall include plant material and planting methods which are suitable for the soil

of the site. The minimum percentage of plant sizes shall be as follows:

Trees:	20%, 36 inch box 50%, 24 inch box
Shrubs:	100%, 5 gallon
Groundcover:	100% coverage within 1 year

2. Trees and shrubs shall be planted so that at maturity they do not interfere with service lines, traffic safety sight area, and the basic property rights of adjacent property owners.

3. A variety of flowering trees, fragrant trees, and fruit trees, may all be included in the landscaping plan.

4. Trees planted near public rights-of-way shall have a limited deep root system and shall be installed so as to prevent physical damage to sidewalks, curbs, gutters and other public improvements.

5. Tree grates shall surround trees installed in paved areas or sidewalks. Trees with a deep root system shall be used in such areas.

F. Concrete mow strips are required to separate all turf areas from other landscaped areas in the commercial and industrial districts.

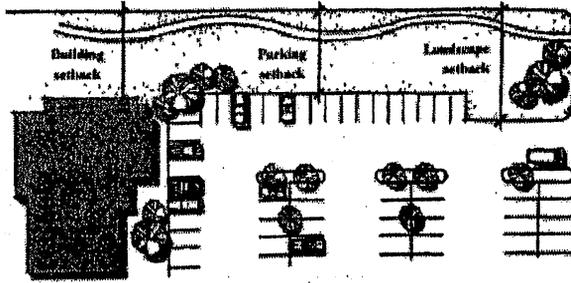
G. Inorganic groundcover shall be used in combination with live plants, and shall be used as an accent feature.

H. All landscaping shall include a water-efficient automatic irrigation system.

I. The front yards, and side yards visible from the public right-of-way, of all residential subdivisions shall be landscaped with trees, shrubs and groundcover. At a minimum, each front yard shall include 2 24 inch box trees, and sufficient shrubs and groundcover to provide full coverage within 2 years of installation. (Zoning Ord. dated 1/31/06, § 9108.03.)

**17.32.040 Setback and parkway treatments.**

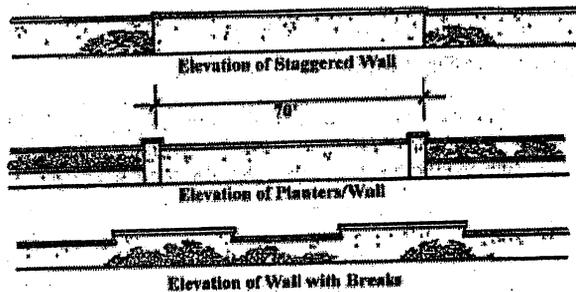
Landscape standards for setback and parkway areas shall include, but not be limited to:



A. Setback and parkway areas shall utilize uniform street tree plantings with complementary landscape materials.

B. Mounding or berming shall be incorporated within the overall design, with landscaped slopes not exceeding a three to one ratio, or four feet in height. A minimum of six feet of landscaping shall be placed on the exterior of perimeter walls and fences.

C. Walls and fences should be incorporated into the landscape design, including meandering walls, wall breaks, or openings where the design shall complement the landscaping of the adjacent development.



D. All designs shall insure compatibility with established setback and parkway areas, including transitions between landscape types and patterns.

E. Street trees shall be 24 inch box specimens or larger. (Zoning Ord. dated 1/31/06, § 9108.04.)

**17.32.050 Installation and maintenance.**

A. Landscaping shall be permanently maintained by the developer or his/her successors. All required landscaping shall be properly installed, irrigated, and inspected prior to the issuance of a Certificate of Occupancy.

B. Maintenance of approved landscaping shall consist of:

1. Regular watering;
2. Mowing;
3. Pruning;
4. Fertilizing;
5. Clearing of debris and weeds;
6. Removal and replacement of dead plants;
7. The repair and replacement of irrigation systems; and
8. The repair and replacement of integrated architectural features. (Zoning Ord. dated 1/31/06, § 9108.05.)

**17.32.060 Removal or destruction of trees.**

A. Removal of healthy, shade providing, and aesthetically valuable trees shall be strongly discouraged, and shall be in conformance with the policies and programs of the General Plan. A tree removal and replacement plan shall be required for the removal and replacement of all trees in excess of 50 years of age, unless their removal is required to protect the public health and safety.

B. Each tree that is removed in a new subdivision is considered a part of the common wealth of the citizens of Banning, is an important component of the habitat of surrounding wildlife, and is of value to the City. Each identified tree removed shall be replaced with at least one 36 inch box specimen tree, in addition to any other required landscaping. Individual single family residential lots of less than one-half acre and commercial tree farms shall be exempt from this provision. (Zoning Ord. dated 1/31/06, § 9108.06.)

**Article II.**

**Water Conservation**

**17.32.070 Purpose and definitions.**

A. In order to assure that the City's water resources are not significantly impacted by high water consuming landscape plans, the following standards for water efficiency shall be implemented for all landscaping plans required in this chapter, under Section 17.32.020, Applicability.

**B. Definitions.**

**Anti-drain valve or check valve** means a valve located under a sprinkler head to hold water in the system so it minimizes drainage from the lower elevation sprinkler heads.

**Application rate** means the depth of water applied to a given area, measured in inches per hour. Also known as precipitation rate (sprinklers) or emission rate (drippers/microsprayers) in gallons per hour.

**Applied water** means the portion of water supplied by the irrigation system to the landscaping.

**Automatic controller** means a mechanical or solid-state timer, capable of operating valve stations to set the days and length of time of a water application.

**Backflow prevention device** means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

**Conversion factor (0.62)** means a number that converts the maximum applied water allowance from acre-inches per acre per year to gallons per square foot per year. The conversion factor is calculated as follows:

325,851 gallons/43,560 square feet/12 inches	= (0.62)
325,851 gallons	= one acre foot
43,560 square feet	= one acre
12 inches	= one foot

To convert gallons per year to 100 cubic feet per year, the common billing unit for water, divide gallons per year by 748. (748 gallons = 100 cubic feet.)

**Ecological restoration project** means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

**Effective precipitation or usable rainfall** means the portion of total natural precipitation that is used by the plants.

**Emitter** means drip irrigation fittings that deliver water slowly from the system to the soil.

**Established landscape** means the point at which plants in the landscape have developed roots into the soil adjacent to the root ball.

**Establishment period** means the first year after installing the plant in the landscape.

**Estimated annual applied water use** means the portion of the estimated annual total water use that is derived from applied water. The estimated annual applied water use shall not exceed the maximum applied water allowance.

**Estimated total water use** means the annual total amount of water estimated to be needed to keep the plants in the landscaped area healthy. It is based upon such factors as the local evapotranspiration rate, the size of the landscaped area, the types of plants, and the efficiency of the irrigation system.

**ET adjustment factor** means a factor of 0.6 that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape. A combined plant mix with a site-wide average 0.45 is the basis of the plant factor portion of this calculation. The irrigation efficiency for purposes of the ET adjustment factor is 0.75. Therefore, the ET adjustment factor  $(0.6) = (0.45/0.75)$ .

**Evapotranspiration** means the quantity of water evaporated from adjacent soil surfaces and transpired by plants during a specific time.

**Flow rate** means the rate at which water flows through pipes and valves (gallons per minute or cubic feet per second).

**Hydrozone** means a portion of the landscaped area having plants with similar water needs that are served by a valve or set of valves with the same schedule. A hydrozone may be irrigated or nonirrigated. For example, a naturalized area planted with native vegetation that will not need supplemental irrigation once established is a nonirrigated hydrozone.

**Infiltration rate** means the rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

**Irrigation efficiency** means the measurement of the amount of water beneficially used divided by the

amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum irrigation efficiency for purposes of this chapter is 0.75. Greater irrigation efficiency can be expected from well-designed and maintained systems.

**Landscape irrigation audit** means a process to perform site inspections, evaluate irrigation systems, and develop efficient irrigation schedules.

**Landscaped area** means the entire parcel less the building footprint, driveways, nonirrigated portions of parking lots, hardscapes such as decks and patios, and other nonporous areas. Water features are included in the calculation of the landscaped area.

**Lateral line** means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

**Main line** means the pressurized pipeline that delivers water from the water meter to the valve or outlet.

**Service line** means the pressurized pipeline that delivers water from the water source to the water meter.

**Maximum applied water allowance** means for design purposes, the upper limit of annual applied water for the established landscaped area. It is based upon the area's reference evapotranspiration, the ET adjustment factor, and the size of the landscaped area. The estimated applied water use shall not exceed the maximum applied water allowance.

**Mined-land reclamation projects** means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

**Mulch** means any material such as gravel, small rocks, pebbles, decorative sand, decomposed granite, bark, straw or other material left loose and applied to the soil surface for the beneficial purpose of reducing evaporation.

**Operating pressure** means the manufacturer's recommended pressure at which a system of sprinklers, bubblers, drippers or microsprayers is designed to operate.

**Overhead sprinkler irrigation systems** means those with high flow rates (pop-ups, impulse sprinklers, rotors, etc.)

**Overspray** means the water which is delivered beyond the landscaped area, wetting pavements, walks, structures, or other non-landscaped areas.

**Plant factor** means a factor that when multiplied by reference evapotranspiration, estimates the amount of water used by plants. For purposes of this chapter, the average plant factor of very low water using plants ranges from 0.01 to 0.10, for low water using plants the range is 0.10 to 0.35, for moderate water using plants the range is 0.35 to 0.60 and for high water using plants, the range is 0.60 to 0.90.

**Rain sensing device** means a system which automatically shuts off the irrigation system when it rains.

**Record drawing or as-builts** means a set of reproducible drawings which show significant changes in the work made during construction which are usually based on drawings marked up in the field and other data furnished by the contractor.

**Recreational area** means areas of active play or recreation such as sports fields, school yards, picnic grounds, or other areas with intense foot traffic.

**Recreational turfgrass** means turfgrass that serves as a playing surface for sports and recreational activities. Athletic fields, golf courses, parks and school playgrounds are all examples of areas hosting recreational turf grass.

**Recreational turfgrass ET adjustment factor** means a factor of 0.82 that, when applied to reference evapotranspiration, adjusts for the additional stress of high traffic on recreational turfgrass and the higher irrigation efficiencies of long range rotary sprinklers. These are the two major influences upon the amount of water that needs to be applied to a recreational landscape. A mixed cool/warm season turfgrass with a seasonal average of 0.7 is the basis of the plant factor portion of this calculation. The irrigation efficiency of long range sprinklers for purposes of the ET adjustment factor is 0.85. Therefore, the ET adjustment factor is  $0.82 = 0.7/0.85$ .

**Recycled water, reclaimed water or treated sewage effluent water** means treated or recycled

waste water of a quality suitable for nonpotable uses such as landscape irrigation; not intended for human consumption.

**Reference evapotranspiration or ETo** means a standard measurement of environmental parameters which affect the water use of plants. ETo is given in inches per day, month, or year, and is an estimate of the evapotranspiration of a large field of cool-season grass that is well watered. Reference evapotranspiration is used as a basis of determining the maximum applied water allowances so that regional differences in climate can be accommodated. For purposes of this chapter, the following ETo zone map will be used. (See map attached to the ordinance codified in this chapter.)

