

ORDINANCE NO. 1094

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS ADDING CHAPTER 13 TO TITLE 6, OF THE LOS BANOS MUNICIPAL CODE “URBAN STORM WATER MANAGEMENT AND DISCHARGE CONTROL”

The City Council of the City of Los Banos does hereby ordain as follows:

Section 1. The City Council of the City of Los Banos does hereby add Chapter 13 to Title 6 of the Los Banos Municipal Code in its entirety to read as follows:

LOS BANOS URBAN STORM WATER MANAGEMENT AND DISCHARGE CONTROL ORDINANCE

Sections:

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6-13.101 Title and Purpose.

(a) This chapter shall be known as the “Los Banos Urban Storm Water Management and Discharge Control Ordinance.”

(b) The purpose and intent of this Chapter is to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.) by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges to the storm drain system. This Chapter shall provide a comprehensive and integrated plan to regulate urban storm water quality management and discharge control.

6-13.102 Definitions.

The terms used in this Chapter have the meaning set forth below:

(a) “Best Management Practices (BMPs)” means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and education practices, maintenance procedures, and other management practices designed to prevent or reduce, to the maximum extent practicable, the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States. Best Management Practices include but are not limited to: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-storm water, waste disposal and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the City determines appropriate for the control of pollutants.

(b) “City” means the City of Los Banos.

(c) “Clean Water Act” means the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et. seq.), and any subsequent amendments thereto.

(d) “Construction Activity” means activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to, clearing and grubbing, grading, excavating and demolition.

(e) “Development” means the building or placement of any structure or portion thereof. Development includes excavation and grading.

(f) “Enforcement Official” means the Director of Public Works, or his or her designee, or any agent of the City authorized to enforce compliance of this Chapter.

(g) "Hazardous Material" means any material, including any substance, waste or combination thereof, that, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment, when improperly treated, stored, transported, disposed of, or otherwise managed. (Cal. Health & Safety Code § 25117).

(h) "Illegal Discharge" means any direct or indirect non storm water discharge to the storm water system that violates this Chapter, or is prohibited by federal, state and local laws, or that degrades the quality of receiving waters except as exempted in Section 6-13.106 of this Chapter.

(i) "Illicit Connections" means either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the City.

(j) "National Pollution Discharge Elimination System (NPDES) Permit" means a permit issued by the Regional Water Quality Control Board or the State Water Resources Control Board, pursuant to Division 7, Chapter 5.5 of the California Water Code (commencing with § 13370), to control discharges from point sources to waters of the United States.

(k) "Person" means any person, firm, corporation, business entity, or public agency, whether principal, agent, employee, or otherwise.

(l) "Pollutant" means anything that causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes, either from domestic or wild animals or birds; wastes and residues that result from constructing a building or structure, including but not limited to, dirt, sediment, slurry, and concrete residuals; and noxious or offensive matter of any kind.

(m) "Pollution" means the human-made or human-induced alteration of the quality of waters by waste or pollutants, or the presence of a substance in the environment that, because of its chemical composition or quantity, prevents the functioning of natural processes and produces undesirable environmental and health effects or alters the quality of the water to a degree that unreasonably affects the waters for beneficial uses or the facilities which serve these beneficial uses. (California Water Code 13050)

(n) "Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(o) "Storm Water" means surface runoff and drainage associated with storm events, which is free of pollutants to the maximum extent possible.

(p) "Storm Drain System" means the collection and conveyance of non-polluted water by artificial and natural facilities within the City, whether publicly or privately owned, to a watercourse or waters of the United States, including any roads, streets, catch basins, natural and artificial channels, curbs, gutters, ditches, open fields, parking lots, impervious surfaces used for parking, and storm drains.

(q) "Storm Water Pollution Prevention Plan (SWPPP)" is a document that describes the best management practices to be implemented by the owner or operator of a business to eliminate non-storm water discharges and/or to reduce, to the maximum extent practicable, pollutant discharges to the storm water system.

6-13.103 Applicability.

This Chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands lying within the city limits of the City of Los Banos. This Chapter shall be construed in a manner which is consistent with the requirements of the Federal Clean Water Act and amending acts, any applicable implementing regulations thereto and any NPDES Permit for storm water discharges for the City of Los Banos issued by the State Water Resources Control Board or the Regional Water Quality Control Board, and any amendment, revision or re-issuance of the permit.

