



Proposed Water Resources Protection Zones Ordinance

Frequently Asked Questions

On July 9, 2024, Valley Water's Board of Directors will consider an ordinance which aims to reduce encampments, prevent re-encampments and prohibit related activities along creeks, waterways, water supply facilities, and other lands where Valley Water holds land rights. The proposed Water Resources Protection Zones ordinance is intended to protect water resources, endangered species, and other ecological resources, as well as to support and improve safety for Valley Water's staff.

1. Why is the Board of Directors considering this ordinance?

At its May 17, 2024, meeting, Valley Water's Environmental Creek Cleanup Committee recommended that the Board of Directors adopt a proposed Water Resources Protection Zones Ordinance which aims to reduce encampments, prevent re-encampments, and prohibit related activities along creeks, waterways, water supply facilities, and other lands where Valley Water holds land rights.

The purpose of the ordinance is to establish water resources protection zones to ensure that Valley Water continues providing Silicon Valley safe, clean water for a healthy life, environment, and economy. The ordinance would also support and improve safety conditions for Valley Water employees working in the field.

The ordinance would prohibit the following activities:

- Unauthorized establishment of encampments and any depositing of trash, debris, and/or hazardous pollutants related to the establishment or presence of encampments.
- 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 water resources protection zones in a 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.
- 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.
- Any unlawful activities.



2. What types of safety issues have Valley Water staff experienced while working along creeks, waterways and other facilities?

Over the last several years there has been an increase in the number of security incidents experienced by Valley Water staff that were associated with encampments, including armed threats of violence, verbal assaults and physical intimidation, vicious dog encounters and fire-related occurrences.

In 2023, there were 15 weapons-related incidents and 19 armed threats of violence.

Related to this, a new workplace safety law took effect on July 1, 2024 and requires prudent actions when incidents of workplace violence occur. Senate Bill 553 enhances workplace safety protocols and requires employers to develop their own workplace violence prevention plans as part of their Cal/OSHA Injury and Illness Prevention Plans. Under this new law, Valley Water's "workplace" is considered any property or facilities Valley Water owns or controls.

Many Valley Water employees work primarily along creeks, waterways, and water supply facilities. When a staff safety incident occurs in the field, there must be an investigation, assessment, and application of mitigation measures. Any mitigation efforts put in place to address field workplace hazards may take days to complete, possibly suspending or delaying mission-critical work at that immediate location. The continued presence of encampments on Valley Water lands increases the opportunity for safety incidents and the likelihood that the associated legally mandated mitigation response will delay mission-critical work.

3. What are the environmental concerns of not addressing this issue?

This is both a public safety and environmental crisis. Valley Water spends millions of dollars every year enhancing the environment in and around our waterways. Trampling, excavation, vegetation and tree removal, fires and increases in wildfires associated with encampments have damaged and destroyed required habitat mitigation along creeks and waterways. Encampments commonly degrade water quality, obstruct fish passage and damage and destroy habitats on which these species depend.

Due to issues with encampments, seven mitigation projects have been canceled while another two projects are on hold.

4. Who asked for this ordinance?

Valley Water has received numerous concerns from residents across Santa Clara County, which increased post-pandemic, regarding the ever-growing number of encampments in our waterways and creeks. In many instances, residents asked our agency to act. This ordinance is another tool in our toolbox to help prevent new encampments and re-encampments.



5. How will I know what areas are considered a Water Resources Protection Zone?

A 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 has a publicly accessible Graphical Information System tool online where you can see where all the agency's easements or properties that we own in fee title are located.

6. How will the ordinance be enforced?

Cities within Santa Clara County and the County of Santa Clara will be responsible, pursuant to their police powers, for enforcing this ordinance within their jurisdictions. Penalties for violating a District ordinance are as set forth in Section 9(b) of the Santa Clara Valley Water District Act. Because Valley Water does not possess police powers, local law enforcement agencies will have the authority and responsibility to enforce this ordinance.

7. What are the penalties for violating the Ordinance?

Per Section 9(b) of the Santa Clara Valley Water District Act, a violation of any Valley Water ordinance is a misdemeanor. However, language contained in the proposed ordinance dictates that Valley Water provide adequate warning and an opportunity for anyone in violation to voluntarily relocate or otherwise remedy the violation.

The intention of this proposed ordinance is not to result in criminalization, but instead result in encampment relocation or the termination of prohibited activities. Valley Water will first employ an educational approach, providing information on ordinance requirements, resources for identifying Valley Water lands, and a request to remedy the violation. If a person in violation chooses not to self-remedy, and escalated enforcement is warranted, the prosecutor may still exercise his or her discretion to specify that an offense is an infraction or a misdemeanor.

8. Where will unsheltered people go if they are removed from Valley Water property?

Encampments of unsheltered people along waterways are both a human and an environmental tragedy, causing deaths and negative health outcomes for unsheltered individuals. The health and safety of unsheltered individuals utilizing creeks and waterways are at risk from unhygienic and unsafe living conditions and frequent fires, as well as exposure to the elements.

Valley Water will continue to collaborate with governmental and private partners to seek ways to contribute to housing or shelter alternatives that support the relocation of unsheltered people from Valley Water lands. While Valley Water, as a water district, ultimately does not have control over housing outcomes, it is committed to using its power as an environmental stewardship agency to protect the waterways in collaboration with cities and the County as they fulfill their housing and social service roles.



9. What funding is available to Valley Water for assisting unsheltered people?

Currently, Valley Water has funding from a special tax, passed by the voters in 2020, which provides \$2.58 million per year to clean up large creekside encampments that contaminate waterways and damage Valley Water facilities. Some of this funding is dedicated to support local agencies, social services, and nonprofit advocacy groups that will help provide housing alternatives to the unhoused population.

AB 1469, enacted in 2023, amended the purposes of Valley Water as defined in state law to include assisting unsheltered people. That assistance may be funded with the existing ad valorem property tax but using those funds would require cuts to existing flood protection or other programs not funded by water rates.

Other Valley Water expenditures to respond to the unsheltered crisis need a direct nexus to water supply or flood protection, which in practice is limited to significant operational impacts or impacts on the construction of water supply or flood protection projects.

In many cases, Valley Water is limited in attempting to secure state funding to address homelessness, largely because the responsibilities for human services are assigned to cities and counties.