ORDINANCE NO. 786

AN ORDINANCE OF THE CITY OF IMPERIAL, CALIFORNIA, REGARDING STORMWATER

The City Council of the City of Imperial does ordain as follows:

SECTION 1: Chapter 23A of the Imperial Code is hereby enacted to read as follows:

ARTICLE I: General Provisions

23A-1 Title

This ordinance shall be officially known as "The City of Imperial Stormwater Ordinance." It is referred to herein as "this ordinance."

123A-2 Findings

It is hereby determined that:

Development and *redevelopment* alter the hydrologic response of local watersheds and increases Stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, Nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge; These changes in Stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health and safety as well as to the natural environment; and these effects can be managed and minimized by applying proper design and well-planned controls to manage Stormwater runoff from *development* sites.

Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the California State Water Resources Board promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt the minimum Stormwater controls such as those included in this ordinance. Therefore, the City Council of the City of Imperial establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of Stormwater runoff and discharge.

23A-3 Purpose

(a) General

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-*development* Stormwater runoff and nonpoint and point source pollution associated with new *development* and *redevelopment* as well as illicit discharges into municipal separate Stormwater systems. It has been determined that proper management of construction related and post-*development* Stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.

(b) Specific

This ordinance seeks to meet its general purpose through the following specific objectives and means:

(1) Establishing decision-making processes for *development* that protects the integrity of watersheds and preserves the health of water resources;

(2) Requiring that new *development* and *redevelopment* maintain the pre-*development* hydrologic response in their post-*development* state as nearly as practicable for the applicable design storm to reduce flooding, stream bank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

(3) Establishing minimum post-development Stormwater management standards and design criteria for the regulation and control of Stormwater runoff quantity and quality;

(4) Establishing design and review criteria for the construction, function, and use Stormwater ***Best Management Practices* (*BMPs*)** that may be used to meet the minimum post-development Stormwater management standards;

(5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for Stormwater and the preservation of greenspace, riparian buffers, and other conservation areas to the maximum extent practicable;

(6) Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural Stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

(7) Establishing administrative procedures for the submission, review, approval and disapproval of Stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance;

(8) Controlling illicit discharges into the municipal separate Stormwater system;

(9) Controlling erosion and sedimentation from construction activities

23A-4 Applicability and Jurisdiction

(a) General

Beginning with and subsequent to its effective date, this ordinance shall be applicable to all *development* and *redevelopment*, including, but not limited to, site plan applications, subdivision applications, and land disturbing activity applications, unless exempt pursuant to Subsection (B) of this Section, Exemptions.

(b) Exemptions

Development that cumulatively disturbs less than one acre and is not part of a *larger common plan of development or sale* is exempt from the provisions of this ordinance.
Redevelopment that cumulatively disturbs less than one acre and is not part of a larger common plan of *development* or sale is exempt from the provisions of this ordinance.
Development and *redevelopment* that disturb less than one acre are not exempt if such activities are part of a *larger common plan of development or sale*, even though multiple, separate or distinct activities take place at different times on different schedules.
Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this ordinance.

(c) No Development or Redevelopment until Compliance and Permit

No *development* or *redevelopment* shall occur except in compliance with the provisions of this ordinance or unless exempted. No *development* for which a permit is required pursuant to this ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit.

23A-5 Interpretation

(a) Meaning and Intent

All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in Section 104, Purpose. If a different or more specific meaning is given for a term defined elsewhere in the Municipal Ordinance of the City of Imperial, California, the meaning and application of the term in this ordinance shall control for purposes of application of this ordinance.

(b) Text Controls in Event of Conflict

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

23A-6 Relationship to Other Laws, Regulations and Private Agreements

(a) Conflict of Laws

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

(b) Private Agreements

This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this ordinance shall govern. Nothing in this ordinance shall

modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this ordinance. In no case shall the City of Imperial be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

23A-7 Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this Ordinance.

(a) Violations Continue

Any violation of provisions existing on the effective date of this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement under this ordinance unless the use, *development*, construction, or other activity complies with the provisions of this ordinance.

ARTICLE II: Administration and Procedures

23A-8 Review and Decision-Making Entities

(a) Stormwater Administrator

(1) Designation

A Stormwater Administrator shall be designated by the Imperial City Council to administer and enforce this ordinance.

(2) Powers and Duties

In addition to the powers and duties that maybe conferred by other provisions of the Code of Ordinances of the City of Imperial and other laws, the Stormwater Administrator shall have the following powers and duties under this ordinance:

(a) To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this ordinance.

(b) To make determinations and render interpretations of this ordinance.

(c) To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the City Council on applications for *development* or *redevelopment* approvals.

(d) To enforce the provisions of this ordinance in accordance with its enforcement provisions.

(e) To maintain records, maps, forms, and other official materials relating to the adoption, amendment, enforcement, and administration of this ordinance.

(f) To provide expertise and technical assistance to the City Council, upon request.

(g) To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.

(h) To take any other action necessary to administer the provisions of this ordinance.

23A-9 Review Procedures

(a) Permit Required; Must Apply for Permit

A Stormwater permit is required for all *development* and *redevelopment* unless exempt pursuant to this ordinance. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

(b) Effect of Permit

A Stormwater permit shall govern the design, installation, and construction of Stormwater management and control practices on the site, including *BMPs* and elements of site design for Stormwater management other than *structural BMPs*.
The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of Stormwater for the *development* or *redevelopment* site consistent with the requirements of this ordinance, whether the approach consists of *BMPs* or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this ordinance.

(c) Authority to File Applications

All applications required pursuant to this Code shall be submitted to the Stormwater Administrator by the landowner or the landowner's duly authorized agent.

(d) Establishment of Application Requirements, Schedule, and Fees

(1) Application Contents and Form

The Stormwater Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the Stormwater permit application shall describe in detail how post-*development* Stormwater runoff will be controlled and managed, the design of all Stormwater facilities and practices, and how the proposed project will meet the requirements of this ordinance.

(2) Submission Schedule

The Stormwater Administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

(3) Permit Review Fees

The City Council shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

(e) Submittal of Complete Application

Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this ordinance, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

(f) Review

Within 60 calendar days after a complete application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this ordinance.

(1) Approval

If the Stormwater Administrator finds that the application complies with the standards of this ordinance, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this ordinance. The conditions shall be included as part of the approval.

(2) Fails to Comply

If the Stormwater Administrator finds that the application fails to comply with the standards of this ordinance, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

(3) Revision and Subsequent Review

A complete revised application shall be reviewed by the Stormwater Administrator within 30 calendar days after its re-submittal and shall be approved, approved with conditions or disapproved. If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new

submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal. One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal shall be accompanied by a permit review fee additional fee, as established pursuant to this ordinance.

23A-10 Applications for Approval

(a) Concept Plan and Consultation Meeting

Before a Stormwater management permit application is deemed complete, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction Stormwater management system to be utilized in the proposed *development* project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the *development* process. The purpose of this meeting is to discuss the post construction Stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to Stormwater management designs before formal site design engineering is commenced. Local watershed plans, open space and natural area protection plans, policies or ordinances, and other relevant resource protection plans should be consulted in the discussion of the concept plan. To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

(1) Existing Conditions / Proposed Site Plans

Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

Existing and proposed topography shall be shown at two-foot contour intervals on the tract to be developed and a minimum of 100-feet beyond the property lines. All contour information shall be based on mean sea level and accurate to within one-half foot. The benchmark with its description and the datum shall be clearly shown on the plan.

(2) Natural Resources Inventory

A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for *development* and Stormwater management.

(3) Stormwater Management System Concept Plan

A written or graphic concept plan of the proposed post-*development* Stormwater management system including: preliminary selection and location of proposed structural Stormwater controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

(b) Stormwater Management Permit Application

The Stormwater management permits application and Stormwater Management Plan shall detail how post *development* Stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this ordinance, including Section 3, Standards. All such plans shall be prepared by a qualified Stormwater developer (QSD) professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence. The plans shall contain a signed and sealed statement certifying that the design of all Stormwater management facilities and practices will control and treat runoff generated from one inch of rainfall over the total drainage area, that the designs and plans are sufficient to comply with applicable standards and policies and that the designs and plans ensure compliance with this ordinance.

The submittal of the Stormwater Management Plan and permit application shall occur after approval of the Stormwater Management Concept Plan by the Technical
Review Committee. The submittal shall include construction drawings and any other information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to Section 2-202(E).

(c) Other Permits

No certificate of compliance or occupancy shall be issued by the City of Imperial Building and Safety without final as-built plans and a final inspection and approval by the Stormwater Administrator, except when a performance security is posted as allowed by Sections 2-206 and 4-404, or where multiple units are served by the Stormwater practice or facilities, in which case the City of Imperial Building and Safety may elect to withhold permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

23A-11 Approvals

(a) Effect of Approval

Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(b) Time Limit/Expiration

An approved plan shall become null and void if the applicant fails to make *substantial progress* on the site within one year after the date of approval. The Stormwater Administrator may grant

a single, one year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.
In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.

23A-12 Appeals

(a) Right of Appeal

(1) Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this ordinance and made by the Stormwater Administrator may file an appeal to the City Council within 10 days after receipt of said written decision, order, requirement, or determination.

(2) A public hearing held pursuant to this section shall be conducted by the City Council within 45 days after the date of appeal or request for a hearing.

(3) The City Council will render its final decision on any appeal within 20 days of the date of hearing.

23A-13 Design Professional's Certificate of Compliance, As-Built Plans and Final

The construction of all Stormwater management improvements shown on an approved and permitted Stormwater Management Plan shall be substantially complete prior to final plat recordation or issuance of any certificate of occupancy. Upon approval of the Stormwater Administrator, an installation performance security as specified in Section 4-404 may be submitted prior to substantial completion of all Stormwater management measures in order to record a final plat.
Upon completion of a project and its associated structural Stormwater management improvements and before a certificate of occupancy shall be granted, the Design Professional shall certify, under seal, that the completed project is in accordance with the approved Stormwater Management Plan and design and with the requirements of this ordinance.
The Design Professional shall also submit the information required in the As-Built submittal checklist established by the Stormwater Administrator.
As-built submittals shall be certified by a qualified Stormwater developer (QSD), licensed California professional engineer, surveyor, soil scientist, or landscape architect. The As-Built drawings shall show the final design specifications for all Stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the Stormwater management measures and plans shall certify, under seal, that the as-built Stormwater measures, controls, and devices are in compliance with the approved Stormwater management plans and designs and with the requirements of this ordinance.
Prior to the release of any performance securities required for the installation of Stormwater BMPs as specified in Sections 4-404(A) & 4-404(B) the following conditions must be satisfied:

(1) As-Built drawings and submittals must be approved by the Stormwater Administrator;

(2) Project must be in compliance with the City's Erosion and Sedimentation Control Ordinance; and

(3) Project must pass a final inspection and receive approval by the Stormwater Administrator.

ARTICLE III: Standards

23A-14 Standards for Stormwater Control Measures

(a) Evaluation According to Contents of Design Manual

All Stormwater control measures and Stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this ordinance shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each Stormwater practice, in the *Design Manual*. The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this ordinance.

(b) Determination of Adequacy; Presumptions and Alternatives

Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the *Design Manual* will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the *Design Manual,* the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The
Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

(c) Separation from Seasonal High Water Table

For BMPs that require a separation from the seasonal high-water table, the separation shall be provided by at least 12 inches of naturally occurring soil above the seasonal high water table.

23A-15 Dedication of BMPS, Facilities & Improvements

Unless otherwise approved by City Council, ownership and maintenance responsibility of any existing or future Stormwater management facilities shall remain with the owner of the property or a legally established property owner's association. Such facilities shall meet all the requirements of this ordinance and include adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

ARTICLE IV: Maintenance

23a-16 General Standards for Maintenance

(a) Function of BMPs as Intended

The *owner* of each *BMP* installed pursuant to this ordinance shall maintain and operate it so as to preserve and continue its function in controlling Stormwater quality and quantity at the degree or amount of function for which the *structural BMP* was designed.

(b) Annual Maintenance Inspection and Report

The person responsible for maintenance of any *structural BMP* installed pursuant to this ordinance shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified Stormwater developer (QSD), registered California professional engineer, surveyor, landscape architect, soil scientist,. The inspection report shall contain all of the following:

(1) The name, address and telephone number of the landowner;

(2) The recorded book and page number and the Parcel Identification Number (PIN) or Parcel Number as assigned by Imperial County of the lot of each *BMP*;

(3) A statement that an inspection was made of all *structural BMPs*;

(4) The date the inspection was made;

(5) A statement that all inspected *BMPs* are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance; and

(6) The original signature and seal of the engineer, surveyor, or landscape architect.

All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.

23A-17 Inspection Program

Inspections and inspection programs by the City of Imperial may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties

23A-18 Performance Security for Installation and Maintenance

(a) May Be Required

The City of Imperial may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, irrevocable letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the *BMP*s are;

(1) Installed by the permit holder as required by the approved Stormwater management plan, and/or

(2) Maintained by the *owner* as required by the operation and maintenance agreement.

23A-19 Records of Installation and Maintenance Activities

The *owner* of each *BMP* shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

23A-20 Nuisance

The *owner* of each Stormwater BMP, whether *structural* or non-*structural BMP*, shall maintain it so as not to create or result in a nuisance condition.

ARTICLE V: Enforcement and Violations

23A-21 General

(a) Authority to Enforce

The provisions of this ordinance shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of the City of Burlington. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of the City of Imperial.

(b) Violation Unlawful

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other *development* or *redevelopment* approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

(c) Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

(d) Responsible Persons/Entities

Any person, who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and

penalties set forth herein may include any architect, engineer, landscape architect, soil scientist, surveyor, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an *owner*, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or *development* of the property on which the violation occurs.
For the purposes of this article, responsible person(s) shall include but not be limited to:

(1) Person Maintaining Condition Resulting In or Constituting Violation
An architect, engineer, landscape architect, soil scientist, surveyor, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.

(2) Responsibility for Land or Use of Land
The *owner* of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for Stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, *development* or *redevelopment* of the property.

23A-22 Remedies and Penalties
The remedies and penalties provided for violations of this ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(a) Remedies

(1) Withholding of Certificate of Occupancy
The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the Stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(2) Disapproval of Subsequent Permits and Development Approvals
As long as a violation of this ordinance continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Planning and development and/or City Council may disapprove, any request for permit or *development* approval or authorization provided for by this ordinance or the zoning, subdivision, and/or building regulations, as appropriate for the land on which the violation occurs.

(3) Injunction, Abatements, etc.
The Stormwater Administrator, with the written authorization of the City Manager, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction

and order of abatement to correct a violation of this ordinance. Any person violating this ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

4) Correction as Public Health Nuisance, Costs as Lien, etc.

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits the Stormwater Administrator, with the written authorization of the City Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5) Stop Work Order

The Stormwater Administrator may issue a stop work order to the person(s) violating this ordinance. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

(b) Civil Penalties

Violation of this ordinance may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator.

Civil penalties may be assessed up to the full amount of penalty to which the City of Burlington is subject for violations of its Phase II Stormwater permit or if no Phase II Stormwater permit violation exists for the jurisdiction, civil penalties may be assessed up to the full amount allowed by law.

(c) Criminal Penalties

Violation of this ordinance may be enforced as a misdemeanor subject to the maximum fine permissible under California law.

23A-23 Procedures

(a) Initiation/Complaint

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

(b) Inspection

The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this ordinance.

(c) Notice of Violation and Order to Correct

When the Stormwater Administrator finds that any building, structure, or land is in violation of this ordinance, the Stormwater Administrator shall notify, in writing, the property *owner* or other person violating this ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

The Stormwater Administrator may deliver the notice of violation and correction order personally, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents.

If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this ordinance to correct and abate the violation and to ensure compliance with this ordinance.

(d) Extension of Time

A person who receives a notice of violation and correction order, or the *owner* of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 72 hours. The Stormwater Administrator may grant 7-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this ordinance. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(e) Enforcement after Time to Correct

After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this ordinance.

(f) Emergency Enforcement

If delay in correcting a violation would seriously threaten the effective enforcement of this ordinance or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek

immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

ARTICLE VI: Illicit Discharges

23A-24 Illicit Discharges and Connections

(a) Illicit Discharges

No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any Stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a Stormwater conveyance or the waters of the State, any liquid, solid, gas, mud, dirt, filth or other substance, other than Stormwater; provided that non-Stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

(1) Water line flushing;
(2) Landscape irrigation;
(3) Diverted stream flows;
(4) Rising ground waters;
(5) Uncontaminated ground water infiltration;
(6) Uncontaminated pumped ground water;
(7) Discharges from potable water sources;
(8) Foundation drains;
(9) Air conditioning condensation;
(10) Irrigation water;
(11) Springs;
(12) Water from crawl space pumps;
(13) Footing drains;
(14) Lawn watering;
(15) Individual residential car washing;
(16) Flows from riparian habitats and wetlands;
(17) Dechlorinated swimming pool discharges;
(18) Street wash water; and
(19) Flows from emergency firefighting
(20) Other non-Stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of California, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the City of Imperial. Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(b) Illicit Connections

(1) Connections to a Stormwater conveyance or Stormwater conveyance system that allow the discharge of non-Stormwater, other than the exclusions described in section (a)

above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

(2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this ordinance. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.
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.

(3) Where it is determined that said connection:

(a) May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or

(b) Was made in violation of any applicable regulation or ordinance, other than this section; the Stormwater Administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the Stormwater Administrator shall take into consideration:

i. The quantity and complexity of the work,

ii. The consequences of delay,

iii. The potential harm to the environment, to the public health, and to public and private property, and

iv. The cost of remedying the damage.

(c) Spills

Spills or leaks of polluting substances released, discharged to, or having the potential to released or discharged to the Stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition. Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the Emergency Management Coordinator or the Fire Chief of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

(d) Industrial or Construction Activity Discharges
Any person subject to an industrial or construction activity NPDES Stormwater discharge permit shall comply with provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Imperial prior to authorization of discharges to the MS4.

(e) Right of Entry, Inspection, Sampling, and Testing

(1) Authority to Inspect – Whenever necessary to make an inspection to enforce any provision of this Ordinance, or whenever the Stormwater Administrator has cause to believe that there exists, or potentially exists, in or upon any premise any condition which constitutes a violation of this Ordinance, the Stormwater Administrator may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to Stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City of Imperial is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(2) Authority to Sample, Establish Sampling Devices, and Test – During any inspection as provided herein, the Stormwater Administrator may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

(f) Enforcement
Whenever the Stormwater Administrator finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Stormwater Administrator may order compliance by written notice of violation to the responsible person and/or the property owner. Such notice may require without limitation:

(1) The performance of monitoring, analysis, and reporting;

(2) The elimination of illicit connections or discharges;

(3) That violating discharges, practices, or operations shall cease and desist;

(4) The abatement or remediation of Stormwater pollution or contamination hazards and the restoration of any affected property;

(5) Payment of a fine to cover administrative and remediation costs; and

(6) The implementation of source control BMPs. If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the City of Imperial or a contractor designated by the Stormwater Administrator and the expense shall be charged to the violator.

(g) Violations Deemed a Public Nuisance

Illicit discharges and illicit connections which exist within the City Limits and the City's Extraterritorial Jurisdiction are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in the City of Imperial Municipal Code Chapter 14.

(h) Violations and Penalties

Any person, firm, or corporation violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not to exceed $500.00 or by imprisonment in County Jail for not to exceed six (6) months, or by both fine and imprisonment. Each separate day or any portion thereof. The fining structure is proposed as follows:

1. First offense- A warning notice
2. Second offense-$100.00 fine
3. Third offense $200.00 fine
4. Fourth offense $500.00 fine

SECTION 2: Effective Date. This ordinance shall take effect and shall be in force thirty (30) days after the date of adoption, and prior to the expiration of fifteen (15) days from the passage thereof, shall be published at least once in a newspaper of general circulation printed and published in the County of Imperial, together with the names of the member of the City Council voting for and against the same.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Imperial this 19th day of August, 2015.

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Mark T. Gran, Mayor

ATTEST:

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Debra Jackson, City Clerk