6-13.104 Responsibility for Administration.

The Public Works Director shall administer, implement and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the Public Works Director may be delegated by the Public Works Director to persons or entities acting in the beneficial interest of or in the employ of the City.

6- 13.105 Ultimate Responsibility of Discharger.

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; therefore this Chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized

discharge of pollutants into waters of the U.S. caused by said person. This Chapter shall not create liability on the part of the City, or any agent or employee thereof for any damages that result from any discharger's reliance on this Chapter or any administrative decision lawfully made thereunder.

6-13.106 Prohibition of Illegal Discharges.

(a) No person shall discharge or cause to be discharged into the municipal storm drain system or water courses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described herein.

(b) Discharges from the following activities will not be considered a source of pollutants to the storm drain system and to waters of the United States when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Porter-Cologne Act, Clean Water Act, or this Chapter:

- (1) Potable water line flushing;
- (2) Uncontaminated pumped groundwater and other discharges from potable water sources;
- (3) Landscape irrigation and lawn watering;
- (4) Rising groundwater;
- (5) Groundwater infiltration to the storm drain system;
- (6) Uncontaminated foundation and footing drains;
- (7) Uncontaminated water from crawl space and basement pumps;
- (8) Air conditioning condensation;
- (9) Uncontaminated non-industrial roof drains;
- (10) Individual residential and occasional non-commercial car washing;
- (11) Swimming pool water that is clear and has no chlorine or other disinfectant residual;
- (12) Natural flows from riparian habitats and wetlands;

(13) Flows from fire suppression activities, including fire hydrant flushing and flows;

(14) Waters not otherwise containing wastes as defined in California Water Code § 13050(d) and California Health and Safety Code § 25117;

(15) Any discharge that the enforcement official, the local health officer or the Regional Water Quality Control Board determines, in writing, is necessary for the protection of the public health and safety;

(16) Any discharge caused by flooding or other natural disaster, which could not have been reasonably foreseen or mitigated for in advance by the discharger, as determined by the enforcement official.

(c) The prohibition against Illegal Discharge to the Storm Drain System shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of California under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted by the City for any discharge to the storm drain system.

(d) Written concurrence of the Regional Board, shall be required for the City to provide a written exemption that a non-storm water discharge does not constitute a source of pollutants to the storm drain system or waters of the U.S.

6-13.107 Groundwater Discharges.

Discharges of pumped groundwater not subject to a NPDES permit may be permitted to discharge into the storm drain system, upon written approval by the Public Works Director and in compliance with conditions of approval set forth by the City.

6-13.108 Illicit Connections Prohibited.

The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection was first made.

6-13.109 Concealment and Abetting.

Causing, permitting, allowing, aiding, abetting or concealing a violation of any provision of this Chapter shall constitute a violation of this Chapter.

6-13.110 Waste Disposal Prohibitions.

No person shall discard, throw, deposit, leave, maintain, keep or permit to be discarded, thrown, deposited, left or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system or water of the United States, any refuse, rubbish, garbage, litter or other discarded or abandoned objects, articles, accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste containers for the purposes of collection are exempted from this prohibition.

6-13.111 Compliance with Industrial or Construction NPDES Storm Water Discharge Permit.

(a) Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of said permit. Proof of compliance with said permit may be required in a form acceptable to the Enforcement Official prior to or as a condition of a subdivision map, site plan, building permit, grading and drainage plan or development and improvement plan upon inspection of the facility during any enforcement proceeding or action; or for any other reasonable cause.

(b) All construction projects which disturb one (1) or more acres of soil or disturb less than one (1) acre but are part of a larger common plan of plan that in total disturbs one (1) or more acres, are required to develop Storm Water Pollution Prevention Plans (SWPPP) created in accordance with Section A of the State Water Resources Control Board Order No. 99-08-DWQ, a copy of which must be filed with the Public Works Department before construction begins.

6-13.112 Reduction of Pollutants in Storm Water.

Any person engaged in activities that may result in pollutants entering the storm drain system shall, to the maximum extent practicable, undertake the measures set forth below to reduce the risk of non-storm water discharge and/or pollutant discharge.

(a) Business-related activities:

(1) Storm Water Pollution Prevention Plan (SWPPP). The enforcement official may require any business in the City engaged in activities that may result in pollutant discharges to develop and implement a SWPPP, which must include an employee training program. Business activities that may require a SWPPP include, but are not limited to, maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading or fueling, or cleanup procedures carried out partially or wholly out of doors.

(2) Coordination with Hazardous Materials Release Response Plan and Inventory: Any business requiring a hazardous materials response plan, under Chapter 6.95 (commencing with § 25500) of Division 20 of the

California Health and Safety Code, shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting non-storm water discharges and illegal discharges, and requiring the release of pollutants to be reduced to the maximum extent practicable.

(3) Coordination with Hazardous Waste Generator Contingency Plan and Emergency Procedures: Any business requiring a hazardous waste generator contingency plan and emergency procedures, pursuant to California Code of Regulations, Title 11, §§ 66265.51 to 66265.56, shall include in that plan provisions for compliance with this chapter, including the provisions prohibiting non-storm water discharge and illegal discharges, and requiring the release of pollutants to be reduced to the maximum extent practicable.

(4) Any person conducting business or industrial activities in the city shall prevent pollutants from entering the storm drain system and shall comply with all applicable federal, state and local laws, ordinances or regulations.

(b) Development:

(1) The enforcement official may develop controls as appropriate to minimize the long-term, post-construction discharge of storm water pollutants from new development(s). Controls may include source control measures to prevent pollution of storm water and/or treatment controls designed to remove pollutants from storm water.

(2) Any person performing development or construction in the City shall prevent pollutants from entering the storm water system and comply with all applicable federal, state and local laws, ordinances or regulations, including but not limited to, the general permit for storm water discharges associated with development or construction activity.

(c) Compliance with Best Management Practices (BMP):

(1) Every person owning or occupying a premises that may cause or contribute to storm water pollution or contamination, illegal discharges, or non-storm water discharges shall comply with the best management practices guidelines or pollution control requirements, including the storage and parking of vehicles, as may be reasonably established by the enforcement official.

(2) It is the responsibility to implement Best Management Practices by any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm water, the storm drain system, or waters of the United States shall implement best management practices to the extent they are technologically achievable to prevent and

reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drain system or watercourses. Facilities to prevent accidental discharges of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

6-13.113 Containment and Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (e.g., calling "911"). In the event of a release of non-hazardous materials, said person shall notify the City's Public Works Department in person or by phone or facsimile no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed, postage paid, to the City's Public Works Department within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. A copy of such records shall be provided to the City on an annual basis. Such records shall be retained for at least three (3) years.

6-13.114 Authority to Inspect, Sample, and Monitor.

(a) Right of Entry

(1) Whenever necessary to make an inspection to enforce any of the provisions of this Chapter, or whenever an authorized Enforcement Official has reasonable cause to believe that there exists in any building or upon any condition constituting a violation of this Chapter, the Enforcement Official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the officer by this Chapter.

(2) Any request for entry 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 upon issuance of a warrant issued by a court of competent jurisdiction.

(3) In the event the owner or occupant refuses entry after such request has been made, the enforcement official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(b) Sampling Authority

(1) During any inspection, the Enforcement Official may take samples as necessary in order to implement and enforce the provisions of this Chapter.

(2) This authority may include the installation of sampling and metering devices on private property, or requiring the person owning or occupying the premises to supply samples.

(c) Monitoring, Analysis, and Reporting Authority

(1) The Enforcement Official may require monitoring, analysis and reporting of discharges from any premises to the storm water system.

(2) If testing of samples confirms illegal discharge, the person responsible for the discharge may be held financially responsible for the testing, sampling, and related activities.

6-13.115 Enforcement Authority.

The Director of Public Works is authorized to enforce the provisions of this Chapter and to exercise any enforcement powers authorized or provided in this Chapter, including without limitation the imposition of administrative requirements, orders and penalties pursuant to this Chapter, as may be necessary to effectively implement and enforce this Chapter. Without limitation on the enforcement authority set forth above, the Director of Public Works is authorized to exercise any and all of the following supplemental enforcement powers as he or she determines may be necessary or appropriate in the Director of Public Works' judgment under the circumstances:

(a) Notice of Violation. Whenever the enforcement official finds that any person owning or occupying a premises has violated or is violating this chapter or order issued hereunder, the enforcement official may serve a written Notice of Violation upon such person. Within 30 days of the receipt of this notice, or shorter period as may be prescribed in the Notice of Violation, an explanation of the violation and a plan for satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to the enforcement official. Submission of this plan shall in no way relieve the person of liabilities for violations occurring before or after receipt of the Notice of Violation.

(b) Cease and Desist Orders. The enforcement official may require any person owning or occupying a premise to cease and desist all activities that may cause

or contribute to discharge in violation of this chapter. This order may also require such person to: 1) Comply with the applicable provisions of the Chapter within a designated period of time; or 2) Take appropriate remedial or preventative action to keep the violation from reoccurring.

(c) Notice to Clean and Abate. The enforcement official may require any person owning or occupying a premise to clean up and abate any release on those premises of pollutants that may result in a violation of this Chapter. The enforcement official may also order abatement of activities or practices that may reasonably result in such a violation.

(d) Mitigation. The enforcement official shall have authority to order the mitigation of circumstances that may result in or contribute to illegal discharges.

(e) Storm Water Pollution Prevention Plan (SWPPP). The enforcement official shall have the authority to establish elements of a SWPPP, and to require any business to adopt and implement such a plan, as may be reasonably necessary to fulfill the purposes of this Chapter.

(f) Best Management Practices (BMPs). The enforcement official may establish the requirements of BMPs for any premises.

(g) Seasonal and Recurrent Nuisance. If any violation of this Chapter constitutes a seasonal and recurrent nuisance, the enforcement official shall so declare. Thereafter, such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.

(h) Emergency Orders and Abatements. The enforcement official may order the abatement of any discharge from any source to the storm water system when, in the opinion of the enforcement official, the discharge causes or threatens to cause a condition that presents an imminent danger to the public health, safety, welfare or environment, or a violation of a NPDES permit. In emergency situations, where the property owner or other responsible party is unavailable and time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, welfare or environment, or a violation of a NPDES permit, the City may perform or cause to be performed such work as shall be necessary to abate the threat or danger. The costs of any such abatement shall be borne by the owner, and shall be collectable in accordance with the provisions of subsection 6-13.119 of this Chapter.

(i) Contents of Notice. Any Notice of Violation, Cease and Desist order, or other civil notice or civil order issued by the enforcement official pursuant to this Chapter shall include a copy of section 6-13.116 outlining appeal rights.

6-13.116 Appeal.

(a) Any person served with a Notice of Violation, subject to a cease and desist order, subject to an abatement order, required to perform monitoring, analysis, reporting and/or other corrective activities by an authorized enforcement official, or otherwise grieved by the decision of the authorized enforcement official, may appeal the decision, within fifteen days following its effective date, by filing a written appeal with the City Manager.

(b) The City Manager or designee shall request a report and recommendation from the authorized enforcement official, and shall set the matter for hearing at the earliest practical date.

(1) Due notice of the hearing shall be provided to the person appealing the decision of the authorized enforcement official.

(2) At the hearing, the City Manager or designee may hear additional evidence, and may reject, affirm or modify the authorized enforcement official's decision.

(3) The City Manager's or designee decision shall be final.

6-13.117 Abatement by City.

(a) If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal under Section 6-13.116, within ten calendar days of the decision of the City Manager upholding the decision of the Public Works Director, then the City or a contractor designated by the Public Works Director is authorized to enter upon the subject private property, and is authorized to take any and all measures necessary to abate the violation and/or restore the property.

(b) It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or designated contractor to enter upon the premises for the purposes set forth above.

6-13.118 Urgent Abatement

The Public Works Director is authorized to require immediate abatement of any violation of this chapter that constitutes an immediate threat to the health, safety or general welfare of the public. If any such violation is not abated immediately as directed by the Public Works Director, the City or a contractor designated by the Public Works Director is authorized to enter onto private property and to take any and all measures required to abate the violation. Any relief obtained under this Section shall not prevent the City from seeking other and further relief authorized under this Chapter. Any expense related to such remediation undertaken by the City shall be fully reimbursed by the property owner in accord with this Chapter.

6-13.119 Charging Cost of Abatement; Liens.

(a) The City shall be entitled to reimbursement from any person violating any requirement or provision of this Chapter for all costs and expenses incurred in connection with the enforcement of this Chapter. Such reimbursable costs and expenses shall include, but are not limited to, costs of investigation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, costs of suit, salaries, attorney fees, expert fees, testing and monitoring expenses, and other expenses recoverable under state law, incurred during any inspection or investigation conducted pursuant to this Chapter. In addition to any and all other costs and expenses, any person who or entity that violates any provision of this Chapter shall be liable and responsible for, and shall pay to the City, a civil penalty of \$1,000.00 for each violation. The owner of the subject premises or property, as well as any responsible person(s) shall be jointly and severally liable and responsible for, and required to pay, all such costs, expenses and civil penalties. The amount due shall be a personal obligation of the responsible person and the property owner and may be recovered by the city by any available legal remedy.

(b) Within 30 days after abatement of the nuisance by the City, the Public Works Director shall notify the property owner of the property or responsible person of the cost of abatement, including reimbursable costs.

(c) Within 15 days, the property owner or responsible person may file with the City Clerk a written protest objecting to the amount of the assessment.

(1) The City Clerk shall set the matter for public hearing by the City Council.

(2) The decision of the City Council shall be set forth by resolution and shall be final.

(d) If the amount due is not paid within thirty days of the decision of the City Council, the charges shall become a special assessment against the property, together with interest at the rate of 10% per annum and shall constitute a lien on the property for the amount of the assessment.

(e) A copy of the resolution shall be turned over to the County Auditor so that the Auditor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the Tax Collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

6-13.120 Administrative Penalties.

In addition to any other remedy or penalty set forth in this Chapter or this code, administrative penalties may be imposed pursuant to applicable provisions of Chapter 11 Title 4 of this code against any responsible party, in violation of any of the provisions of this Chapter. Imposition, enforcement, collection and administrative review of

administrative penalties imposed shall be conducted pursuant to Chapter 11 Title 4 of this code.

6-13.121 Civil Actions.

In addition to any other remedies provided in this Chapter, any violation of this Chapter may be enforced by civil action brought by the City Attorney. In any such action, the City may seek, 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 that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this Chapter including attorney fees;
- (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. Monies recovered under this subsection shall be paid to the City to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this Chapter;
- (e) A civil penalty of \$1,000.00 for each violation.

13.16.122. Violations Constituting Misdemeanors.

(a) 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; except that notwithstanding any other provisions of this Chapter, any such violation constituting a misdemeanor under this Chapter may, at the discretion of an authorized enforcement officer be enforced pursuant to any available legal remedy including the city's administrative enforcement ordinance of this Code.

(b) Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.

(c) Unless otherwise provided, a person, firm, corporation or organization shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

6-13.123 Remedies Not Exclusive.

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.

6-13.124 Acts potentially resulting in violation of Federal Clean Water Act and/or Porter-Cologne Act.

Any person who violates any provision of this chapter or any provision of any permit issued pursuant to this chapter or any cease and desist order, prohibition, or effluent limitation, or who discharges waste or wastewater that contains pollutants, may also be in violation of the Federal Clean Water Act (33 U.S.C. 1251 et seq.) and/or Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) and may be subject to the sanctions and remedies of those acts including civil and criminal penalties. The provisions or enforcement of this chapter shall not affect or limit in any way the applicability of those acts nor the enforcement of any sanctions, remedies or penalties under those acts.

Section 2. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior city ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 3. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 4. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the Los Banos City Council on the 5th day of May 2010, and was adopted at a regular meeting of the Los Banos City Council on the 19th day of May 2010 by the following vote:

AYES: Council Members Faria, Sousa, Stone, Villalta, Mayor Jones
NOES: None
ABSENT: None

APPROVED:

/s/ Tommy Jones
Tommy Jones, Mayor

ATTEST:

/s/ Lucille L. Mallonee
Lucille L. Mallonee, City Clerk