

**CHAPTER 6.36 OF THE GENERAL ORDINANCE CODE OF THE COUNTY OF ALAMEDA
RELATING TO FLOOD CONTROL AND WATER CONSERVATION DISTRICT
REGULATIONS**

The Board of Supervisors of the Alameda County Flood Control and Water Conservation District do ordain as follows:

**CHAPTER 6.36 - FLOOD CONTROL AND WATER CONSERVATION DISTRICT USE
REGULATIONS**

Sections:

6.36.010 - Declaration of findings.

The board of supervisors of the county do hereby find and declare as follows:

- A. That the Alameda County flood control and water conservation district right-of-way, which consists of facilities and property devoted to flood control, storm water drainage, water conservation and related uses and purposes, has attained considerable value in the county; and
- B. That the act, by any person, of accessing or trespassing into; of dumping, discharging or depositing of rubbish or other materials onto or into; of obstructing, modifying, diverting, destroying, cutting, blocking, removing or using; of tunneling, boring, drilling or excavating onto or under; of interfering with; of spanning, constructing, or installing structures or facilities over, under or adjacent to, of landscaping on, of connecting to, or of performing any other activity which causes damage to the right-of-way, without first having obtained the approval of the district, could adversely affect the planned programs of flood control, storm drainage, water conservation and related purposes that the district has pursued since its inception in order to assure an integrated development of these systems for the benefit of the residents of the county; and
- C. That investigation and study of the condition of the right-of-way have disclosed evidence of various improper uses and destructive acts which have impeded and hindered the district programs, thereby increasing the costs of operation and maintenance of the right-of-way and causing a corresponding burden on the taxpayers and citizens of the county.

[Ord. 2000-35 § 1 (part)]

6.36.020 - Declaration of policy.

It is hereby declared to be in the interest of public health, safety, and welfare that the right-of-way of the Alameda County flood control and water conservation district be protected from unauthorized access. Dumping, discharging, depositing, obstruction, modification, diversion, destruction, cutting, blocking, removal, use, tunneling, boring, drilling, excavating, interference, spanning, construction, installation, landscaping, connecting or other activities that could cause damage to the right-of-way, so that the district programs of flood control, storm drainage, water conservation and other related purposes may be carried out in a manner that will result in the greatest public benefit at the least public cost.

[Ord. 2000-35 § 1 (part)]

6.36.030 - Definitions.

Unless the particular provision or the context otherwise requires, the following definitions shall govern the interpretation and application of this chapter:

"District" means the Alameda County flood control and water conservation district.

"Facility" means any access feature, access roadway, bank, conduit, dam, fence, inlet, measurement gauge, outfall, structure, waterway, well or any other appurtenance that is located or proposed to be located within property which is under the jurisdiction of the district or which is or will be otherwise considered part of the district right-of-way. "District facility" means any such facility that is or that will be considered part of the district-maintained flood control system. "Utility facility" means any such facility that is or that will be owned, leased, operated, maintained, repaired or licensed by a utility. "Owner facility" means any such facility that is or that will be owned, leased, operated, maintained, repaired or licensed by an owner.

1. "Access feature" means any manhole, cover, steps, pull box, splice box, steps, ladder, gate, railing, landing, handhold, walkway or other such structure providing access for personnel.
2. "Access roadway" means any roadway, driveway, approach, trail, turnaround, pull-off or other such area providing vehicular access.
3. "Bank" means any embankment, dike, levee, wall, liner, fill, stabilization, or other natural or artificial bordering device, boundary feature, or containment adjoining any natural or artificial waterway.
4. "Conduit" means any open or closed pipe, flume, box, culvert or other structure, located above, on or below the surface of the ground, providing a passage for the conveyance of water, stormwater, sewage, gas, electric wiring, telecommunications lines, cable or other devices or materials.
5. "Dam" means any natural or artificial structure, wall, weir, dike, levee, coffer or other such barrier, temporary or permanent, providing for the holding, delay or storage of waters.
6. "Fence" means any fence, wall or other such structure providing a security barrier; and all parts and elements thereof, including gates, posts, guys, wires, fabric, coatings, turnbuckles, locks, rings, guides, latches, hasps, caps, supports and other such hardware.
7. "Inlet" means any opening, place of ingress, entrance, or other orifice, providing for the collection and transfer of waters into a waterway; and all elements thereof, including frames, grates, angles, screens, bodies, connections and other such parts and hardware.
8. "Measurement gauge" means any device providing for the measurement, monitoring, recordation or transmission of data and all associated wiring, supports, boxes, brackets, mounts, casings, covers, transceivers, sensors and other such parts.
9. "Outfall" means any outlet, spillway, pipe end, place of egress, waterfall or exit providing for the transfer of waters from a collection facility into a waterway; and all elements thereof, including rock, fabric, concrete, steps, marker posts, valves, tide gates, screens and all other such parts and hardware.
10. "Waterway" means any natural or artificial channel, stream, creek, river, rivulet, brook, canal, ditch, swale, marsh, conduit, gully, arroyo, wash, diversion, bypass, basin, pond, reservoir, drainage system or other feature allowing the continuous or intermittent flow of waters in a definite direction and course; or providing for the holding, delay, storage or conservation of waters.

"Owner" means any person, other than a utility, who owns, leases, operates, maintains, repairs or licenses a facility.

"Property" means any waterway, bank, access road or other land area under the jurisdiction of the district.

"Right-of-way" means property or facilities which by deed, conveyance, agreement, easement, dedication, gift, usage or process of law are reserved for and dedicated to the uses and purposes of the district.

"Rubbish" means debris, garbage or refuse of any kind, combustible or noncombustible, organic or nonorganic, liquid or solid, water soluble or nonsoluble.

"Structure" means any constructions of any kind, temporary or permanent, including waterways, buildings, fences, signs, posts, markers, paving, poles, outfalls, dams, spillways, pumps, conduits, inlets, access features, wells, access roads, measurement gauges, bridges, walls, flap gates, trash racks, siphons, rip rap, slope protection, guy wires, anchors or other works made of concrete, steel, glass, plastic, rock, earth, or other materials.

"Utility" means any person who owns, leases, operates, maintains, repairs or licenses a facility for the purpose of providing gas, water, electricity, sewer, telecommunications, cable television, or other customer services of this type, regardless of whether such person is deemed a public utility by the California Public Utilities Commission.

[Ord. 2000-35 § 1 (part)]

6.36.040 - Prohibitions.

It shall be unlawful for any person to access or trespass into, to dump, discharge or deposit rubbish or other materials onto or into, to obstruct, modify, divert, destroy, cut, block, remove or use, to tunnel, bore, drill, or excavate onto, to interfere with, to construct on or over, or to landscape on the right-of-way of the district without first having obtained a permit therefor pursuant to the provisions of district Ordinance 34A.

[Ord. 2000-35 § 1 (part)]

6.36.050 - Violation—Penalty.

- A. Any person, violating or causing, or permitting to be violated any of the provisions of this chapter shall be deemed guilty of an infraction unless such violation is described as a misdemeanor by specific provisions of this chapter.
- B. Any person, convicted of a misdemeanor under the provisions of this chapter shall be subject to a fine, or imprisonment or both not to exceed the limits set forth in California Penal Code Section 19.
- C. Any person, convicted of an infraction under the provisions of this chapter shall be punishable upon a first conviction of a fine not more than one hundred dollars (\$100.00), and for a second conviction within a period of one year by a fine of not more than two hundred dollars (\$200.00), and for a third or any subsequent conviction within a one-year period by a fine of not more than five hundred dollars (\$500.00). Any violations beyond the third conviction within a one-year period may be charged by the District Attorney as a misdemeanor and the penalty for conviction of the same shall be subject to a fine or imprisonment or both not to exceed the limits set forth in California Penal Code Section 19.

- D. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by such person and shall be punishable accordingly.
- E. In addition to the penalties here and above provided, any condition caused or allowed to exist by any person in violation of any of the provisions of this chapter may be summarily remediated by the district and the actual costs thereof billed to the person.

[Ord. 2000-35 § 1 (part)]

6.36.060 - Enforcement.

- A. The director of public works shall enforce the provisions of this chapter.
- B. The director of public works shall have the power to designate, by written order, that certain officers or employees of the public works agency be authorized to enforce the provisions of this chapter and to designate that the said officers or employees be empowered to arrest persons who violate the provisions.

[Ord. 2000-35 § 1 (part)]