

**VENTURA COUNTY FLOOD CONTROL DISTRICT
ORDINANCE NO. FC 18**

**AN ORDINANCE RELATING TO THE PROTECTION AND REGULATION OF
FLOOD CONTROL FACILITIES AND WATERCOURSES**

ENACTED AS FLOOD CONTROL ORDINANCE NO. FC 18

MAY 02, 1972

ORDINANCE NO. FC 20 AMENDED SECTION 5 NOVEMBER 28, 1972

**ORDINANCE NO. FC 21 AMENDED SECTION 9-1 MARCH 2, 1976
REPEALED SECTIONS 9-2, 9-3 & 9-4,
ENACTED SECTIONS 9-2, THRU 9-6,
9-12 & 9-16**

**ORDINANCE NO. FC 22 REPEALED SECTION 9-1 THRU 9-6 JULY 25, 1978
ENACTED SECTIONS 9-1 THRU 9-7**

ORDINANCE NO. FC 23 AMENDED SECTION 9-2 AUG 15, 1978

**ORDINANCE NO. FC 27 REPEALED SECTIONS 9-1 THRU 9-7
ENACTED SECTION 9-1**

ORDINANCE NO. FC 18

AN ORDINANCE RELATING TO THE PROTECTION AND REGULATION OF
FLOOD CONTROL FACILITIES AND WATERCOURSES

The Board of Supervisors of The Ventura County Flood Control District do ordain as follows:

Section 1. Purpose. The purpose of this ordinance is to protect life and property from flood and storm waters within or overflowing the banks of those certain watercourses within the District which comes within the purview of Section 2-6.

Section 2. 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 2-1: **Board** means the Board of Supervisors of the Ventura County Flood Control District.

Section 2-2: **District** means the Ventura County Flood Control District.

Section 2-3: **Enforcing Officer** means the Engineer-Manager of the Ventura County Flood Control District or his duly appointed representative who is delegated authority for the purpose of the administration of this ordinance.

Section 2-4: **Person** means any person, firm, corporation, district, municipality and county.

Section 2-5: **Comprehensive Plan** means Map A and Table 2 of the report entitled "A Comprehensive Plan for Flood Control - Ventura County Flood Control District", dated November , 1959, adopted by the Board on April 19, 1960, and on file in the office of the Clerk on the Board of Supervisors, as heretofore modified or amended by Board actions, which Comprehensive Plan as modified or amended delineates the number and longitudinal limits of water-courses within the incorporated and unincorporated areas of the District over which the District exercises jurisdiction for flood control zone work.

Comprehensive Plan also means said Map A and Table 2 of the above-referenced report, as hereafter modified or amended by Board action during a public hearing after reasonable notice thereof.

Section 2-6. Watercourse. for purposes of the application and enforcement of the prohibitory provisions of this Ordinance 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 channel, bed, and banks:

- (a) To the extent described in or shown on District's Comprehensive Plan as included within the District's jurisdiction for flood control zone work; 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, or of any annexation to any Special Zone, established pursuant to the provisions of Sections 6.1 et seq. of the Ventura County Flood Control Act.

For purposes of application and enforcement of the prohibitory provisions of this Ordinance, "watercourses" shall also include any area adjacent to any watercourse as defined above which is an area 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 those certain maps or plats hereafter approved and adopted by the Board pursuant to the procedure set forth in Section 3 of this Ordinance. The Board shall not amend this Section to broaden or enlarge the above referenced definitions of "watercourse" without persons may present matters for Board consideration.

(AM-FC ORD.23 Aug 15, 1978)

Section 2-7: 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 District 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 3: Procedures for establishing overflow areas. In order to come within the coverage of this ordinance, the establishment of and any changes in the configuration of any area adjacent to the bed and banks of natural or artificial watercourses subject to the provisions of this ordinance 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 in regard to the establishment or change thereof after reasonable notice, at which time interested persons may present matters for consideration by the Board, 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 or flood or storm water from a natural or artificial watercourse accompanied by an express declaration that such area is to be within the coverage of this ordinance. Said Board 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 Clerk of the Board and identified as Documents Exhibit A to this ordinance.

