

**BOARD OF DIRECTORS
SANTA CLARA VALLEY WATER DISTRICT**

ORDINANCE NO. 24-

**ESTABLISHING PROHIBITIONS WITHIN
WATER RESOURCES PROTECTION ZONES**

WHEREAS, the Santa Clara Valley Water District Act (District Act) authorizes the Santa Clara Valley Water District (Valley Water) to provide comprehensive water management for all beneficial uses and protection from flooding within Santa Clara County, in order to provide a reliable supply of healthy and clean water; reduce the potential for flood damage; protect, and when appropriate, enhance and restore natural resources of streams and watersheds; and

WHEREAS, trampling, excavation, vegetation and tree removal, and increased fire frequency associated with encampments have damaged and destroyed required habitat mitigation on lands that Valley Water holds in fee and easement. Encampments and associated uses can degrade water quality, obstruct fish passage, and damage and destroy habitats that these species depend on; and

WHEREAS, there has been an increase in the number of security incidents and fire-related occurrences encountered by Valley Water staff that were related to unsheltered people; and

WHEREAS, this ordinance is intended to protect water resources, endangered species and other ecological resources, as well as to support and improve the safety of Valley Water's field operations staff.

The Board of Directors of the Santa Clara Valley Water District does ORDAIN as follows:

SECTION 1: PURPOSE AND INTENT

- 1.1 The purpose of the Water Resources Protection Zones Ordinance (Ordinance) is to establish water resources protection zones (WRPZ) to better enable Valley Water to continue providing Silicon Valley safe, clean water for a healthy life, environment, and economy.
- 1.2 The Ordinance is intended to address the impacts of encampments near waterways and water supply facilities where Valley Water holds land rights in order to improve water quality and to protect the riparian habitat of creeks and waterways.
- 1.3 The Ordinance aims to reduce encampments and prevent re-encampment along creeks, waterways and water supply facilities. It is intended to protect water resources, endangered species and other ecological resources, as well as to support and improve safety for Valley Water staff.
- 1.4 The Ordinance prohibits the possession and use of firearms, ammunition, and fireworks on lands owned by Valley Water in fee title. The Board of Directors encourages property owners to institute and enforce the same prohibitions where Valley Water has an easement or has maintenance obligations pursuant to effective licenses and agreements.
- 1.5 It is the intent of the Board of Directors that this Ordinance be implemented with an enforcement priority of protecting employee safety, environmental mitigation sites, and water quality, as well as resolving impediments to Valley Water project construction and operations.

- 1.6 It is further the intent of the Board of Directors that individuals illegally occupying Valley Water property be safely relocated to interim or permanent housing and that social services from other local government partners be offered to individuals who may need them.
- 1.7 It is further the intent of the Board of Directors that Valley Water will develop a plan to guide staff in the implementation of this ordinance.

Valley Water adopts the Ordinance pursuant to the authorities granted to it by the Santa Clara Valley Water District Act (California Water Code Appendix, Chapter 60, Section 9(b)).

SECTION 2: DEFINITIONS

- 2.1 “Water Resources Protection Zone” is defined as all lands where Valley Water owns property in fee title, has an easement, or has maintenance obligations pursuant to effective licenses and agreements.

Valley Water’s property rights in fee and easement can be viewed using the following link: <https://gis.valleywater.org/FeeEasement/>

- 2.2 “Camping” is defined as unauthorized sleeping, erecting a shelter of any type, storing, using, maintaining, or placing personal property.
- 2.3 “Encampments” is defined as one (1) or more structures operating as a single entity, occupied by an individual or group of individuals, that is located illegally on Valley Water or other public property. An area where there are no structures, but where personal property is stored or where animals are kept and/or maintained without authorization from Valley Water, is also considered an encampment.
- 2.4 “Habitat” is defined as a place in which the physical, chemical, and/or biological factors which support the survival and/or reproduction of a particular species or biological community is present, including places in which these factors are naturally occurring, places in which these factors have been established by human action, and places in which these factors are actively and intentionally being developed for the purpose of supporting the species or biological community.

SECTION 3: PROHIBITIONS WITHIN WATER RESOURCES PROTECTION ZONES

- 3.1 Camping is prohibited within the WRPZ to protect the adjacent waterways, water supply facilities, water quality, and riparian corridors.
- 3.2 The following activities are prohibited in the WRPZ:
- (a) Unauthorized establishment of encampments and any depositing of trash, debris, and/or hazardous pollutants related to the establishment or presence of encampments.
 - (b) Any activity or nuisance that unreasonably disturbs the occupants of neighboring properties, including but not limited to the possession or use of explosives, fireworks, or other toxic or hazardous materials or substances, or use of any loudspeakers, public address systems, sound amplifiers, radio, or broadcast within the WRPZ in such manner that sounds are unreasonably loud or directed beyond the immediate area of the listener, except to the extent appropriate permits are obtained in accordance with any applicable municipal code section.