**Rehabilitated landscape** means any relandscaping project whose choice of new plant material and/or new irrigation system components is such that the calculation of the site's estimated water use will be significantly changed. The new estimated water use calculation must not exceed the maximum applied water allowance calculated for the site using a 0.6 ET adjustment factor.

**Runoff** means water which is not absorbed by the soil or landscape to which it is applied and flows from the planted area. For example, runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate), when there is a severe slope or when water is misapplied to hard-scapes.

**Soil moisture sensing device** means a device that measures the amount of water in the soil.

**Soil texture** means the classification of soil based on the percentage of sand, silt and clay in the soil.

**Sprinkler head** means a device which sprays water through a nozzle.

**Static water pressure** means the pipeline pressure when water is not flowing.

**Station** means an area served by one valve or by a set of valves that operates simultaneously.

**Turf** means a surface layer of earth containing mowed grass with its roots. Perennial and Annual Ryegrass are cool season grasses. Hybrid and common Bermuda grass, are warm season grasses.

**Valve** means a device used to control the flow of water in the irrigation system.

**Water conservation concept statement** means a one-page checklist and a narrative summary of the project.

**Water feature** means any water applied to the landscape for non-irrigation decorative purposes: Fountains, streams, ponds and lakes are considered water features. Water features use more water than efficiently irrigated turf grass and are assigned a plant factor value of 1.1 for a stationary body of water and 1.2 for a moving body of water. (Zoning Ord. dated 1/31/06, § 9108.07(1).)

#### 17.32.080 Applicability.

A. Except as provided in Section 17.32.030, this article shall apply to:

1. All new and rehabilitated landscaping for private, public, commercial and governmental development projects that require a permit; and
2. Developer-installed landscaping in single-family tracts and multifamily projects.

B. Projects subject to this section shall conform to the provisions in this section.

C. This section shall not apply to resident homeowner-provided landscaping at single-family residences. (Zoning Ord. dated 1/31/06, § 9108.07(2).)

#### 17.32.090 Landscape documentation package.

A. Each landscape documentation package shall include the following elements, which are described below under "Elements of Landscape Documentation Package".

1. Water conservation concept statement;
2. Calculation of the maximum applied water allowance;
3. Calculation of the estimated applied water use;
4. Calculation of the estimated total water use;
5. Landscape design plan;
6. Irrigation design plan;
7. Grading design plan;
8. Soil analysis (optional);

9. Certificate of substantial completion. (To be submitted by certified landscape designer, auditor or landscape architect after installation of the project.)

B. Three copies of the landscape documentation package conforming to this chapter shall be submitted to the city. No permit shall be issued until the city reviews and approves the landscape documentation package. Prior to preparation and submission of the landscape documentation package, the preliminary landscape design shall be approved by the Planning Commission.

C. A copy of the approved landscape documentation package shall be provided to the property owner or site manager along with the record drawings and any other information normally forwarded to the property owner or site manager.

D. Upon completion of construction, a copy of the water conservation concept statement and the certificate of substantial completion shall be sent by the project manager to the water management specialist of the water district and city/county having jurisdiction.

**ELEMENTS OF LANDSCAPE DOCUMENTATION PACKAGE**

A. Water Conservation Concept Statement. Each landscape documentation package shall include a cover sheet, referred to as the water conservation statement similar to the following example. It serves as a checklist to verify that the elements of the landscape documentation package have been completed and has a narrative summary of the project.

**SAMPLE WATER CONSERVATION CONCEPT STATEMENT**

Project Site: \_\_\_\_\_ Case Number: \_\_\_\_\_

Project Location: \_\_\_\_\_

Landscape Architect/Irrigation Designer/Contractor: \_\_\_\_\_

Included in this project submittal package are: (Check to indicate completion)

\_\_\_\_ 1. Maximum Annual Applied Water Allowance:  
 Conventional Landscape: \_\_\_\_\_ 100 cubic feet/year  
 + Recreational Turfgrass Landscape: \_\_\_\_\_ 100 cubic feet/year (if applicable)  
 Total Maximum Annual Applied Water Allowance: \_\_\_\_\_ 100 cubic feet/year \_\_\_\_\_

\_\_\_\_ 2. Estimated Annual Applied Water Use by Hydrozone:  
 Turfgrass: \_\_\_\_\_ 100 cubic feet/year  
 Recreational Turfgrass: \_\_\_\_\_ 100 cubic feet/year  
 Exotic Trees/Shrubs/Groundcovers: \_\_\_\_\_ 100 cubic feet/year  
 Desert Plants: \_\_\_\_\_ 100 cubic feet/year  
 Water features: \_\_\_\_\_ 100 cubic feet/year  
 Other \_\_\_\_\_: \_\_\_\_\_ 100 cubic feet/year \_\_\_\_\_

\_\_\_\_ 3. Estimated Annual Total Water Use:  
 \_\_\_\_\_ 100 cubic feet/year \_\_\_\_\_

- 4. Landscape Design Plan
- 5. Irrigation Design Plan
- 6. Grading Design Plan
- 7. Soil Chemical Analysis (Optional)

Description of Project: (Briefly describe the planning and design actions that are intended to achieve conservation and efficiency in water use.)

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Date: \_\_\_\_\_ Prepared by: \_\_\_\_\_

**B. The Annual Maximum Applied Water Allowance**

- a. A project's annual maximum applied water allowance shall be calculated using the following formula:

MAWA = (ETo) (0.6) (LA) (0.62) where:

- MAWA = Maximum applied water allowance (gallons per year)
- ETo = Reference evapotranspiration (i.e., 75.0 inches per year)
- 0.6 = ET adjustment factor
- LA = Landscaped area (square feet)
- 0.62 = Conversion factor (to gallons per square foot)

- b. An example calculation of the annual maximum applied water allowance is:

Project site: Landscape area of fifty thousand square feet in Zone No. 3a of the City ETo Map.

MAWA = (ETo) (.6) (LA) (0.62)  
 = (75.0 inches) (.6) (50,000 square feet) (.62)

Maximum applied water allowance = 1,395,000 gallons per year, 1,865 hundred-cubic-feet per year (billing units), 4.28 acre feet/acre per year or 51.4% of water per year.

**C. Estimated Annual Applied Water Use.**

- a. The annual estimated applied water use shall not exceed the annual maximum applied water allowance.
- b. A calculation of the estimated annual applied water use shall be submitted with the landscape documentation package.

- c. The estimated annual total water use for each hydrozone is calculated from the following formula:

$$\text{EWU (hydrozones)} \quad = \quad \frac{(\text{ETo}) (\text{PF}) (\text{HA}) (.62)/748}{(\text{IE})}$$

(in 100 cubic feet)

EWU (hydrozone)	=	Estimated water use (gallons per year)
Eto	=	Reference evapotranspiration (i.e., ETo Zone 3a = 75.00 inches per year)
PF	=	Plant factor (see definitions)
HA	=	Hydrozone area (square feet)
(.62)	=	Conversion factor
(IE)	=	Irrigation efficiency (see Section 17.04.070, Definitions)
748	=	Conversion to billing units (100 cubic feet)

#### D. Estimated Annual Total Water Use.

A calculation of the estimated annual total hydrozone water use shall be submitted with the landscape documentation package. The estimated annual total water use for the entire landscaped area equals the sum of the estimated annual water use (EWU) of all hydrozones in that landscaped area.

#### E. Landscape Design Plan.

A landscape design plan meeting the following requirements shall be submitted as part of the landscape documentation package.

##### a. Plant Selection and Grouping.

- i. Any plants may be used in the landscape, providing the estimated annual applied water use recommended does not exceed the maximum annual applied water allowance and that the plants meet the specifications set forth in subsections (C)(5)(a)(ii), (iii) and (iv) of this section.
- ii. Plants having similar water use shall be grouped together in distinct hydrozones.
- iii. Plants shall be selected appropriately based upon their adaptability to the climate, geologic, and topographical conditions of the site. Protection and preservation of native species and natural areas is encouraged. The planting of trees is encouraged whenever it is consistent with the other provisions of this chapter.
- iv. Fire prevention needs shall be addressed in areas that are fire prone. Information about fire prone areas and appropriate landscaping for fire safety is available from the fire marshal.

##### b. Water Features.

- i. Recirculating water shall be used for decorative water features.

##### c. Landscape Design Plan Specifications.

The landscape design plan shall be drawn on project base sheets at a scale that accurately and clearly identifies:

- i. Designation of hydrozones;
- ii. Landscape materials, trees, shrubs, groundcover, turf and other vegetation. Planting symbols shall be clearly drawn and plants labeled by botanical name, common name, water use classification, container size, spacing and quantities of each group of plants indicated;
- iii. Property lines and street names;
- iv. Streets, driveways, walkways and other paved areas;
- v. Pools, ponds, water features, fences and retaining walls;
- vi. Existing and proposed buildings and structures including elevation, if applicable;
- vii. Location of all overhead and underground utilities.
- viii. Natural features including but not limited to rock outcroppings, existing trees and shrubs that will remain;
- ix. Tree staking, plant installation, soil preparation details, and any other applicable planting and installation details;
- x. A calculation of the total landscaped area;
- xi. Designation of recreational areas.

#### F. Irrigation Design Plan.

An irrigation design plan meeting the following conditions shall be submitted as part of the landscape documentation package.

##### a. Irrigation Design Criteria.

- i. Runoff and Overspray. Soil types and infiltration rate shall be considered when designing irrigation systems. All irrigation systems shall be designed to avoid runoff, low-head drainage, overspray, or other similar conditions where water flows onto adjacent property, nonirrigated areas, walks, roadways or structures. Proper irrigation equipment and schedules, including features such as repeat cycles, shall be used to closely match application rates to infiltration rates therefore minimizing runoff. Special attention shall be given to avoid runoff on slopes and to avoid overspray in planting areas with a width less than ten feet. No overhead sprinkler irrigation systems shall be installed in median strips or islands.
- ii. Irrigation Efficiency. For the purpose of determining the maximum applied water allowance, irrigation efficiency is assumed to be 0.75. Mixed irrigation system types shall be designed, maintained and managed to meet or exceed an average of 0.75 efficiency.
- iii. Equipment.
  - (A) Water Meters. Separate landscape water meters shall be installed for all projects except for single-family homes or any project with a landscaped area of less than two thousand five hundred square feet.
  - (B) Controllers. Automatic control systems (solar or electric) shall be required for all irrigation systems and must be able to accommodate all aspects of the design. Mechanical irrigation controllers are prohibited.
  - (C) Valves. Plants which require different amounts of water shall be irrigated by separate valves. If one valve is used for a given area, only plants with similar water use shall be used in that area.
  - (D) Anti-drain (check) valves shall be installed in strategic points to prevent low-head drainage.

- (E) Sprinkler Heads. Heads shall have application rates appropriate to the plant water use requirements within each control valve circuit. Sprinkler heads shall be selected for proper area coverage, application rate, matched precipitation rate nozzles, operating pressure, adjustment capability and ease of maintenance.
- (F) Scheduling Aids—Soil Moisture Sensing Devices. It is required that soil moisture sensing devices be installed on all turfgrass sites exceeding 1.0 acres (43,560 square feet) of planted area.
- (G) Scheduling Aids—ETo Controllers. It is recommended that ETo controllers be considered for installation on all sites.
- (H) Equipment in Publicly Maintained Areas. Irrigation equipment in areas which may or will be maintained by the city shall conform to specifications of the city.
- (I) Emitters. Emitters shall have consistent application rates appropriate to the plant water use requirements within each control valve circuit. Emitters shall be selected for specific area coverage (individual plants), application rates, operating pressure, adjustment capability and ease of maintenance.

b. Recycled Water.

- i. The installation of recycled water irrigation systems (dual distribution systems) shall be required to allow for the current and future use of recycled water, unless a written exemption has been granted as described in the subsection (C)(6)(b)(ii) of this section.
- ii. Irrigation systems shall make use of recycled water unless a written exemption has been granted by the water district having jurisdiction, stating that recycled water meeting all health standards is not available and will not be available in the foreseeable future.
- iii. Recycled water irrigation systems shall be designed and operated in accordance with all local and state codes and be applicable to all of the provisions of this chapter.

c. Irrigation Design Plan Specifications.

Irrigation systems shall be designed to be consistent with hydrozones. The irrigation design plan shall be drawn on project base sheets. It shall be separate from, but use the same format as, the landscape design plan. The scale shall be the same as that used for the landscape design plan. The irrigation design plan shall accurately and clearly identify:

- i. Location and size of separate water meters for the landscape;
- ii. Location, type, and size of all components of the irrigation system, including automatic controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, and backflow prevention devices;
- iii. Static water pressure at the point of connection to the water supply;
- iv. Flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (psi) for each station;
- v. Recycled water irrigation systems.

G. Grading Design Plan.

Grading design plans satisfying the city/county grading ordinance and the following conditions shall be submitted as part of the landscape documentation package.

- a. A grading design plan shall be drawn on project base sheets. It shall be separate from but use the same format as the landscape design plan.
- b. The grading design plan shall indicate finished configurations and elevations of the landscaped area, including the height of graded slopes, drainage patterns, pad elevations, and finish grade.

H. Soil Analysis.

A soil analysis satisfying the following conditions should be submitted as part of the landscape documentation package:

- a. Determination of soil texture, indicating the available water holding capacity.
- b. An approximate soil infiltration rate (either) measured or derived from soil texture/infiltration rate tables. A range of infiltration rates shall be noted where appropriate.
- c. Measure of pH and total soluble salts.

I. Certification.

- a. A licensed landscape architect, designer of record or designated city staff shall conduct a final field observation and shall provide a certificate of substantial completion to the city. The certificate shall specifically indicate that plants were installed as specified, that the irrigation system was installed as designed, and that an irrigation audit has been performed, along with a list of any observed deficiencies.
- b. Certification shall be accomplished by completing a certificate of substantial completion and delivering it to the city, to the retail water supplier, and to the owner of record. A sample of such a form, which shall be provided by the city is:

**EXAMPLE CERTIFICATE OF SUBSTANTIAL COMPLETION**

Project Site: \_\_\_\_\_ Project Number: \_\_\_\_\_

Project

Location: \_\_\_\_\_

Preliminary Project Documentation Submitted: (Check indicating submittal)

\_\_\_ 1. Total Maximum Applied Water Allowance:  
\_\_\_\_\_ (100 cubic feet/year)

\_\_\_ 2. Estimated Applied Water Use by Hydrozone:

Turfgrass: \_\_\_\_\_ 100 cubic feet/year

Recreational Turfgrass: \_\_\_\_\_ 100 cubic feet/year

Exotic Trees/Shrubs/Groundcovers: \_\_\_\_\_ 100 cubic feet/year

Desert Plants: \_\_\_\_\_ 100 cubic feet/year

Water features: \_\_\_\_\_ 100 cubic feet/year

Other \_\_\_\_\_ : \_\_\_\_\_ 100 cubic feet/year

\_\_\_ 3. Estimated Total Water Use:  
\_\_\_\_\_ (100 cubic feet/year)

- \_\_\_ 4. Landscape Design Plan
- \_\_\_ 5. Irrigation Design Plan
- \_\_\_ 6. Grading Design Plan
- \_\_\_ 7. Soil Analysis (optional)

Post-Installation Inspection: (Check indicating substantial completion)

- \_\_\_ A. Plants installed as specified
- \_\_\_ B. Irrigation system installed as designed
  - \_\_\_ dual distribution system for recycled water
  - \_\_\_ minimum run-off or overspray

\_\_\_ Project submittal package and a copy of this certification has been provided to owner/manager and local water agency.

Comments:

I/we certify that work has been installed in accordance with the contract documents:

Contractor	Signature	Date	State License Number
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I/we certify that based upon periodic site observations, the work has been substantially completed in accordance with the Water Efficient Landscape Ordinance and that the landscape planting and irrigation installation conform with the approved plans and specifications.

Landscape Architect	Signature	Date	State License Number
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or Irrigation Designer/Consultant  
or Licensed or Certified Professional in a Related Field

I/we certify that I/we have received all of the contract documents and that it is our responsibility to see that the project is maintained in accordance with the contract documents.

Owner	Signature	Date
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(Zoning Ord. dated 1/31/06, § 9108.07(3).)

**17.32.100 Public education.**

**A. Publications.**

1. The city will, upon request, provide information to owners of all new, single family residential homes regarding the design, installation, and maintenance of water efficient landscapes.

2. Information about the efficient use of landscape water shall be provided to water users throughout the community.

**B. Model Homes.** At least one model home that is landscaped in each project consisting of eight or more homes shall demonstrate via signs and information, the principles of water efficient landscapes described in this chapter.

1. Signs shall be used to identify the model as an example of a water efficient landscape and featuring elements such as hydrozones, irrigation equipment, and others which contribute to the overall water efficient theme.

2. Information shall be provided about designing, installing, and maintaining water efficient landscapes. (Zoning Ord. dated 1/31/06, § 9108.07(4).)

**17.32.110 Provisions for existing landscapes.**

**A. Water Management.** All existing landscaped areas which use ground water and are over sixty thousand square feet, including golf courses, green belts, common areas, multifamily housing, schools, businesses, parks, and cemeteries shall have a landscape irrigation audit at least every five years unless granted an exemption by the City. At a minimum, the audit shall be in accordance with the California Landscape Irrigation Auditor Handbook, the entire document which is hereby incorporated by reference. (See Landscape Irrigation Audit Handbook, Department of Water Resources, Water Conservation Office (June, 1990), Version 5.5.)

**B. Water Waste Prevention.** Water waste resulting from inefficient landscape irrigation including run-off, low head drainage, overspray, or other similar conditions where water flows onto adjacent property, nonirrigated areas, walks, roadways, or structures shall be discouraged. Penalties for violation of these prohibitions shall be established. (Zoning Ord. dated 1/31/06, § 9108.07(5).)

**17.32.120 Fees for initial review and program monitoring.**

**A.** Fees for the purposes of meeting obligations under this chapter, the following fees are deemed necessary to review landscape documentation packages and monitor landscape irrigation audits and shall be imposed on the subject applicant, property owner or designee.

1. A landscape documentation package review fee will be due at the time initial project application submission to the planning and development department.

2. The project owner/developer must cause a landscape irrigation audit to be completed by a certified landscape irrigation auditor. No city fees will be due for the review of the audit by the planning and development department.

3. If a landscape documentation package is not submitted prior to the start of landscape construction work, for those persons required to submit a package, a late submittal fee of twice the review fee shall be required.

**B.** The city council, by resolution, shall establish the amount of the above fees in accordance with applicable law. (Zoning Ord. dated 1/31/06, § 9108.07(6).)

**17.32.130 Appeals.**

Decisions made by the Director may be appealed by an applicant, property owner(s), or designee(s) of any applicable project to the planning commission and thereafter the city council by an application in writing to the planning and development director and city clerk of the city council respectively within fifteen days from the date of notification of decision. (Zoning Ord. dated 1/31/06, § 9108.07(7).)

**Article IV.**

**Landscape Design Guidelines**

**17.32.140 Purpose.**

The design guidelines which follow are a reference to assist the designer in understanding the City's objectives for high quality landscaping. These guide-

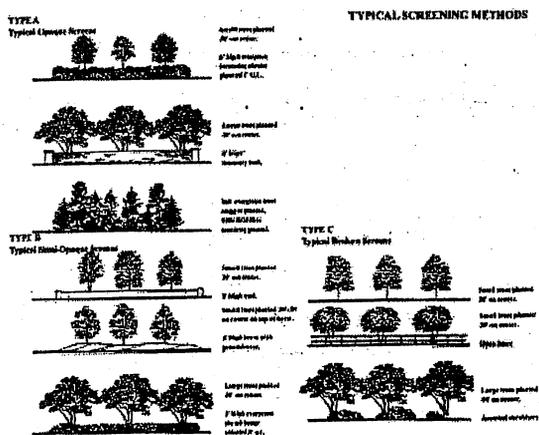
lines will be utilized during the design review process to encourage the highest level of design quality while at the same time providing the necessary flexibility to encourage creativity on the part of the project designers. (Zoning Ord. dated 1/31/06, § 9108.09(1).)

**17.32.150 Applicability.**

Any addition, remodelling, relocation or construction requiring a building permit subject to review by the Community Development Department, shall adhere to these guidelines unless exempted. (Zoning Ord. dated 1/31/06, § 9108.09(2).)

**17.32.160 General guidelines.**

A. Landscaping and open spaces should be designed as a central part of the site design, and should integrate development with the surrounding elements of the natural environment. Landscaping should enhance building design, public views and spaces, provide buffers and transitions, preserve and enhance wildlife habitat, provide shade and cooling, and provide screening from other nearby uses.



B. Landscape design should highlight the design theme through the use of arbors and trellises.

C. Landscaped areas should incorporate grasses and groundcovers; shrubs; and trees.

D. The following planting design concepts should be used whenever possible:

1. Trees to create canopies and shade, especially in parking areas;

2. Pots, vases, wall planters and raised planters;  
3. Specimen trees used in informal groupings and rows at major focal points;

4. The use of flowering trees in informal groups to provide color;

5. The use of distinctive plants as focal points;

6. Berms, plantings and low walls to screen parking areas from public rights of way.

E. Landscaping should be installed at the base of buildings. Asphalt edges should be avoided.

F. Plantings should be planned to create a simple, non-uniform arrangement. (Zoning Ord. dated 1/31/06, § 9108.09(3).)

**17.32.170 Installation and maintenance.**

A. Trees, shrubs and vines should have body and fullness that is typical of the species.

B. Herbaceous and flat plant groundcovers should be planted no more than 12 inches on center, and woody, shrub groundcover should be planted no more than 3 feet on center.

C. Plant materials should be spaced so they do not interfere with lighting, and so they do not restrict access to fire hydrants or fire alarm boxes. Proper spacing should insure unobstructed access for vehicles and pedestrians. The following spacing standards should be used:



1. 25 feet from the property corner at a street intersection to the center of the first tree or large shrub.

