

Ordinance No. WP-2

AN ORDINANCE TO ADOPT THE VENTURA COUNTY WATERSHED PROTECTION DISTRICT ORDINANCE

ENACTED AS WATERSHED PROTECTION ORDINANCE NO. WP- 2
September 10, 2013

The Board of Supervisors of the Ventura County Watershed Protection District ordains as follows:

Ventura County Watershed Protection District Ordinance No. WP-1 is hereby repealed.

The Ventura County Watershed Protection District Ordinance is hereby adopted as follows:

Article 1. General Provisions.

Section 101. **Title of Ordinance.** This Ordinance shall be known as the "Ventura County Watershed Protection District Ordinance."

Section 102. **Definitions.** Unless the particular provision or the context otherwise requires, whenever the following words are used in this Ordinance, they shall have the meaning ascribed to them in this section:

Section 102-1. **Board** means the Board of Supervisors of the Ventura County Watershed Protection District.

Section 102-2. **Comprehensive Plan** means the revised Comprehensive Plan for Flood Control - Ventura County Watershed Protection District adopted by the Board in 1960, and on file in the office of the Clerk of the Board, as-modified or amended by Board action on October 11, 1994, which Comprehensive Plan as modified or amended delineates the number and longitudinal limits of watercourses within the incorporated and unincorporated areas of the District over which the District exercises jurisdiction for flood control zone work.

Comprehensive Plan also means Map A and Table II of the above-referenced report, as modified or amended by Board action during a public hearing after reasonable notice thereof.

Section 102-3. **County** means the County of Ventura.

Section 102-4. **Director** means the Director of the Public Works Agency or the duly appointed representative who is delegated authority for the purpose of the administration of this Ordinance.

Section 102-5. **District** means the Ventura County Watershed Protection District.

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Section 102-6. **District Act** means the Ventura County Watershed Protection District Act, Water Code Appendix, Chapter 46.

Section 102-7. **Ordinance** means The Ventura County Watershed Protection District Ordinance.

Section 102-8. **Owner** means the person shown on the most recently issued equalized assessment roll for the property or as otherwise appears in the current records of the County.

Section 102-9. **Permit** means a permit executed by the Director or designee to allow a specified use of District-owned property or to allow one or more of the acts described in Section 202 of this Ordinance.

Section 102-10 **Person** means any individual, firm, association, corporation, partnership, government entity or subdivision, trust, estate, cooperative association, joint venture, business entity, or other similar entity, or the agent, employee or representative of any of them.

Section 102-11. **Public Works Agency** means the Public Works Agency of the County of Ventura, State of California.

Section 102-12. **Reasonable notice** means that notice of any public hearing required to be held pursuant to the provisions of this Ordinance shall be published at least once in a newspaper of general circulation in the county at least ten (10) calendar days before the hearing. The Board may give additional notice of the required hearing by any other means it deems appropriate.

Section 102-13 **Storm water** means any surface flow, runoff, and/or drainage associated with rain storm events and/or snow melt.

Section 102-14. **Watercourse** means any natural or artificial watercourse, including any stream, river, creek, ditch, channel, canal, conduit, drain, waterway, gully, ravine or arroyo or wash within the incorporated or unincorporated areas of the District in which waters flow in a definite direction or course either continuously or intermittently, and which has a definite channel, bed and banks:

- (a) To the extent described in or shown on the Comprehensive Plan or,
- (b) To the extent owned, controlled, improved, operated or maintained by the District; or,
- (c) To the extent shown on the Master Plan of Drainage for the area within the boundaries of any special zone, established pursuant to the provisions of Sections 6.1 et seq. of the District Act.

For purposes of application and enforcement of the prohibitory provisions of this Ordinance, "watercourse" shall also include any area adjacent thereto designated by the Board as subject to a reasonable probability of substantial inundation or erosion by reason of overflow of flood or storm water, based on criteria established by the District, and which has been delineated on maps or plats

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approved and adopted by the Board pursuant to the procedure set forth in Section 104 of this Ordinance. The Board shall not amend this Ordinance to broaden or enlarge the definition of "watercourse" without first holding a public hearing after reasonable notice.

Section 102-15. **Zone** means a zone or special zone established by the Board pursuant to the provisions of the District Act.

Section 103. **Time and Place for Meetings.**

The regular meetings of the Board shall be held at the County Hall of Administration in the rooms of the Board of Supervisors, or in such other place at the County seat as the Board may designate by resolution. Regular meetings shall be held each Tuesday of every week commencing at 8:30 a.m. unless canceled by the Board, and may be continued from time to time as the Board determines.

Section 104. **Procedures for Establishing Overflow Areas.** The establishment of and any changes in the configuration of any area adjacent to the bed and banks of a Watercourse shall comply with the procedure set forth in this section. Any such area shall be established or changed only upon first holding a public hearing, and thereafter upon the express designation by the Board that such area is subject to a reasonable probability of substantial inundation or erosion by reason of overflow of flood or storm water from a Watercourse, based on criteria established by the District, accompanied by an express declaration that such area is to be within the coverage of this Ordinance. The designation and declaration shall be effected by ordinance approving and adopting by reference to this Ordinance, overflow maps or plats designating and delineating the area to be established or changed. All maps or plats so approved and adopted by reference to this Ordinance shall be a part of this ordinance and shall be kept on file in the office of the Clerk of the Board and identified as "Document Exhibit A" to this Ordinance.

Article 2. Protection and Regulation of Watercourses.

Section 201. **Purpose:** The purpose of this Article is to protect life and property from flood and storm waters within or overflowing the banks of a Watercourse.

Section 202. **Acts prohibited unless District permit obtained.** No person shall do or commit or cause to be done or committed any of the following described acts without first obtaining a written permit from the District:

- (a) Impair, divert, impede or alter the characteristics of the flow of water running in a watercourse;
- (b) Deposit any material of any kind in a watercourse so as to obstruct it, or to impair, divert, impede or alter the characteristics of the flow of water therein;
- (c) Alter the surface of land by construction, excavation, embankment or otherwise, so as to alter the capacity of a watercourse or the characteristics of the flow of water therein;

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- (d) Construct, alter, or remove any flood control, storm water drainage or water conservation facility, structure or channel of or in a watercourse;
- (e) Construct or place any structure in, upon or across a watercourse;
- (f) Plant any vegetation (other than grasses or annual crops) within a watercourse or plant any vegetation on the banks thereof which impairs, impedes, diverts or alters the characteristics of the flow of water in such watercourse;
- (g) Commit any act on or in any easement dedicated, granted or reserved for flood control, storm water drainage or water conservation purposes that will impair the use of such easement for such purposes; or
- (h) Interfere with, impair the use of, or cause damage to any flood control, storm water drainage or water conservation facility, structure or right of way in a watercourse.

Section 203. **Exceptions to acts prohibited.** Section 202 of this Ordinance does not apply:

- (a) To acts in the course of duty by any peace officer or police officer;
- (b) To work performed by organizational components of the Federal government, the State of California, the County, the District, or their contractors;
- (c) To acts done or work performed by any person pursuant to the terms, covenants or conditions of a written agreement with the District;
- (d) To acts either expressly prohibited or expressly permitted by state law;
- (e) To acts of the owner of the watercourse in the routine maintenance thereof, provided such acts do not impair, impede, divert or alter the characteristics of the flow of water in such watercourse, or interfere with, impair the use of or cause damage to any flood control, storm water drainage or water conservation facility, structure or right of way in a watercourse;
- (f) To acts done or work performed prior to the effective date of the first Ordinance Relating to the Protection and Regulation of Flood Control Facilities and Watercourses, FC 18, June 1, 1972.

Section 204. **Emergency work.** Section 202 of this Ordinance does not prohibit any person from performing emergency maintenance or work within, upon, over, under or through any watercourse when the work is necessary and proper for preservation of life or property and when an urgent necessity thereof has arisen, provided that the person performing the emergency work applies for a written permit for the work within fifteen (15) calendar days after the commencement thereof, and complies with all the terms and conditions of the permit so issued. In any action at law, or in equity between the District and the person doing the emergency work, the latter shall have the burden of proving that an emergency existed.

Section 205. **Issuance of permits liability.** Permits required by this Article shall be issued by the Director subject to such conditions as may be imposed by this Article or as may be required by law. Neither the issuance of the permit, nor compliance with the conditions thereof or with the provisions of this Article, shall relieve any person from any responsibility otherwise imposed by law for damage to person or property, nor impose any liability on the District or its officers and employees for damage to persons or property.

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Section 206. **Application for permit.** A separate written application for a permit shall be made to the Director for each act listed in Section 202 of this Ordinance. Plans and specifications shall be submitted with each application unless waived by the Director. Such plans and specifications shall be prepared, approved, and signed, by a civil engineer unless waived by the Director. The application for the permit shall state:

(a) The name and address and signature of the applicant and if the applicant is other than a natural person, the application shall also include the names and addresses of the principal officers or managing members thereof;

(b) The place where such work is to be done;

(c) A description of work to be done, together with the materials to be used;

(d) The total estimated value of the proposed work;

(e) That if the permit is issued, the applicant agrees that all work specified in the application will be commenced within sixty (60) days after the permit is issued or by the date for commencement set forth in the permit, whichever is earlier, and that all work will be pursued to its completion with reasonable diligence, and

(f) Such other information or data as may be required by the Director to carry out the purposes of this Article, including, but not limited to a soil investigation report and the name and address of applicant's contractor.

Section 207. **Fees.** Before a permit is issued or renewed, an applicant shall pay the fees established by this section. A schedule of fees shall be adopted by resolution of the Board. Such fees will reimburse the District for costs incurred in the processing, plan checking, investigation, inspection, and renewal of watercourse permits. A facility fee for use of District property shall also be established.

Section 208. **Issuance of permit.** After the applicant has paid the required fees and complied with all conditions precedent, the Director shall issue the permit unless it appears to him that the work proposed would create a substantial risk of hazard of inundation to persons or property, or of erosion of property, or of interference with, impairment of the use of, or damage to any flood control, storm water drainage or water conservation facility, structure or right of way in a watercourse; provided, however that the Director shall issue the permit subject to conditions which shall be specifically set forth in the permit, if the Director determines that by doing so there would be created no such substantial risk. The Director shall notify the applicant in writing of the basis for any denial of a permit.

Section 209. **Forms and documents.** The Director shall prescribe and provide a standard application and permit form and any other forms necessary to carry out the purposes of this Article. The Director shall also maintain, on file in his office, true copies of the Comprehensive Plan and of all maps or plats on file in the office of the Clerk of the Board as relating to this Article and shall make them available for public inspection during business hours.

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Section 210. **Commencement of work.** The permittee shall begin the work authorized by the permit within sixty (60) days from the date of issuance, unless a different date for commencement of work is set forth in the permit. The permittee shall notify the Director at least twenty-four (24) hours prior to commencement of work. Should the work not be commenced as specified herein, then the permit shall become void, provided, however, that no later than thirty (30) days after the date established for commencement of work, the permittee makes written request for an extension of time, setting forth the reasons for the required extension, the Director may grant additional time if, in his opinion, an extension is warranted. A permit, which has become void by reasons of non-commencement of work and the fact that no extension for commencement has been issued, may be renewed one time within thirty (30) days after such permit becomes void at the discretion of the Director upon payment of a renewal fee. If the Director does not consent to such renewal, a permit may be granted only upon following the procedures established for an original application. In the event a permit becomes void by reason of non-commencement of work and the fact that no extension for commencement has been issued, and the permit is not renewed within the time allowed for renewal, the Director shall, within sixty (60) days after the permit becomes void, return to the former permittee the inspection fee and any surety bond, cash bond or instrument of credit the former permittee may have paid to or filed with the Director pursuant to the terms of this Article.