Section 4. Acts prohibited unless 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 District permit from the enforcing officer:

- (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 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:
- (d) Construct, alter, or remove any flood control, storm water drainage, or water conversation 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 flow of water in such a watercourse;
- (g) Commit any act on or in any easement dedicated, granted, or reserved for flood control, storm water drainage, or water conversation purposes that will impair the use of such easement for such purposes; or
- (h) Interfere with, impair with the use of, or cause damage to any flood control, storm water drainage, or water conversation facility, structure or right of way in a watercourse.

Section 5. Exemptions to acts prohibited. Section 4 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 of Ventura, the District, or their contractors, or to work performed within a right of way of the State of California or County of Ventura pursuant to a permit issued by the State of California or the County of Ventura;
- (c) To acts done or work performed by any person pursuant to the terms, covenants or conditions of a written agreement with the District;
(AM-FC ORD.# 20 NOV 28, 1972)
- (d) To acts either expressly prohibited or expressly permitted by the 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 conversation facility, structure or right of way in a watercourse.

Section 6. Emergency work. Section 4 does not prohibit any person from performing emergency maintenance or work within, upon, over, under, or through any watercourse when such work is necessary and proper for preservation of life or property and when an urgent necessity

thereof has arisen, provided that the person performing such emergency work applies for a written permit for such work within (15) fifteen 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 if such question be issued.

Section 7. Issuance of permits - liability. Permits requires by this ordinance shall be issued by the enforcing officer subject to such conditions of laws as may be imposed by this ordinance 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 ordinance, 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.

Section 8. Application for permit. A separate written application for a permit shall be made to the enforcing officer for each act listed in Section 4. Plans and specifications shall be submitted with each application, unless waived by the enforcing officer for small and unimportant work. Such plans and specifications shall be prepared and approved, and signed, by a civil engineer unless waived by the enforcing officer. The application for the permit shall state:

- (a) The name and address and signature of the applicant and if the applicant is a corporation, the applicant shall also include the names and addresses of the principle officers thereof;
- (b) The place where such work is to be done;
- (d) A description of work to be done, together with the materials to be used thereof;
- (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 enforcing officer to carry out the purposes of this ordinance, including, but not limited to a soil investigation report and the name and address of applicant's contractor.

Section 9. Fees. Before a permit is issued, an applicant shall pay the enforcing officer the fees established by this Section. The following fees are established for permits authorized by this ordinance.

Section 9-1. A schedule of fees shall be adopted by Resolution of Board of Supervisors of Ventura County Flood Control District. 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.

(ENACTED FC ORD 27 JAN 27, 1981).

Section 10. Issuance of permit. After the applicant has paid the required fees and complied with all conditions precedent, the enforcing officer 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 enforcing officer shall issue the permit subject to conditions which shall be specifically set forth in the permit, if the enforcing officer determines that by doing so there would be created no such substantial risk. The enforcing officer shall notify the applicant in writing of the basis for any denial of the permit.

Section 11. Forms and documents. The enforcing officer shall prescribe and provide a standard application and permit form and any other forms necessary to carry out the purposes of this ordinance. The enforcing officer 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 Documents Exhibit A relating to this ordinance and shall make some available for public inspection during business hours.

Section 12. Commencement of work. The permittee shall begin the work authorized by the permit within sixty (60) days from the date issuance, unless a different date for commencement of work is set forth in the permit. The permittee shall notify the Enforcing Officer at least twenty-four (24) hours prior to commencement of work. Should the work not be commenced as specified herein, then the permit shall henceforth become void; provided, however, that if prior to or within thirty (30) days after the date established for commencement work, the permittee makes written request of the Enforcing Officer for an extension of time, setting forth the reason for extension, the Enforcing Officer may

grant additional time if in his opinion an extension is warranted. A permit which has become void by reasons of noncommencement of work and the fact that no extensions for commencement has been issued may be renewed one time within thirty (30) days after such permit becomes void at the discretion of the Enforcing Officer upon payment of a renewal fee; if the Enforcing Officer does not consent to such a renewal, a permit may be granted only upon following the procedures herein established for the original application. In the event a permit becomes void by reason of noncommencement of work and the fact that no extensions for commencement has been issued, and such permit is not renewed within the time allowed for renewal, the Enforcing Officer shall, within sixty (60) days after such 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 Enforcing Officer pursuant to the terms of this Ordinance.
(AM-FC ORD #21 MARCH 2, 1976)

Section 13. Civil engineer field supervision. All work performed under the provisions of this ordinance shall be performed under the general supervisions of coordination of a civil engineer unless waived by the enforcing officer for small unimportant work.

