



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Arturo Vela, Interim City Manager

PREPARED BY: Art Vela, Interim City Manager

MEETING DATE: September 23, 2025

SUBJECT: Consideration of Second Reading of Ordinance 1612 of the City of Banning, California Establishing a Procedure for Property Owner Objections to Proposed Water/Sewer Fees or Special Assessments

RECOMMENDATION:

Approve second reading of Ordinance 1612.

BACKGROUND:

California recently enacted AB 2257, a bill sponsored by the ACWA and authored by Assemblymember Lori Wilson (D-Suisun City), which assists local agencies in defending against lawsuits under Proposition 218, which governs assessments, fees, and charges levied by local agencies. The bill establishes a formal objection procedure for ratepayers to raise concerns about proposed rate changes before litigation becomes an option. This process is designed to address disputes during the public participation stage, reducing the likelihood of surprise lawsuits after rates are approved. AB 2257 aligns with existing constitutional provisions and Proposition 218, which set standards for public notice, hearings, and protest procedures.

On August 26, 2025, the City Council held a hearing on the subject ordinance and draft resolution of Ordinance 1612. At the conclusion of this hearing, the Council voted to approve the item. This is the second reading of the ordinance, as required by law.

JUSTIFICATION:

To implement AB 2257, the proposed ordinance formally adopts the administrative remedy and record procedures described in Government Code Sections 53759.1 and 53759.2. Specifically, the ordinance adds Chapter 13.08, Article III to the Banning Municipal Code, which requires the City to post the proposed water/sewer fee or assessment and a written explanation of its basis on the City's website. Property owners would then have a minimum of 45 days to review the proposal and submit written objections.

Only objections submitted in writing before the close of the public hearing will be considered, and the City must respond to each timely filed objection in writing. This ensures that the City creates a full administrative record, as required by Government Code section 53759.2.

Furthermore, under the new procedure, any person or entity that fails to submit a timely written objection will be legally precluded from initiating a court challenge under Proposition 218. This "exhaustion of administrative remedies" requirement, mandated by Government Code section 53759.1, is a critical legal feature of the ordinance that aims to reduce litigation risk by encouraging early resolution of concerns.

This legislation mirrors the California Environmental Quality Act process, emphasizing transparency and early resolution of disputes. It does not bypass the public participation process mandated by Proposition 218 but enhances it by creating a parallel objection mechanism. By fostering communication between agencies and ratepayers, AB 2257 seeks to minimize litigation risks and promote collaborative problem solving in public rate-setting processes.

FISCAL IMPACT:

This action does not necessitate additional budget adjustments or impose new costs. This action helps ensure long-term financial stability by implementing sound financial management practices and minimizing risks.

ALTERNATIVES:

Do not adopt Ordinance 1612.

BUDGETED?:

No

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. [Ordinance 1612.docx](#)
2. [Ordinance 1612_affidavit.pdf](#)