Section 211. **Civil engineer field supervision.** All work performed under the provisions of this Article shall be performed under the general supervision and coordination of a civil engineer unless waived by the Director.

Section 212. **Completion of work.** The permittee shall complete the work authorized by the permit within one hundred and eighty (180) days after issuance of permit unless some other time is specified in the permit; provided, that the permittee may make written request to the Director for an extension of time to complete the work at any time prior to the date specified for completion, which request the Director shall grant if in his opinion the extension is warranted and would not create a substantial risk of hazard of inundation to persons or property, or of erosion of property, or of interference with, impairment of the use of, or damage to any flood control, storm water drainage or water conservation facility, structure or right of way in a watercourse. The permittee shall notify the Director in writing of completion of the work authorized, and no work shall have been deemed to have been completed until approved in writing by the Director. The Director may cause inspections of work to be made periodically during the course thereof and may make a final inspection following completion of the work; the permittee shall cooperate with the Director in making such inspections.

Section 213. **Changes.** No changes may be made in the location, dimensions, materials or character of the work authorized in a permit except upon written authorization of the Director.

Section 214. **Transfer of permits.** A permit issued pursuant to this Article is transferable from person to person, but not from property to property.

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Section 215. **Bonds.** The Director may require bonds in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications and in accordance with the terms and conditions of the permit, will be corrected to eliminate hazardous conditions. In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the Director in an amount equal to that which would be required in the surety bond.

Section 216. **Suspension or revocation of permit.** In addition to any other procedures or penalties established by law, the Director may, by written notice to the permittee, suspend or revoke a permit issued under the provisions of this Article whenever the permit is issued in error or on the basis of incorrect information supplied, or whenever any term or condition of the permit is violated. The suspension or revocation is effective at the time of personal service of the notice upon the permittee or at the time of the mailing of the notice to the address at which, in the opinion of the Director, such notice is most likely to be received, whichever is earlier in time. If service is by mail, postage shall be prepaid and return receipt shall be requested. Any person aggrieved by the suspension or revocation of a permit by the Director may, within thirty (30) days of the date of such suspension or revocation, appeal such suspension or revocation to the Board pursuant to the procedure and requirements of Section 217 of this Ordinance. The Board shall uphold such suspension or revocation unless it makes the necessary findings required by Section 218 of this Ordinance for issuance of a permit. If the Board makes the necessary findings required by Section 218 it shall order the withdrawal of the suspension or revocation and the reinstatement of the permit. A permit which has been suspended may be renewed at the discretion of the Director upon payment of renewal fee.

Section 217. **Appeal - right and procedure.** Any person aggrieved by the refusal of the Director to issue a permit pursuant to this Article, or by the imposition of a condition on such permit, may appeal to the Board within thirty (30) days after the date of such refusal or imposition of condition by filing with the Clerk of the Board a request that the Board review the decision of the Director. The appeal shall be in the form of a written notice and shall be signed by the person aggrieved. The notice shall have attached a copy of the application for permit as made to the Director and shall state clearly and concisely the reasons upon which the person aggrieved relies on his appeal. The Clerk of the Board shall set the matter for hearing within fifteen (15) days after the notice is filed and shall notify the person aggrieved and the Director of the date set for the matter. At the hearing, the person aggrieved shall have the burden of establishing to the satisfaction of the Board that he/she is entitled to a permit under the provisions of this Article, otherwise the refusal of the Director shall stand. The Director may present his grounds for refusal to issue the permit. The decision of the Board is final.

Section 218. **Appeal - necessary findings.** The Director shall issue the permit or modify the conditions as sought for by the appeal, only if the Board finds all of the following to be true:

(a) That the applicant would suffer substantial injury or detriment by the refusal to issue the permit or modify or delete the conditions;

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(b) That no other method of obtaining the desired results is more reasonable or less likely to be hazardous than that proposed by the applicant; and

(c) That the issuance of the permit or modification or deletion of conditions would not create a substantial risk of hazard of inundation to persons or property, or of erosion of property or interference with, impairment of the use of or damage to any flood control, storm water drainage or water conservation facility, structure or right of way in a watercourse.

The permit shall also be granted, or the condition complained of deleted or modified, if the requirements of subsections (a), (b) and (c) can be satisfied by the imposition of reasonable conditions.

Section 219. **Abatement of nuisance.** A violation of Section 202 of this Ordinance is hereby declared to be a public nuisance and may be abated. In the event of abatement, the cost of such abatement shall be assessed to the violator. If the violator maintains a nuisance upon real property in which he/she has an interest, the assessment shall be a charge upon such property to the extent of the violator's interest therein. The assessment shall be collected at the same time and in the same manner as ordinary District taxes are collected, and shall be subject to the same penalties and the same procedure for sale in case of delinquency as provided for ordinary taxes. All laws applicable to the levy, collection and enforcement of County taxes shall be applicable to such assessment. The procedure established for repair, vacation or demolition of dangerous buildings by the Uniform Code for the Abatement of Dangerous Buildings to the extent it can reasonably be applied to violations of Section 202 of this Ordinance, is hereby incorporated herein as though fully set forth at this point and, pursuant to Section 7.9 of the District Act, is hereby adopted as the procedure for abatement, inspection, and for assessing the cost of abatement of such nuisances to the violator or against the land involved, provided that the purposes of said Code the Director is the "Building Official" and the "Director of Public Works," and the Board is the "Board of Appeals."

Section 220. **Emergency abatement.** If it appears to the Director that an emergency exists because of a violation of Section 202 of this Ordinance, then without following the procedure established by Section 219 of this Ordinance, the Director may order all work done necessary to remove, abate or mitigate the condition creating such emergency. The Director may do the work with his own employees or may contract to have the work done. In either event, the Director shall keep a record of the cost of the work and charge the cost of the work to the violator, who shall repay the District for the cost thereof.

Section 221. **Violators - penalties.** Any person who:

- (a) Violates any provision of this Article; or
- (b) Refuses without lawful excuse to attend any hearing, or to produce material evidence in his possession or under his control as required by any subpoena served upon such person as provided for in the Uniform Code for the Abatement of Dangerous Buildings; or

(c) Fails, neglects, or refuses to obey any order of the Director or the Board made pursuant to the provisions of the Uniform Code for the Abatement of Dangerous Buildings, after the order shall have become final,

Shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars (\$500), or by imprisonment in the County jail for not more than six (6) months, or by both such fine and imprisonment.

Article 3. Procedures for Letting Public Projects by Informal Bidding.

Section 301. **Authority and Scope.** By resolution, the Board has elected to become subject to the uniform construction cost accounting procedures established pursuant to the Uniform Public Construction Cost Accounting Act (Pub. Contract Code, section 22000 et seq.) and has notified the State Controller of such election. In compliance with section 22034 of the Act, the following is adopted as the procedure for letting work by informal bidding only for public projects within the limits set forth in section 22032, subdivision (b), of the Act, as adjusted from time to time pursuant to section 22020 of the Act. All other work not exempted from public bidding requirements shall be advertised and awarded in accordance with applicable provisions of state law and Board policies.

Section 302. **Delegation of Duties:**

(a) The Director shall:

(1) As awarding officer, solicit bids and award contracts for public projects funded by budget units managed by the Public Works Agency and for public projects of other County agencies who have engaged the Public Works Agency to manage the design and construction of such projects; and

(2) Maintain a list of contractors as hereinafter provided.

(b) The Purchasing Agent, as awarding officer, shall solicit bids and award contracts for public projects not covered by subsection (a) above.

Section 303: **Contractors List.** A list of contractors, identified according to categories of work, shall be maintained by the Public Works Agency. Any licensed contractor requesting to have its name placed on the list shall be included. The list may be revised from time to time to remove inactive names. A name may be considered inactive if:

(a) A letter addressed to the contractor is returned without a forwarding address, or

(b) The contractor has not taken out plans for, or bid on, a County project in the last two (2) year period, or

(c) A notice of disbarment of the contractor for labor law violations is received by the Public Works Agency, or

(d) The Public Works Agency determines that the contractor is no longer licensed, or

(e) The contractor withdraws its name.

Section 304. **Notice Inviting Informal Bids.** The notice inviting informal bids shall describe the project in general terms, indicate how to obtain more detailed information about the project, and state the time and place for submitting bids.

Section 305. **Procedure.**

(a) At least ten (10) days before the date set for opening informal bids, the designated awarding officer shall notify contractors using one or both of the following methods.

(1) Mail notices to each contractor on the list for the category of work to be performed.

(2) Mail notices to each of the construction trade journals designated by the California Uniform Construction Cost Accounting Commission for Ventura County.

(b) The contract shall be awarded to the lowest responsible bidder if the designated awarding officer considers the bid to be reasonable, sufficient funds have been appropriated for the project, and the bid is within the limits set forth in section 22032, subdivision (b), of the Act, as adjusted from time to time pursuant to section 22020 of the Act.

(c) After the contract is awarded, the awarding officer shall furnish a copy of the contract to the Auditor-Controller and the Auditor-Controller shall encumber the contract amount.

(d) Payments to the contractor shall be made as described in the contract; however, funds shall be retained as prescribed in Public Contract Code section 20103.

(e) Bid, Performance and Payment Bonds conforming to the requirements of State law and the Bond Book adopted by the Board shall be provided.

(f) Changes may be made in the contract with the following limitations:

(1) Appropriated funds are available to cover the cost of the change.

(2) Neither the net sum of any individual change nor the net sum of all changes in the aggregate increases the contract amount by more than the amount specified in section 22032, subdivision (a), of the Act.

(3) The final total contract amount does not exceed the amount specified in section 22032, subdivision (b), of the Act, as adjusted from time to time pursuant to section 22020 of the Act, by more than ten (10) percent.

(4) The awarding officer considers the change to be reasonable in light of the cost increase or saving.

(g) Subcontractor listing shall be required and changes administered as prescribed in the Subletting and Subcontracting Fair Practices Act (Pub. Contract Code, § 4100 et seq.).

(h) On completion of a project, the awarding officer shall record a Notice of Completion.

Section 306. **Alternative Procedures.** Nothing in this ordinance shall prohibit this Board or the Ventura County Road Commissioner from utilizing, as an alternative to the procedures set forth in said Act and this ordinance, the procedures set forth in Article 25 (commencing with Section 20390) of chapter 1 of Part 3 of Division 2 of the Public Contract Code.

Article 4. Official Seal. On December 10, 2002, the Board approved the adoption of an official seal as described in this Article.

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Section 401. **Description.** The official seal of the District shall be oval in form and shape with the inscription “Ventura County Watershed Protection District” around the outer rim. Within the oval formed by the foregoing words there shall be a depiction of a typical watershed within the County consisting of a channel of water flowing through a canyon towards the coast, where the channel runs through the middle of the seal and spills out to the outer rim on the bottom right hand side. On either side of the channel are depictions of typical land uses and natural resources. The seal shall correspond substantially with the following representation thereof:



Article 5. Miscellaneous.

Section 501. **Severability.** If any section, subsection, sentence, clause, phrase or other portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portion or portions of this Ordinance. The Board hereby declares that it would have adopted this section and each section, subsection, sentence, clause, phrase or any portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or other portions be declared invalid or unconstitutional.

Section 502. **Effect of headings.** Ordinance headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of any of the provisions of this Ordinance.

Section 503. **Effective date.** This Ordinance shall become effective thirty (30) days from the date of its adoption.

PASSED AND ADOPTED this 10th day of September 2013, by the following vote:

AYES: Supervisors Bennett, Parks, Long, Foy and Zaragora

NOES: None

ABSENT: None

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CHAIR, BOARD OF SUPERVISORS



ATTEST:

MICHAEL POWERS
Clerk of the Board of Supervisors
County of Ventura, State of California

By: 
Deputy Clerk of the Board