Section 14. Completion of work. The permittee shall complete the work authorized by the permit within one hundred eighty (180) days after issuance of permit unless some other time is specified in the permit; provided, that if he is unable to do so he may make written request to the enforcing officer for an extension of time to complete the work any time prior to the date specified for completion, which request the enforcing officer shall grant if in his opinion such 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 conservation facility, structure or right of way in a watercourse. The permittee shall notify the enforcing officer 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 enforcing officer following such written notification. The enforcing officer 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 enforcing officer in making such inspections.

Section 15. 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 enforcing officer.

Section 16. Transfer of permits. A permit issued pursuant to this Ordinance is transferable from person to person, but not from property to property. (AM- FC ORD. #21 MARCH 02, 1976)

Section 17. Bonds. The enforcing officer 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 enforcing officer in an amount equal to that which would be required in the surety bond.

Section 18. Suspense or revocation of permit. In addition to any other procedures or penalties established by law, the enforcing officer may, by written notice to the permittee, suspend or revoke a permit issued under the provisions of this ordinance 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 said notice to the address at which, in the opinion of the enforcing officer, such notice is most likely to be received, whichever is earlier 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 enforcing officer may, within thirty (30) days of the date of such suspension or revocation, appeal to such suspension or revocation to the Board pursuant to the procedure and requirements of section 19. The board shall uphold such suspensions or revocation unless it makes the necessary findings required by Section 20 for issuance of a permit. If the Board makes the necessary findings required by Section 20, it shall order 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 enforcement officer upon payment of renewal fee.

Section 19. Appeal - right and procedure. Any person aggrieved by the refusal of the enforcing officer to issue a permit pursuant to this ordinance, 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 Board a request that the Board review the decision of the enforcing officer. 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 enforcing officer 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 fifteen (15) days after the notice is filed with said Clerk and shall notify the person aggrieved and the

enforcing officer 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 is entitled to a permit under the provisions of this ordinance, otherwise the refusal of the enforcing officer shall stand. The enforcing officer may present his grounds for refusal to issue the permit. The decision of the Board is final.

Section 20. Appeal- necessary findings.- The enforcing officer shall issue the permit or modify or the conditions as sought for said by the appeal, only if the Board finds all 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.
- (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 be materially detrimental to the public interest, safety, health, and welfare, 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 permit shall also be granted, or the condition complained of deleted or modified, if the requirements of subparagraphs (a), (b), and (c) above can be satisfied by the imposition of reasonable conditions.

Sections 21. Abatement of nuisance. A violation of Section 4 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 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 Volume 4 of the Uniform Building Code, 1970 Edition, to the incorporated herein as though fully set forth as this point and, pursuant to Section 7.9 of Ventura County Flood Control Act (Chapter 44 of Statues of 1944, Second Extraordinary Session, as amended), is hereby adopted as the procedure for abatement inspection, abatement and for assessing the cost of abatement of

such nuisances to the violator or against the land involved, provided that the purposes of said Volume 4 of the Uniform Building Code the enforcing officer is the "Building Official" and the "Director of Public Works," the District is the "City" the Board is the "City Council" and the "Board of Appeals" and the Clerk of the Board is the "City Clerk".

Section 22. Emergency abatement. If it appears to the enforcing officer that an emergency exists because of a violation of Section 4, than without following the procedure established by Section 21, the enforcing officer may order all work done necessary to remove, abate, or mitigate the condition creating such emergency. The enforcing officer may do the work with his own employees or may contract to have done; in either event, the enforcing officer 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 23. Violators - penalties. Any person who:

- (a) Violates any provisions of this ordinance; 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 s provided for in Volume 4 of the Uniform Building Code, 1970 edition, or
- (c) Fails, neglects, or refuses to obey any order of the enforcing officer of the Board made pursuant to the provisions of Volume 4 of the Uniform Building Code, 1970 edition, and directed to such person, after such 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.

Section24. Existing matters. Notwithstanding any other provisions of this ordinance, this ordinance shall not apply to matters or activities that existed prior to the effective date hereof.

Section 25. Severability. If any section, subsection, sentence, clause, phrase, or other position of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion or portions of this ordinance. The Board of Supervisors of the Ventura County Flood Control District hereby declares that it would have adopted this ordinance 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 or invalid or unconstitutional.

Section 26. Effect of headings. Section heading 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 27. