

ORDINANCE NO. 1489

AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, RELATED TO WATER CONSERVATION DURING CALIFORNIA'S STATE OF EMERGENCY DUE TO DROUGHT CONDITIONS

WHEREAS, on January 17, 2014 Governor Jerry Brown ("Governor") issued a proclamation of a state of emergency under the California Emergency Services Act based on California's drought conditions and continued the state of emergency by issuing a proclamation on April 25, 2014; and

WHEREAS, on April 1, 2015, the Governor issued Executive Order No. B-29-15 imposing mandatory water use reductions which also provides direction to the State Water Resources Control Board ("SWRCB") to impose restrictions on water use to achieve a statewide 25 percent reduction in potable urban water use; and

WHEREAS, California's water supplies continue to be severely depleted, severe drought conditions continue to present urgent challenges, and new expedited actions are needed to reduce the harmful impacts of the drought; and

WHEREAS, on April 7, 2015, the SWRCB proposed a mandatory Regulatory Framework that apportions water reductions according to consumption. The SWRCB revised the apportionment of water reductions on April 18 and April 28th. The conservation savings for all urban water suppliers are now allocated across nine tiers of increasing levels of residential water use ("R-GPCD") to reach the statewide 25 percent reduction mandate. Agencies in Tier 8, including the City of Banning, having residential water use of 179.4 R-GPCD, must reduce water use by 32 percent between June 2015 to February 2016, as compared to the same periods in 2013; and

WHEREAS, on May 5, 2015 the SWRCB adopted Article 22.5, Drought Emergency Water Conservation ("Drought Regulation") which includes a prohibition against certain irrigation practices and an order that all urban water suppliers reduce their total potable water production by a defined percentage which has been applied to each urban water supplier; and

WHEREAS, the intention of the proposed ordinance is to facilitate the implementation of the requirements of the SWRCB Drought Regulation as well as to provide additional tools to achieve the City's required reduction of 32 percent.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANNING AS FOLLOWS:

Section 1. Incorporation of Recitals. All of the foregoing Recitals are true and correct and are incorporated herein and made an operative part of this Ordinance.

Section 2. Public Hearing. A Public Hearing was conducted on May 26, 2015 at 5:00 p.m., in the Council Chamber located at 99 E. Ramsey Street, Banning, CA 92220 and all written and oral testimony has been incorporated into the record.

Section 3. The City Council hereby adopts Ordinance No. 1489, Drought Water Conservation in order to preserve the public health and safety by conserving water during the ongoing drought and to comply with Governor Jerry Brown's Executive Order and the State Water Resource Control Board Drought Regulation.

Section 4. Ordinance No. 1489 requires the following:

- A. **Mandatory Prohibitions:** The following mandatory prohibitions as required by the State Water Resource Control Board Drought Regulation are hereby adopted for the period provided in the Executive Order (the "Water Emergency"). The Ordinance prohibits the following:
 - 1. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures.
 - 2. The use of a hose that dispenses potable water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.
 - 3. The application of potable water to driveways and sidewalks.
 - 4. The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.
 - 5. The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall.
 - 6. The serving of beverages other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.
 - 7. The irrigation with potable water of ornamental turf on public street medians.
 - 8. The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.
- B. **Additional Water Restrictions:** The following additional water restrictions shall apply during the Water Emergency:
 - 1. Operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language
 - 2. Commercial, industrial and institutional properties, such as campuses, golf courses and cemeteries shall implement water efficiency measures to reduce potable water usage in an amount consistent with the reduction target.

3. No person shall empty and refill a swimming pool except to prevent or repair structural damage or to comply with health regulations.
4. Parks and schools shall be watered on alternate days during the hours between sunset and sunrise.
5. Lawn watering and landscape irrigating including, construction water use, are restricted as follows: customers with even numbered street addresses shall water only on Monday, Wednesday, and Friday and customers with odd numbered street addresses shall water only Tuesday, Thursday and Sunday. Watering and irrigating shall occur between sunset and sunrise.
6. Broken sprinklers shall be repaired within 24 hours of notification, and leaks shall be repaired as soon as practicable.

C. Recommended Practices: The following practices are recommended during the Water Emergency:

1. The City of Banning strongly encourages Home Owner Associations (“HOA”) and other enforcement agencies to suspend code enforcement and fines for brown turf areas and encourage the replacement of turf areas with drought tolerant landscaping.
2. Planting of spray irrigated annual flower beds is strongly discouraged.
3. Irrigation of non-functional ornamental turf, such as parkways is strongly discouraged.
4. Installation of irrigation smart controllers is strongly encouraged.
5. Use of pool covers when not in use, especially during summer months is strongly encouraged.
6. Over-seeding is strongly discouraged.

D. Civil Penalties: Violations of this Ordinance shall be subject to the following penalties:

1. First Violation. For a first violation, the City shall issue a written notice of violation to the water user.
2. Second Violation. For a second violation, within a twelve month period, a one month surcharge of 25 percent of the previous month’s water bill will be imposed.
3. Third Violation. For a third violation, within a twelve month period, a one month surcharge of 50 percent of the previous month’s water bill will be imposed.
4. At the discretion of the City Manager, subsequent violations will continue with a penalty as described in Civil Penalties No. 3 or a penalty of up to \$500 per day for which the violation occurs.

Section 5. CEQA. The Board finds that adopting and enforcing mandatory restrictions on water use in order to comply with SWRCB requirements is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15268 and Public Resources Code Section 21080(b)(I) as a ministerial action.

Section 6. The Mayor shall sign this ordinance and the City Clerk shall attest thereto and shall publish it or a summary of it in a newspaper printed and published within the City, and thereafter this ordinance shall be in force and effect according to law.

PASSED, APPROVED AND ADOPTED this 9th day of June, 2015.

Deborah Franklin, Mayor

ATTEST:

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

**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, California, do hereby certify that Ordinance No. 1489 was duly introduced at a regular meeting of the City Council of the City of Banning, California held on the 26th day of May, 2015, and was duly adopted at a regular meeting of said City Council on the 9th day of June, 2015 by the following vote, to wit:

AYES: Councilmembers Miller, Moyer, Welch, Mayor Franklin

NOES: None

ABSENT: Councilmember Peterson

ABSTAIN: None

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