2. 15 feet between trees and large shrubs.

3. 15 feet between trees or large shrubs and fire hydrants.

4. 10 feet between trees or large shrubs and the edge of any driveway. (Zoning Ord. dated 1/31/06, § 9108.09(4).)

## Chapter 13.16

### WATER CONSERVATION

#### Sections:

- 13.16.010** Urban water management/conservation plan.
- 13.16.020** Restricting water use during water supply emergencies.
- 13.16.030** Water conservation using xeriscape principles.

**13.16.010** Urban water management/conservation plan.

The City of Banning adopts the urban water management/conservation plan, a copy of which is on file in the office of the city clerk. (Code 1965, § 31-6.)

**13.16.020** Restricting water use during water supply emergencies.

A. Definitions. As used in this section:

“Agency” means City of Banning.

“Council” means city council of the city.

“Emergency supply shortage” means any water shortage caused by an earthquake, loss of electrical power, pipe line breakage, or any other threatened or existing water shortage caused by a disaster or facility failure which results in city inability to meet the water demands of its customers.

“Water operations superintendent” means the water services supervisor of the city.

“Waste” means any unreasonable or nonbeneficial use of water, or any unreasonable method of use of water, as determined by the council, including, but not limited to, the specific uses prohibited and restricted by this section as hereinafter set forth.

“Water users” means any person, firm, partnership, association, corporation or political entity using water obtained from the water system of the city.

“Water” means water supplied by the city.

B. Noticed public hearing prior to mandatory conservation. Except when an emergency is caused by the breakage or failure of a dam, pump, pipeline or conduit, a noticed public hearing shall be held prior to the adoption of stages 2, 3 or 4 of the water

supply plan for emergency supply shortage as set forth in subsections (C)(2), (C)(3) and (C)(4) of this section. Notice of the time and place of hearing shall be published at least seven days prior to the date of hearing in a newspaper printed, published, and circulated within the area in which the water supply is distributed, or if there is no such newspaper, in any newspaper printed, published, and circulated in the county in which the area is located.

C. Water supply plan for emergency supply shortage.

1. Stage No.1. Normal conditions: voluntary conservation measures. Normal conditions shall be in effect when the city is able to meet all the water demands of its customers in the immediate future. During normal conditions, all water users should continue to use water wisely, to prevent the waste or unreasonable use of water, and to reduce water consumption to that necessary for ordinary domestic and commercial purposes.

2. Stage No. 2. Water shortage alert: mandatory conservation measures. In the event of a sudden and unexpected water supply shortage which could prevent the city from meeting the water demands of its customers, the council shall immediately hold a public hearing at which consumers of the water supply shall have the opportunity to protest and to present their respective needs to the council. No public hearing shall be required in the event of a breakage or failure of a dam, pump, pipeline or conduit causing an immediate emergency. The council may then declare a water shortage emergency condition to prevail, and the following rules and regulations shall be in effect immediately following such declaration.

a. Washing driveways, parking lots, or other hard surfaced area, or building exteriors at any time, except to alleviate immediate fire hazards is prohibited;

b. Parks, golf courses and school grounds are to be irrigated during nighttime hours only, between sunset and sunrise;

c. Lawn watering and landscape irrigating, including construction meter use, is prohibited between the hours of 10:00 A.M. to 5:00 P.M.;

d. Running water shall not be used for washing privately owned vehicles. A bucket may be used for the washing of vehicles and only hoses equipped with shut-off nozzles may be used for rinsing;

e. Restaurants are requested not to provide drinking water to patrons except by request;

f. Commercial nurseries shall use water only during the hours from midnight to 6:00 A.M. Irrigation of propagation beds and watering of livestock is permitted as necessary during any hours.

g. Golf courses using reclaimed water are exempted from these restrictions.

3. Stage No. 3. Water shortage warning. The council may, following a public hearing as set forth in subsection B of this section, declare that an emergency water supply shortage exists, and that the agency is unable to meet all the water demands of its customers. Immediately thereafter, the following water conservation measures shall apply:

a. Parks and schools shall be watered on alternate days during the hours between sunset to sunrise, the schedule of which shall be set following the public hearing;

b. Golf courses which utilize domestic water from the city's domestic system may irrigate greens only during the hours between sunset to sunrise. Golf courses utilizing reclaimed water are exempted from this restriction;

c. Other lawn watering and landscape irrigating, including construction meter use, are restricted as follows: customers with even-numbered street addresses may water only on even-numbered days, customers with odd-numbered street addresses may water only on odd-numbered days, and no watering or irrigating shall be done between the hours of 10:00 A.M. and 5:00 P.M. on any day;

d. Washing down of driveways, parking lots, or other paved surfaces is prohibited;

e. Washing of vehicles is restricted to commercial car wash establishments which recycle their water;

f. Filling or adding water to swimming pools, wading pools, spas, ornamental ponds, fountains and artificial lakes is prohibited;

g. Restaurants shall not serve drinking water to patrons except by request;

h. No new construction meter permits shall be issued by the agency;

i. Construction metered water shall not be used for earth work or road construction purposes;

j. Water of livestock is permitted as necessary during any hours;

k. Commercial nurseries may use water only between the hours of midnight and 6:00 A.M. Irrigation of propagation beds is permitted as necessary during any hours. Commercial nurseries utilizing reclaimed water are exempted from this restriction.

4. Stage No. 4. Mandatory compliance. Water shortage emergency.

Following a declaration by the city council that an emergency water supply shortage due to a major failure in a supply of distribution facility exists, the following water conservation measures shall apply:

a. Watering of parks, school grounds and golf courses is prohibited, except by reclaimed water;

b. Watering of lawn and irrigating of landscape is prohibited;

c. Washing down of driveways, parking lots, or other paved surfaces is prohibited;

d. Washing of vehicles is prohibited, except when done by commercial car wash establishments using recycled or reclaimed water;

e. Filling or adding water to swimming pools, wading pools, spas, ornamental ponds, fountains and artificial lakes is prohibited;

f. No serving of drinking water by restaurants to patrons except by request;

g. No issuing of new construction meter permits by the city;

h. Turning off and locking all existing construction meters;

i. Discontinuing all watering and irrigating of commercial nurseries. Those utilizing reclaimed water are exempted from this restriction. Watering of livestock is permitted as necessary.

D. Council discretion to modify conservation measures upon a showing of necessity therefor. The specific requirements of each mandatory conservation stage shall be effective upon adoption by the

council following a public hearing, except that the council may modify or amend such requirements at the time of adoption upon a showing of the need for such modification or amendment.

E. Implementation and termination of mandatory compliance stages. The water operations superintendent of the city shall monitor the supply and demand for water on a daily basis to determine the level of conservation required by the implementation or termination of the water conservation stages, and shall notify the council of the necessity for the implementation or termination of each stage. Each declaration of the council implementing or terminating a water conservation stage shall be published at least once in a newspaper of general circulation, and shall remain in effect until the city council otherwise declares, as provided herein.

F. Exceptions. Application for exception permit. The water operations superintendent of the city may grant permits for uses of water otherwise prohibited thereby if he/she finds and determines that special circumstances make compliance not reasonably possible, or that restrictions herein would either:

1. Cause an unnecessary and undue hardship to the water user or the public; or
2. Cause an emergency condition affecting the health, sanitation, fire protection or safety of the water user or of the public.

Such exceptions may be granted only upon application therefor. Upon granting any such exception permit, the water operations superintendent may impose any conditions he/she determines to be just and proper.

G. Criminal proceedings for violation. The city council hereby declares that, pursuant to Water Code Section 377, it shall be a misdemeanor for any person to use or apply water contrary to or in violation of any mandatory restriction or requirement established by this section and, upon conviction thereof, that person, firm or corporation shall be punished by imprisonment in the county jail for not more than thirty days or a fine of not more than one thousand dollars or by both such fine and imprisonment.

H. Civil proceedings for violation. In addition to criminal penalties, violators of the mandatory provi-

sions of this section shall be subject to civil action initiated by the city.

1. First violation. For a first violation, the city shall issue a written notice of violation to the water user violating the provisions of this chapter.

2. Second violation: twenty-five percent surcharge. For a second violation of this section within a twelve-month period, a one-month surcharge is hereby imposed in an amount equal to twenty-five percent of the previous month's water bill for the meter through which the wasted water was supplied.

3. Third violation: fifty percent surcharge; installation of flow restrictor. For a third violation of this section within a twelve-month period, a one-month penalty surcharge is hereby imposed in an amount equal to fifty percent of the previous month's water bill for the meter through which the wasted water was supplied. In addition to the surcharge, the agency may at its discretion install a flow-restricting device at such meter with a one-eighth-inch orifice for services up to one and one-half inch size, and comparatively sized restrictors for larger services, on the service of the customer at the premises at which the violation occurred, for a period of not less than forty-eight hours. The charge for installing a flow-restricting device shall be based upon the size of the meter and the cost of installation but shall not be less than twenty-five dollars. The charge for removal of the flow-restricting device and restoration of normal service shall be twenty-five dollars if restoration of normal service is performed during the hours of 7:00 A.M. to 3:30 P.M. on regular working days. If the removal of the flow-restricting device and restoration of normal service is made after regular working hours, on holidays or weekends, the restoration service charge shall be forty dollars.

4. Subsequent violations; discontinuance of service. For any subsequent violation of this section within the twenty-four calendar months after a first violation as provided in subsection (H)(1) of this section, the penalty surcharge provided in subsection (H)(3) of this section shall be imposed and the city shall discontinue water service to that customer at the premises or to the meter where the violation occurred. The charge for reconnection and restoration

of normal service shall be twenty-five dollars. Such restoration of service shall not be made until the water operations superintendent of the city has determined that the water user has provided reasonable assurances that future violations of this section by such user will not occur.

I. Notice.

1. For a first violation, written notice may be given to the customer personally or by certified mail.

2. If the penalty assessed is a surcharge for a second or third violation, notice may be given by certified mail.

3. If the penalty assessed is, or includes, the installation of a flow restrictor or the discontinuance of water service to the customer for any period of time whatever, notice of the violation shall be given in the following manner:

a. By giving written notice thereof by certified mail or to the customer personally; or

b. If he/she is absent from his/her place of residence and from his/her assumed place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the United States mail, certified, addressed to the customer at either his/her place of business or residence; or

c. If such place of residence and business cannot be ascertained, or a person of suitable age or discretion cannot be found, then by affixing a copy in a conspicuous place on the property where the failure to comply is occurring and also by delivering a copy to a person residing, if such person can be found, and also sending a copy through the United States mail, certified, addressed to the customer at the place where the property is situated.

4. Any notice provided hereunder shall contain, in addition to the facts of the violation, a statement of the possible penalties for each violation and a statement of the possible penalties for each violation and a statement informing the customer of his right to a hearing on the violation.

J. Hearing. Any customer against whom a penalty is levied pursuant to subsections G and H of this section shall have a right to a hearing, in the first instance by the water operations superintendent, with

the right of appeal to the city council, on the merits of the alleged violation upon the written request of that customer within fifteen days of the date of infraction of the violation.