- (c) Any activities that could create a hazard or potential hazard to Valley Water employees or the public, or that could interfere with, obstruct, or prevent the safe operation of Valley Water facilities, including but not limited to buildings or habitat, or its activities associated with water quality, environmental stewardship, or flood risk reduction.
- (d) Any unlawful activities.

3.3 Possession of firearms, ammunition, or fireworks are prohibited as follows.

- (a) Possession or use of any of the following items is prohibited on lands where Valley Water owns property in fee title.
 - i. Firearm, as defined in Section 16520 of the California Penal Code.
 - ii. Ammunition, as defined subdivision (a) of Section 16150 of the California Penal Code.
 - iii. Fireworks, as defined in Section 12511 of the California Health and Safety Code.
- (b) This prohibition shall not extend to peace officers as defined in Section 830 of the California Penal Code.

SECTION 4: ENFORCEMENT/REGULATION OF WATER RESOURCES PROTECTION ZONES

4.1 For violations of the prohibitions set forth in Section 3, the following enforcement procedures apply. In steps (a) and (b) below, Valley Water will provide opportunities for a violator of the Ordinance to voluntarily relocate or otherwise remedy a violation before any enforcement actions in step (c) are pursued.

- (a) Warning, Education, and Notice
 - i. For violations of the prohibited activities in Sections 3.2(a) – (c), Valley Water will first employ an educational approach, providing a single warning. The warning and education process will include information on Ordinance requirements, resources for identifying Valley Water lands, and a request to relocate the encampment or cease other prohibited activities. the following.
 - A. A good faith attempt to have a direct discussion with unsheltered individuals to connect them to social services, distribution of written materials containing information on how unsheltered individuals can connect to social services, or both.
 - B. Information on Ordinance requirements and resources for identifying Valley Water lands.
 - C. A request to relocate the encampment or cease other prohibited activities.
 - ii. For any unauthorized encampment in violation of Section 3.2(a) – (c), that is identified for cleanup and removal, Valley Water will post a written notice of scheduled cleanup and removal concurrently with the warning and education process.

(b) Time Period for Voluntary Relocation or Remedy

If an encampment in violation of Section 3.2(a) of this Ordinance is not voluntarily relocated after Valley Water has provided warning, education, and notice pursuant to step 4.1(a), and after a period of seventy-two (72) hours has passed, Valley Water will proceed with its encampment removal protocol, which includes collaborating with other local agencies, arranging for the processing and storage of identifiable personal belongings, and encampment cleanup and removal. Any violation of Sections 3.2(b) – (c) must be remedied by the violating party upon receiving warning and education from Valley Water. A potential violation of Section 3.2(d) or Section 3.3 will be referred to law enforcement officers for immediate enforcement.

(c) Violation a Misdemeanor Enforcement

If the prohibited activities set forth in Sections 3.2(a) – (c) persist after the time period for voluntary relocation or remedy as set forth in Section 4.1(b), or immediately upon observation of a violation of Section 3.2(d) or Section 3.3, law enforcement may enforce this Ordinance against any person in violation of any of the provisions herein. ~~Prosecution will be determined by the District Attorney pursuant to the Santa Clara Valley Water District Act and other laws. Violation of this Ordinance may be~~ The District Attorney may in his or her discretion charge charged specify that the offense as is an infraction or a misdemeanor and is punishable by, recommend to the court imposition of an appropriate fine of any amount not to exceed \$500, or in lieu of a fine recommend to the court community service pursuant to California Penal Code Section 1209.5 in lieu of a fine. Any violation or threatened violation may also be enjoined by civil action.

SECTION 5: SEVERABILITY

If any section or provision of this Ordinance is held to be unconstitutional or invalid, that finding will not affect the validity of the Ordinance as a whole nor any part thereof, other than the part held to be unconstitutional or invalid.

SECTION 6: EFFECTIVE DATE

PASSED AND ADOPTED by the Board of Directors of the Santa Clara Valley Water District by the following vote on July 9, 2024 November 26, 2024, and effective thirty (30) days after adoption pursuant to Section 9 of the District Act:

- AYES: Directors
- NOES: Directors
- ABSENT: Directors
- ABSTAIN: Directors

SANTA CLARA VALLEY WATER DISTRICT

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 Chair, Board of Directors

ATTEST: MICHELE L. KING, CMC