K. Reservation of rights. The rights of the city hereunder shall be cumulative to any other right of the city to discontinue service. All moneys collected by the department pursuant to any of the penalty provisions of this chapter shall be deposited in the operating fund as reimbursement for the city's costs and expenses of administering and enforcing this section.

L. Concurrent authority. The city manager, its water operations superintendent and designated employees, have the duty and are hereby authorized to enforce all provisions of this section, with the qualification that the city through enforcement of this section, the county as to unincorporated territory within the city, are recognized to have concurrent authority for, and shall have the primary responsibility for the control of water flowing in the streets where such occurs within their respective jurisdictions. (Code 1965, § 31-7.)

**13.16.030 Water conservation using xeriscape principles.**

A. Intent. Water is an increasingly limited and costly resource. It is the intent of this section to establish a water conservation plan to reduce water consumption in the landscape environment using xeriscape principles.

B. Definitions.

"Low water-using drought tolerant plant" includes species suited to our climate, requiring less water in order to grow well.

"Xeriscape" shall mean a combination of landscape features and techniques that in the aggregate reduce the demand for and consumption of water, including appropriate low water using plants, non-living ground-cover, a low percentage of turf coverage, permeable paving and water conserving irrigation techniques and systems.

C. Applicability. The provisions of this section shall apply to all developments within the city including, but not limited to, the following:

1. All new residential developments (including townhomes and apartment projects) on parcels greater than seven thousand square feet;

2. Rehabilitated landscaping (for projects on parcels greater than ten thousand square feet) for industrial, commercial, institutional, multifamily and residential common areas of PUDs (Planned Unit Developments);

3. Interior remodels, tenant improvements and demolitions for any of the above projects;

4. Schools, parks, golf courses or similar public open spaces;

5. Water conservation landscape requirements shall apply to all new developments. New development applications shall include landscape plans which require final approval at the time of final project approval.

D. Exceptions. The provisions of this section shall not apply to those projects which have been approved or accepted as complete for processing prior to the effective date of the ordinance codified in this section; provided no material amendments or extensions are made to such previously approved projects. These provisions shall also not apply to the following:

1. Homeowner-provided landscaping at single-family and multifamily projects;
2. Cemeteries;
3. Registered historical sites;
4. Ecological restoration projects that do not require a permanent irrigation system;
5. Mined-land reclamation projects that do not require a permanent irrigation system.

E. Requirements.

1. Turf limitation. The maximum allowed turf and/or water area (expressed as percent of planted area) shall be twenty-five percent for industrial, commercial, residential developments with common area, institutions and public/semi-public developments. If turf is an essential part of development, such as playing fields for schools or public parks, a higher percentage will be allowed, and will be evaluated on an individual basis. No turf shall be allowed in median strips or in areas less than eight feet wide.

If a residential development has one or more model homes, it is required that at least one model home in the development be planted with drought tolerant plants and a maximum of twenty-five percent turf and/or water area. Additionally, developers shall provide buyers with sample landscape plans using low water-using plants and a maximum twenty-five percent turf area. The developer shall also provide information about outdoor water conservation by distributing pamphlets to buyers regarding this subject. Such pamphlets are available from local water districts and the state department of water resources. The county community development department will have samples of appropriate types of pamphlets available. Landscape and distribution of literature shall require approval by the community development department.

2. Types of plants in non-turf areas. At least ninety percent of the plants in non-turf areas shall be low water-requiring, drought-resistant plants as approved by the community development department. A small percentage of the planted area (up to ten percent) can be used for nondrought tolerant varieties if they are grouped together and can be irrigated separately.

3. Use of mulch. A minimum of two inches of mulch shall be added to the soil surface after planting. Nonporous material shall not be placed under the mulch.

4. Irrigation.

a. Sprinklers and sprays shall not be used in areas less than eight feet wide. Drip and bubbler shall be used that do not exceed one and one-half gallons per minute per device.

b. Sprinkler heads with a precipitation rate of .85" per hour or less shall be used in slopes exceeding fifteen percent to minimize runoff, or exceeding ten percent within ten feet of hardscape.

c. Valves and circuits shall be separated based on water use.

d. Drip or bubbler irrigation systems are required for trees with the exception of those which can be sustained by ground or rain water.

e. Sprinkler heads must have matched precipitation rates within each control valve circuit.

f. Serviceable check valves are required where elevation differential may cause low head drainage.

g. Sprinkler head spacing shall be designed for head-to-head coverage. The system should be designed for minimum runoff and overspray onto nonirrigated areas.

h. All irrigation systems shall be equipped with a controller capable of dual or multiple programming. Controllers must have multiple cycle start capacity and a flexible calendar program.

5. Ornamental ponds. Water bodies that are part of the landscaping for new developments shall be restricted. Unless the water body is an integral part of the operations of the new development, the surface area of the water body shall be counted as turf in the calculations for limitation of turf for the landscaped area. Fountains or other types of decorative bodies where water is sprayed into the air shall be discouraged. Some allowance will be made for fountains for ponds where reclaimed irrigation is used and the water supply is recirculated.

6. Landscape plans. Landscape plans shall indicate the total landscape area, the area and percentage of drought-resistant plantings and the area and percentage of ornamental nondrought resistant plantings. The plans shall be reviewed by community development director or his designee to check for compliance with this section in regards to plant varieties, planting areas and irrigation design. Commercial, multiple dwellings, country clubs and condominiums shall be required to submit additional landscape plans which include a water budget that incorporates estimated annual water use (in gallons) and the area (in square feet) to be irrigated. Precipitation rates for each valve circuit and a monthly irrigation schedule for the plant establishment period including the year following shall be supplied as well. (Code 1965, § 31-8.)

## Chapter 13.24

## STORMWATER MANAGEMENT SYSTEM

## Sections:

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13.24.060	Discharge of pollutants.
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13.24.090	Reduction of pollutants in stormwater.
13.24.100	Outdoor storage areas— Commercial and industrial facilities.
13.24.110	Construction sites.
13.24.120	New development and redevelopment.
13.24.130	Compliance with general permits.
13.24.140	Compliance with BMPs.
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13.24.250	Cease and desist orders.
13.24.260	Notice to clean.
13.24.270	Nonexclusivity of remedies.
13.24.280	Appeal.

**13.24.010 Title.**

The ordinance codified in this chapter shall be known as the City of Banning stormwater management and discharge control ordinance and may be so cited. (Code 1965, § 34-1.)

**13.24.020 Purpose and intent.**

The purpose of this chapter is to ensure the future health, safety, and general welfare of the citizens by:

- A. Regulating nonstormwater discharges to the municipal separate storm drain; and
- B. Controlling the discharge to municipal separate storm drains from spills, dumping or disposal of materials other than stormwater; and
- C. Reducing pollutants in stormwater discharges to the maximum extent practicable.

The intent of this chapter is to protect and enhance the water quality of city watercourses, water bodies, groundwater, and wetlands in a manner pursuant to and consistent with the Clean Water Act. (Code 1965, § 34-2.)

**13.24.030 Definitions.**

The terms as used in this chapter shall have the following meanings:

A. Best Management Practice (BMP). "BMPs" means schedules of activities, prohibitions of practices, general good housekeeping practices, maintenance procedures, educational programs, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to waters of the United States. BMPs shall include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage. The California Stormwater Best Management Practice Handbooks for Municipal, Industrial/Commercial and Construction Activity provide a detailed discussion of BMPs.

B. "Director" means the director of the public works department, City of Banning.

C. "Enforcement officer" includes the director of public works, building official, code enforcement officer, city manager and their designees.

D. "Illicit connection" means any physical connection to a storm drain system which has not been permitted by the City of Banning, the Riverside County Flood Control and Water Conservation District, or other appropriate public agency.

E. "Illicit discharge" means any discharge to the storm drain system that is not composed entirely of stormwater runoff except discharges made pursuant to a National Pollutant Discharge Elimination System (NPDES) permit or as otherwise authorized by the Santa Ana or Colorado River Basin Regional Water Quality Control Board.

F. "Municipal NPDES permit" means an area-wide NPDES permit issued to a government agency or agencies for the discharge of stormwater from a stormwater system.

G. "National Pollutant Discharge Elimination System (NPDES) permit" means a stormwater discharge permit issued by the Santa Ana or Colorado River Basin Regional Water Quality Control Board in compliance with the federal Clean Water Act.

H. "Nonstormwater discharge" means any discharge to the storm drain system that is not entirely composed of stormwater.

I. "Person" means any natural person, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.

J. "Pollutant" means anything which causes the deterioration of water quality such that it impairs subsequent and/or competing uses of the water. Pollutants may include but are not limited to paints, oil and other automotive fluids, soil, rubbish, trash, garbage, debris, refuse, waste, fecal coliform, fecal streptococcus, enterococcus, heavy metals, hazardous waste, chemicals, fresh concrete, yard waste from commercial landscaping operations, animal waste, materials that result from the process of constructing a building or structure, nauseous or offensive matter of any kind.

K. "Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved.

L. "Storm drain system" means any facility by which storm water may be conveyed to waters of the

United States. The storm drain system includes but is not limited to any roads with drainage systems, streets, curbs, gutters, catch basins, natural and artificial channels, ditches, aqueducts, storm drains, inlets, conduit or other drainage structures.

M. "Stormwater runoff" means surface runoff and drainage associated with rainstorm events and snow melt. (Code 1965, § 34-3.)

#### **13.24.040 Responsibility for administration.**

This chapter shall be administered for the city by the director of public works. (Code 1965, § 34-4.)

#### **13.24.050 Regulatory consistency.**

This chapter shall be construed to assure consistency with the requirements of the federal Clean Water Act and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and any existing or future municipal NPDES permits and any amendments, revisions or reissuance thereof. (Code 1965, § 34-5.)

#### **13.24.060 Discharge of pollutants.**

A nonstormwater discharge to the storm drain system is a violation of this chapter.

A. The prohibition of discharges shall not apply to any discharge regulated under a NPDES permit or waiver issued to the discharger and administered by the state of California under the authority of the EPA, provided that the discharger is in full compliance with all requirements of the permit or waiver and other applicable laws or regulations.

B. Discharges from the following activities will not be considered a source of pollutants to waters of the United States when properly managed: water line flushing and other discharges from potable water sources, landscape irrigation and lawn watering, irrigation water, diverted stream flows, rising groundwaters, infiltration to separate storm drains, uncontaminated pumped ground water, foundation and footing drains, water from crawl space pumps, air conditioning condensation, springs, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges or flows from fire fighting. (Code 1965, § 34-7.)

**13.24.070 Discharge in violation of permit.**

A. Any discharge that results in or contributes to a violation of an existing or future municipal NPDES permit(s) and any amendment, revision or reissuance thereof, either separately considered or when combined with other discharges, is a violation of this chapter and is prohibited.

B. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify and hold harmless the city in any administrative or judicial enforcement action relating to such discharge.

C. A copy of the current municipal NPDES permit will be filed in the city engineer's office. (Code 1965, § 34-8.)

**13.24.080 Illicit connections.**

It is a violation of this chapter to establish, use, maintain, or continue an illicit connection to the city storm drain system, or to commence or continue any illicit discharge to the city storm drain system. The prohibition against illicit connections is expressly retroactive and applies to connections made in the past, regardless of whether permissible under the law or practices applicable or prevailing at the time of the connection. (Code 1965, § 34-9.)

**13.24.090 Reduction of pollutants in stormwater.**

A. It is a violation of this chapter to throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any pollutant, including but not limited to refuse, rubbish, garbage, abandoned vehicles or other discarded or abandoned objects, articles, and accumulation, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private plot of land in the city.

B. It is an exception to the above that such pollutant is being temporarily placed in an appropriate container with a spill containment system for later collection and removal.

C. It is a violation of this chapter to cause or permit any Dumpster, solid waste bin, or similar container to leak such that any pollutant is discharged into any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private plot of land in the city. (Code 1965, § 34-10.)

**13.24.100 Outdoor storage areas—  
Commercial and industrial  
facilities.**

A. It is a violation of this chapter for any person to improperly store grease, oil or other hazardous substances in outdoor areas. In outdoor areas, no person shall improperly store motor vehicles, machine parts, or other objects in a manner that may leak grease, oil, or other hazardous substances.

B. To prevent the discharge of hazardous substances from the property, the city may require the installation of a spill containment system. Spill containment systems may consist of a system of dikes, walls, barriers, berms, or other devices as required.

C. It is a violation of this chapter for any person to operate a spill containment system such that it allows incompatible liquids to mix and thereby create a hazardous condition. (Code 1965, § 34-11.)

**13.24.110 Construction sites.**

Any person performing construction work in city shall comply with the provisions of this chapter, and the Uniform Building Code, latest edition, for erosion and sediment control. (Code 1965, § 34-12.)

**13.24.120 New development and  
redevelopment.**

A. Any new development or redevelopment project shall control the volume and rate of stormwater runoff from the project so as to prevent any deterioration of water quality which would impair the subsequent or competing uses of the water. The director of the public works department shall establish standards and guidelines implementing BMPs designed to control the rate and volume of stormwater runoff from new developments and redevelopments as may be

appropriate to minimize the discharge and transport of pollutants.

B. Acceptable methods and standards for controlling stormwater runoff volumes, rates, and pollutant load may include but are not limited to the following:

1. Increase Permeable Areas. Avoid placing impervious surfaces in highly porous soil areas; incorporate landscaping and open space into the project design; use porous materials for or near driveways and walkways; incorporate detention ponds and infiltration pits into the project's design; avoid placing pavement and other impervious surfaces in low lying areas.

2. Direct Runoff to Permeable Areas. Direct stormwater runoff away from impermeable areas to swales, berms, green strip filters, gravel beds, and french drains. Install rain gutters and orient them toward permeable areas. Modify the grade of the property to divert flow to permeable areas and minimize the amount of stormwater runoff leaving the property. When designing curbs, berms or other structures, avoid designs which isolate permeable or landscaped areas.

3. Maximize Stormwater Storage for Reuse. Use retention structures, subsurface areas, cisterns, or other structures to store stormwater runoff for reuse or slow release. (Code 1965, § 34-13.)

### 13.24.130 Compliance with general permits.

A. Any industrial discharger, discharger associated with construction activity, or other discharger subject to any NPDES permit issued by the United States Environmental Protection Agency, the State Water Resources Control Board, the Santa Ana Regional Water Quality Control Board or the Colorado River Basin Regional Water Quality Control Board, shall comply with all requirements of such permit.

B. Proof of compliance with said NPDES general permits may be required in a form acceptable to the director prior to issuance of any city grading, building, or occupancy permits. (Code 1965, § 34-14.)

### 13.24.140 Compliance with BMPs.

Where BMP guidelines or requirements have been adopted by any federal, state of California, regional, and/or local agency, for any activity, operation, or facility which may cause or contribute to stormwater pollution or contamination, illicit discharges, and/or discharge of nonstormwater to the stormwater system, every person undertaking such activity or operation, or owning or operating such facility shall comply with guidelines or requirements as may be identified by the director. (Code 1965, § 34-15.)

### 13.24.150 Authority to inspect.

A. Whenever necessary to make an inspection to enforce any of the provisions of this chapter or whenever an authorized enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, the enforcement officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the enforcement officer by this chapter.

B. Entry hereunder shall be subject to the following:

1. If such building or premises be occupied, he or she shall first present proper credentials and request entry; and

2. If such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or obtain a warrant to enter.

C. Any request for entry made hereunder shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

D. Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including but not limited to random sam-

pling and/or sampling in areas with evidence of stormwater contamination, illicit discharges, discharge of non-stormwater to the stormwater system, or similar factors. (Code 1965, § 34-16.)

**13.24.160 Authority to sample and establish sampling devices.**

With the consent of the owner or occupant or pursuant to a search warrant, any authorized enforcement officer may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the enforcement officer may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on-site. (Code 1965, § 34-17.)

**13.24.170 Notification of spills.**

A. All persons in charge of a facility or responsible for emergency response for a facility are personally responsible to train facility personnel and maintain notification procedures to assure that immediate notification is provided to the city of any suspected, confirmed or unconfirmed release of material, pollutants or waste creating a risk of discharge into the city storm drain system.

B. As soon as any person in charge of a facility or responsible for emergency response for a facility has the knowledge described in subsection A of this section, such person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release, and shall notify the city of the occurrence by telephoning and confirming the notification by correspondence to the director of the public works department and fire department. (Code 1965, § 34-18.)

**13.24.180 Requirement to test or monitor.**

A. Any authorized enforcement officer may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution or contamination, illicit discharges, and/or discharge of nonstormwater to the stormwater system, undertake such monitoring activities and/or analyses and furnish such reports as

the enforcement officer may specify. The burden, including costs, of these activities, analyses and reports shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analyses and/or reports requested.

B. In the event the owner or operator of a facility subject to a monitoring and/or analyses order fails to conduct required monitoring and/or analyses and furnish the required reports in the form required, the authorized enforcement officer may cause such monitoring and/or analyses to be performed.

1. The cost therefor, including the reasonable additional administrative costs incurred by the city, shall be the responsibility of the owner of the property.

2. The cost thereof shall be invoiced to the owner of the property.

3. If the invoice is not paid within sixty days of the issuance thereof, the costs shall be a lien upon and against the property and continue in existence until the same shall be paid.

4. If the lien is not satisfied by the owner of the property within three months after the completion by an authorized enforcement officer of the required monitoring and/or analyses and reports, the property may be sold in satisfaction thereof in a like manner as other real property is sold under execution. (Code 1965, § 34-19.)

**13.24.190 Violations constituting misdemeanors.**

A. Unless otherwise specified by ordinance, the violation of any provision of this chapter, or failure to comply with any of the mandatory requirements of this chapter shall constitute a misdemeanor.

B. Notwithstanding any other provisions of this chapter, any such violation constituting a misdemeanor under this chapter, at the discretion of the authorized enforcement officer may be charged and prosecuted as an infraction. (Code 1965, § 34-20.)

**13.24.200 Penalties.**

A. It shall be unlawful for any person to violate any provision of this chapter.

1. Any person violating any provision of this chapter shall be deemed guilty of an infraction or misdemeanor as hereinafter specified.

2. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted.

B. Any person so convicted shall be:

1. Guilty of an infraction offense and punished by a fine not exceeding one hundred dollars for a first violation;

2. Guilty of an infraction offense and punished by a fine not exceeding two hundred dollars for a second violation;

3. The third and any additional violations shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars or six months in jail, or both.

C. Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor.

D. Payment of any penalty herein shall not relieve a person from the responsibility for correcting the violation. (Code 1965, § 34-21.)

**13.24.210 Concealment.**

Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation of such provision. (Code 1965, § 34-22.)

**13.24.220 Violations deemed a public nuisance.**

A. In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety and welfare, and may be declared and deemed a nuisance, and may be summarily abated and/or restored by any authorized enforcement officer, and/or civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken as authorized by this Code.

B. If any violation of this chapter constitutes a seasonal and recurrent nuisance, the director shall so declare. Thereafter such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.

C. In any administrative or civil proceeding under this chapter in which the city prevails, the city shall be awarded all costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearing, costs of suit and reasonable attorney's fees. (Code 1965, § 34-23.)

**13.24.230 Judicial review.**

The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to judicial review of city decisions pursuant to this chapter. (Code 1965, § 34-24.)

**13.24.240 Civil actions.**

In addition to any other remedies provided herein, this chapter may be enforced by civil action brought by the city. In any such action, the city shall grant, as appropriate, any or all of the following remedies:

A. A temporary and/or permanent injunction;

B. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this section;

C. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation;

D. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this section shall be paid to the city to be used exclusively for costs associated with monitoring and establishing stormwater discharge pollution control systems and/or implementing or enforcing the provisions of this chapter. (Code 1965, § 34-25.)

**13.24.250 Cease and desist orders.**

When an authorized enforcement officer finds that a discharge has taken place or is likely to take place in violation of this chapter, the officer may issue an

order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct that those persons not complying shall:

- A. Comply with the requirement;
- B. Comply with a time schedule for compliance; and/or
- C. Take appropriate remedial or preventive action to prevent the violation from recurring. (Code 1965, § 34-26.)

#### **13.24.260 Notice to clean.**

A. Whenever an authorized enforcement officer finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in an increase in pollutants entering a city storm sewer system or natural watercourse, or a nonstorm sewer system or natural watercourse, or a nonstorm water discharge to a city storm sewer system or natural watercourse, he or she may give notice to remove such oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or other material, in any manner that he or she may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice.

B. In the event the owner or operator of a facility fails to conduct the activities as described in the notice, the authorized enforcement officer may cause such required activities as described in the notice, and the cost thereof shall be invoiced to the owner of the property.

1. If the invoice is not paid within sixty days, a lien shall be placed upon and against the property.

2. If the lien is not satisfied by the owner of the property within three months after the completion of the required activities by the authorized enforcement officer the property may be sold in a satisfaction thereof in a like manner as other real property is sold under execution. (Code 1965, § 34-27.)

#### **13.24.270 Nonexclusivity of remedies.**

Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein

shall be cumulative and not exclusive. (Code 1965, § 34-28.)

#### **13.24.280 Appeal.**

Any person, firm, corporation or organization required to perform monitoring, analyses, reporting and/or corrective activities by an authorized enforcement officer who is aggrieved by the decision of the authorized enforcement officer may appeal such decision to the director within ten days following the effective date of the decision by writing to the director. Upon receipt of such request, the director shall request a report and recommendation from the authorized enforcement officer and shall set the matter for hearing at the earliest practical date. At said hearing, the director may hear additional evidence, and may reject, affirm or modify the authorized enforcement officer's decision. Such decision shall be final unless appealed by the city council under the general appeal procedures of the city. (Code 1965, § 34-29.)

**ORDINANCE NO. 1415**

**AN ORDINANCE OF THE CITY OF BANNING  
AMENDING THE CODE OF THE CITY OF BANNING,  
CALIFORNIA, 1965, TITLE 13, CHAPTER 13.24 NOW  
ENTITLED STORMWATER CODE**

**WHEREAS**, the City of Banning (the "City") duly enacted on June 24, 1997 Ordinance 1212 which is entitled "An Ordinance Of The City Of Banning Adding Chapter 34 To The Banning Ordinance Code Establishing Storm Water Management And Discharge Controls"; and

**WHEREAS**, the City codified Chapter 34 of Ordinance 1212 in the Banning Municipal Code through Chapter 13.24 of Title 13, which shall be known as the "City of Banning Stormwater Management and Discharge Control Code" or, "Stormwater Code" for short; and

**WHEREAS**, the City seeks through this Ordinance to amend the Stormwater Code to ensure the future health, safety, and general welfare of the citizens, as well as compliance with existing and future National Pollutant Discharge Elimination System ("NPDES") Permits; and

**WHEREAS**, NPDES Permit Number CAS617002 (R7-2008-0001) is the existing NPDES Permit applicable to the City, a copy of which is attached hereto as Exhibit "A".

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING DOES ORDAIN AS FOLLOWS:**

**Section 1.** Section 13.24.010 (Title) of the Stormwater Code is hereby amended to read in its entirety as follows:

"The ordinance codified in this chapter shall be known as the 'City of Banning Stormwater Management and Discharge Control Code', or the 'Stormwater Code' for short, and may be so cited."

**Section 2.** Section 13.24.030 (Definitions) of the Stormwater Code is hereby amended to read in its entirety as follows:

"The terms as used in this Chapter shall have the following meanings:

- A. Best Management Practice (BMP). BMP or BMPs mean schedules of activities, prohibitions of practices, general good housekeeping practices, maintenance procedures, educational programs, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to waters of the United States. BMPs shall include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage. The California Stormwater Best Management Practice Handbooks for Municipal, Industrial/Commercial and Construction Activity provide a detailed discussion of BMPs.

- B. Detention Basin refers to a basin type structure which permits large flows of stormwater to enter and remain, but limits and controls the outflow (i.e. discharge) by having a small opening at the lowest point of the structure.
- C. Director means the Director of the Public Works Department of the City of Banning.
- D. Enforcement Officer includes the City Manager, Public Works Director, City Engineer, Building and Safety Official, Code Enforcement Officer, and their designees.
- E. Illicit Connection means any physical connection to a Storm Drain System which has not been permitted by the City of Banning, the Riverside County Flood Control and Water Conservation District, or other appropriate public agency.
- F. Illegal Discharge means any discharge to the Storm Drain System that is not composed entirely of Stormwater Runoff except discharges made pursuant to a National Pollutant Discharge Elimination System (NPDES) permit or as otherwise authorized by the Santa Ana or Colorado River Basin Regional Water Quality Control Board.
- G. Infiltration Basin refers to designs and/or practices for directing stormwater from a basin type of structure to the groundwater table through permeable soils.
- H. Municipal NPDES Permit means an area-wide NPDES permit issued to a government agency or agencies for the discharge of stormwater from a stormwater system, and shall refer to NPDES Permit Number CAS617002 (R7-2008-0001) or its successor.
- I. National Pollutant Discharge Elimination System (NPDES) Permit means a stormwater discharge permit issued by the Santa Ana or Colorado River Basin Regional Water Quality Control Board in compliance with the federal Clean Water Act.
- J. Non-Stormwater Discharge means any discharge to the Storm Drain System that is not entirely composed of stormwater.
- K. Person means any natural person, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.
- L. Pollutant means anything which causes the deterioration of water quality such that it impairs subsequent and/or competing uses of the water. Pollutants may include but are not limited to paints, oil and other automotive fluids, soil, rubbish, trash, garbage, debris, refuse, waste, fecal coliform, fecal streptococcus, enterococcus, heavy metals, hazardous

waste, chemicals, fresh concrete, yard waste from commercial landscaping operations, animal waste, materials that result from the process of constructing a building or structure, nauseous or offensive matter of any kind.

- M. Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved.
- N. Retention Basin allows for relatively large flows of stormwater to enter in a basin type of structure during large storm events for which discharges are limited by outlet structures to a storm drain, the street, or other parts of the Storm Drain System. This type of basin notably has an outlet or discharge point so that stormwater does not accumulate in the basin for extended periods of time, when feasible, such that the stormwater permeates to a groundwater table.
- O. Storm Drain System means any facility by which stormwater may be conveyed to waters of the United States. The Storm Drain System includes, but is not limited to, any roads with drainage systems, streets, curbs, gutters, catch basins, natural and artificial channels, ditches, aqueducts, storm drains, inlets, conduit or other drainage structures.
- P. Stormwater Runoff means surface runoff and drainage associated with rainstorm events and snow melt."

**Section 3.** Section 13.24.070 (Discharge In Violation of Permit), subsection C., of the Stormwater Code is hereby amended to read in its entirety as follows:

"C. A copy of the current Municipal NPDES Permit will be filed in the City Clerk's Office."

**Section 4.** Section 13.24.080 (Illicit Connections) of the Stormwater Code is hereby amended to be entitled "Illicit Connections and Illegal Discharges" and to read in its entirety as follows:

- "A. It is a violation of this Chapter to establish, use, maintain, or continue an Illicit Connection to the City's Storm Drain System, or to commence or continue any Illegal Discharge to the City's Storm Drain System. The prohibition against Illicit Connections is expressly retroactive and applies to past illicit connections when made.
- B. Illegal Discharges include, without limitation, the following:
  - 1. Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
  - 2. Discharges resulting from the cleaning, repair, or maintenance of any type of equipment or machinery including motor vehicles, cement-related equipment, and port-a-potty service;

3. Discharges of wash water from mobile operations such as oily or greasy discharges from mobile automobile washing or similar mobile services, and/or discharges from steam cleaning, power washing, and carpet cleaning;
4. Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil, or other Hazardous Materials as that term is defined by the federal Department of Transportation; and
5. Discharges of food-related wastes, including without limitation, grease, fish processing, and restaurant kitchen mat and trash bin wash water."

**Section 5.** Section 13.24.100 (Outdoor storage areas – Commercial and Industrial Facilities) of the Stormwater Code is hereby amended to read in its entirety as follows:

- "A. It is a violation of this chapter for any person to improperly store grease, oil or other hazardous substances in outdoor areas such that any of these substances may leak or otherwise discharge from the container in which the substance is stored. In outdoor areas, no person shall improperly store motor vehicles, machine parts, or other objects in a manner that may leak grease, oil, or other hazardous substances.
- B. To prevent the discharge of hazardous substances from the property, the City shall require the installation of a spill containment system. Spill containment systems may consist of a system of dikes, walls, barriers, berms, or other devices as required.
- C. It is a violation of this Chapter for any person to operate a spill containment system such that it allows incompatible liquids to mix and thereby create a hazardous condition.
- D. Any person or entity that owns or operates a commercial and/or industrial facility(s) shall comply with the provisions of this Chapter. All such facilities shall be subject to inspection as required by this Chapter, California Water Code §§ 13000 *et seq.* (Porter-Cologne Water Quality Control Act), Title 33 U.S.C. §§ 1251 *et seq.* (Clean Water Act), any applicable State or federal regulations promulgated thereto, and any related administrative orders or permits issued in connection therewith."

**Section 6.** Section 13.24.110 (Construction Sites) of the Stormwater Code is hereby amended to be entitled "Construction Sites and Onsite Storage and Infiltration of Stormwater" and to read in its entirety as follows:

"Any person performing construction work in the City shall comply with the provisions of this Chapter and the Uniform Building Code, latest edition, for erosion and sediment control, as well as City of Banning Ordinance 1388 which is incorporated by reference hereto. In addition, except as waived by or agreed to by the Director or the Director's designee consistent with NPDES permit provisions

and requirements, development of all land within the City must include provisions for the management of Stormwater Runoff from the property which is to be developed, including volumetric or flow based treatment control BMP design criteria, and/or exceptions to these requirements, and methodologies used to ensure proper management of Stormwater Runoff post-construction. This management shall consist of constructing storage and/or infiltration facilities, which includes basins. At a minimum, all development will make provisions to store runoff from rainfall events up to and including the one-hundred-year, three-hour duration event. Post-development peak urban runoff discharge rates shall not exceed pre-development peak urban runoff discharge rates.

The City Engineer shall be provided for review, comment and/or approval the drainage study, hydrologic analysis and design of drainage facilities prepared by a licensed professional engineer."

**Section 7.** Section 13.24.120 (New Development and Redevelopment) of the Stormwater Code is hereby amended to read in its entirety as follows:

"A. Existing development shall control Stormwater Runoff so as to prevent any deterioration of water quality that would impair subsequent or competing uses of the water. The Director shall identify the BMPs that may be implemented to prevent such deterioration and shall identify the manner of implementation.

B. Any new development or redevelopment project shall control the volume and rate of Stormwater Runoff from the project so as to prevent any deterioration of water quality which would impair the subsequent or competing uses of the water. The Director shall establish written retention standards and guidelines and/or implement BMPs designed to control the rate and volume of Stormwater Runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants. The standards, guidelines and BMPs shall include a provision permitting adjustments for specific projects where the Director finds that due to unique circumstances not generally applicable to other properties, such adjustments are required but in such circumstances the Director shall provide a written finding.

1. All new development and redevelopment projects that fall into one of the following categories are subject to the Water Quality Management Plan Design Standards for Best Management Practices as set forth in the NPDES Permit Number CAS617002 (Section F.1.c.), which is incorporated by reference hereto, a copy of which is available in the City Clerk's Office:

a. Singly-family hillside residences that create 10,000 square feet, or more, of impervious area where the natural slope is twenty-five percent (25%) or greater, including single-

family hillside residences that create 10,000 square feet of impervious area where the natural slope is ten percent (10%) or greater where erosive soil conditions are known;

- b. 100,000 square foot commercial and industrial developments;
- c. Automotive repair shops (with Standard Industrial Classification ("SIC") codes 5013, 7532, 7533, 7534, 7537, 7438, and 7539);
- d. Retail gasoline outlets disturbing greater than 5,000 square feet;
- e. Restaurants disturbing greater than 5,000 square feet;
- f. Home subdivisions with 10 or more housing units; and
- g. Parking lots 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to non-stormwater discharges.

C. Acceptable methods and standards for controlling Stormwater Runoff volumes, rates, and pollutant load may include but are not limited to the following:

1. Increase Permeable Areas. Avoid placing impervious surfaces in highly porous soil areas; incorporate landscaping and open space into the project design; use porous materials for or near driveways and walkways; incorporate detention ponds and infiltration pits into the project's design; avoid placing pavement and other impervious surfaces in low lying areas.
2. Direct Runoff to Permeable Areas. Direct Stormwater Runoff away from impermeable areas to swales, berms, green strip filters, gravel beds, and french drains. Install rain gutters and orient them toward permeable areas. Modify the grade of the property to divert flow to permeable areas and minimize the amount of Stormwater Runoff leaving the property. When designing curbs, berms or other structures, avoid designs which isolate permeable or landscaped areas.
3. Maximize Stormwater Storage for Reuse. Use retention structures, subsurface areas, cisterns, or other structures to store Stormwater Runoff for reuse or slow release.
4. Any new development shall comply with the provisions of this Chapter, City of Banning Ordinance 1388 and the Municipal NPDES Permit, all of which are incorporated by reference hereto.

D. In the event the Municipal NPDES Permit is modified, the Director is authorized to apply the criteria of such successor permit.

- E. In addition to the foregoing provisions, all existing and new development and redevelopment plans shall comply with Stormwater Code Section 13.24.110.
- F. Any violation of this Section is punishable as provided in the Banning Municipal Code including this Chapter. In addition, fines may be imposed on a schedule agreed to between the City and any person or entity seeking to engage in a development or redevelopment project in the City."

**Section 8.** Section 13.24.125, "Issuance, Suspension and Revocation of Permits or Licenses," of the Stormwater Code is hereby added to read in its entirety as follows:

- "A. No permit or license shall be issued unless it is in accordance with all the provisions of City ordinances as codified in the Banning Municipal Code, including Titles 5, 13 and 15, and any permit or license issued contrary to the provisions of the Banning Municipal Code shall be void and of no effect.
- B. An Enforcement Officer, after compliance with the procedures hereunder, may revoke or suspend a permit or license issued by the City upon a finding that:
  - 1. The permittee or licensee has violated any of the conditions or requirements of the permit or license, or provisions of the Banning Municipal Code and any ordinances, rules or regulations pertaining to the permit or license; or
  - 2. The permit or license was issued in error; or
  - 3. The permit or license was issued on the basis of incorrect information supplied by the permittee or licensee.
- C. Revocation or suspension of a permit or license issued by the City is proper when written notice of the violation(s) has been sent to the permittee or licensee by first class mail and the permittee or licensee has failed or neglected to correct the violation within twenty (20) days from the date the written notice was mailed."

**Section 9.** Section 13.24.130 (Compliance with General Permits), subsection B., of the Stormwater Code is hereby amended to read in its entirety as follows:

- "B. Proof of compliance with the Municipal NPDES Permit will be required in a form acceptable to the Director prior to issuance of any city grading, building, or occupancy permits. Due to requirements set forth in the NPDES Permit changing from time to time, said compliance with the Municipal NPDES Permit requires compliance with the most recent NPDES Permit on file in the City Clerk's Office."

**Section 10.** Section 13.24.150 (Authority to Inspect) of the Stormwater Code is hereby amended to read in its entirety as follows:

- "A. Whenever necessary to make an inspection to enforce any of the provisions of this chapter or the Municipal NPDES Permit, or whenever an Enforcement Officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this Chapter, the Enforcement Officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Enforcement Officer by this chapter.
- B. Entry hereunder shall be subject to the following:
1. If such building or premises be occupied, an Enforcement Officer shall first present proper credentials and request entry; and
  2. If such building or premises be unoccupied, an Enforcement Officer shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or obtain a warrant to enter.
- C. Any request for entry made hereunder shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.
- D. Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Chapter and the Municipal NPDES Permit, including but not limited to random sampling and/or sampling in areas with evidence of stormwater contamination, Illicit Connections, Illegal Discharges, Non-Stormwater Discharge to the Stormwater System, follow up inspections as required by the County of Riverside, the Compliance Assistance Program ("CAP") of the NPDES Permit, or the California State Water Quality Regional Control Board, or similar factors.
- E. The property owner and/or occupant are liable for Inspection Fees as set forth in the City's adopted Fee Schedule through City Resolution 2006-114 duly adopted on September 12, 2006, which may be amended by the City Council from time to time."

**Section 11.** Section 13.24.180 (Requirement to Test or Monitor) of the Stormwater Code is hereby amended to read in its entirety as follows:

"A. An Enforcement officer may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to Stormwater Runoff, Illicit Connections, Illegal Discharges, and/or discharge of Pollutants or Non-stormwater to the Stormwater System, undertake such monitoring activities and/or analyses and furnish such reports as the Enforcement Officer may specify. The burden, including costs, of these activities, analyses and reports shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analyses and/or reports requested within a reasonable time frame as set forth by the Enforcement Officer or as agreed to between the Enforcement Officer and the person.

B. In the event the owner or operator of a facility subject to a monitoring and/or analyses order fails to conduct required monitoring and/or analyses and furnish the required reports in the form required, an Enforcement Officer may cause such monitoring and/or analyses to be performed within thirty (30) days.

1. The costs, therefore, including the reasonable additional administrative costs incurred by the City, shall be the responsibility of the owner of the property and/or the person or entity in possession of the property.
2. The costs thereof shall be invoiced to the owner of the property and/or the person or entity in possession of the property.
3. If the invoice is not paid within sixty (60) days of the issuance thereof, the costs may be levied as a lien upon and against the property and continue in existence until the same shall be paid consistent with the Banning Municipal Code including Chapter 8.48.
4. If the lien is not satisfied by the owner of the property within three (3) months after the completion by an Enforcement Officer of the required monitoring and/or analyses and reports, the property may be sold in satisfaction thereof in a like manner as other real property is sold under execution."

**Section 12.** Section 13.24.220 (Violations Deemed a Public Nuisance), subsection A., of the Stormwater Code is hereby amended to read in its entirety as follows:

"A. In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to the public health, safety and welfare, and may be declared and deemed a nuisance, and may be summarily abated and/or restored by an Enforcement Officer, and/or civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken as authorized by the Banning Municipal Code including Chapter 8.48 or in any other manner provided by law."

**Section 13.** Section 13.24.225, "Payment of Abatement Costs, Penalties or Damages," of the Stormwater Code is hereby added to read in its entirety as follows:

"If payment of an award of abatement costs, penalties or damages is not made within ten (10) days of an administrative or judicial determination of such costs, penalties or damages, the Enforcement Officer may file a Notice of Lien as provided for in the Banning Municipal Code, Chapter 8.48, describing the real property affected and the amount of the costs, penalties or damages claimed by the City with the Office of the County Recorder of Riverside County. The Enforcement Officer may transmit the judgment or award of abatement costs, penalties or damages of the City, which shall place the amount thereof on the Assessment Roll as a special assessment to be paid with County taxes, unless paid earlier. A judgment or award of such costs, penalties or damages may also be enforced in any other manner provided by law, including the property being sold under execution if the recorded lien remains unpaid for at least three (3) months."

**Section 14.** Section 13.24.240 (Civil Actions), subsection B., of the Stormwater Code is hereby amended to read in its entirety as follows:

"B. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs and attorney's fees of preparing and bringing legal action under this subsection."

**Section 15.** Section 13.24.270 (Nonexclusivity of Remedies) of the Stormwater Code is hereby amended to read in its entirety as follows:

"Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal, as provided by federal, State and local law. The remedies provided for herein shall be cumulative and not exclusive."

**Section 16.** Section 13.24.280 (Appeal) of the Stormwater Code is hereby amended to read in its entirety as follows:

"In addition to the provisions of Chapter 1.20 of the Banning Municipal Code, any person, firm, corporation or organization required by an Enforcement Officer to perform monitoring, analyses, reporting, or corrective activities, or for revocation or suspension of a permit or license, and who is aggrieved by the decision of an Enforcement Officer, may appeal such decision to the Director within fifteen (15) days following the effective date of the Enforcement Officer's decision by writing to the Director. Upon receipt of such request, the Director shall request a report and recommendation from the Enforcement Officer and shall set the matter for hearing at the earliest practical date not to exceed sixty (60) days from the date the request is filed. At said hearing, the Director may hear additional evidence, and may reject, affirm or modify the Enforcement Officer's decision. Such decision shall be written and final unless appealed to the

City Council, which is required pursuant to California Code of Civil Procedure § 1094.6 prior to commencing any civil action commencing."

**Section 17.** If any part of this Ordinance are held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been declared invalid or unconstitutional.

**Section 18.** The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of the same to be published in a manner prescribed by law. This Ordinance shall take effect and be in force thirty (30) days after the adoption by the City Council for the City of Banning.

**PASSED, APPROVED and ADOPTED** this 12<sup>th</sup> day of January, 2010.



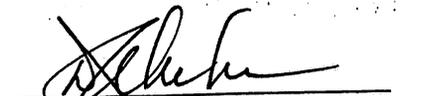
Robert E. Botts, Mayor

**ATTEST:**



Marie A. Calderon, City Clerk

**APPROVED AS TO FORM  
AND LEGAL CONTENT:**



David J. Aleshire, City Attorney  
Aleshire & Wynder, LLP

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, do hereby certify that the foregoing Ordinance No. 1415 was duly introduced at a regular meeting of the City Council of the City of Banning, California, held on the 8<sup>th</sup> day of December, 2009 and was duly adopted at a regular meeting of said City Council held on the 12th day of January 2010 by the following vote, to wit:

AYES: Councilmembers Franklin, Hanna, Machisic, Robinson, Mayor Botts

NOES: None

ABSENT: None

ABSTAIN: None



Marie A. Calderon, City Clerk  
City of Banning, California

**EXHIBIT "A"**

**NPDES Permit Number CAS617002 ( R7-2008-0001)**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
COLORADO RIVER BASIN REGION**

73-720 Fred Waring Drive, Suite 100, Palm Desert, CA 92260  
Phone: (760) 346-7491 • Fax (760) 341-6820  
<http://www.waterboards.ca.gov/coloradoriver>

ORDER NO. R7-2008-0001  
NPDES NO. CAS617002

**WASTE DISCHARGE REQUIREMENTS  
FOR  
DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)  
WITHIN THE WHITEWATER RIVER WATERSHED  
RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT,  
OWNER/OPERATOR  
COUNTY OF RIVERSIDE, OWNER/OPERATOR  
COACHELLA VALLEY WATER DISTRICT, OWNER/OPERATOR  
AND INCORPORATED CITIES OF RIVERSIDE COUNTY WITHIN THE  
WHITEWATER RIVER BASIN, OWNERS/OPERATORS**

**Table 1. Administrative Information**

This Order was adopted by the Regional Water Quality Control Board on:	<b>May 21, 2008</b>
This Order shall become effective on:	<b>May 21, 2008</b>
This Order shall expire on:	<b>May 21, 2013</b>
The Discharger shall file a Report of Waste Discharge in accordance with title 23, California Code of Regulations, not later than 180 days in advance of the Order expiration date as application for issuance of new <b>Waste Discharge Requirements</b> . The date for submitting a complete application for reissuance is <b>November 23, 2012</b> .	

IT IS HEREBY ORDERED that this Order shall supercede Order No. 01-077 except for enforcement purposes, and, in order to meet the provisions contained in division 7 of the California Water Code (CWC) (commencing with section 13000) and regulations adopted hereunder, and the provisions of the federal Clean Water Act (CWA) (33 U.S.C. § 1251 et seq.) and regulations and guidelines adopted hereunder, the discharger shall comply with the requirements in this Order.

I, Robert Perdue, **Executive Officer**, do hereby certify that this Order, with all attachments, is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on May 21, 2008.

  
\_\_\_\_\_  
ROBERT PERDUE, Executive Officer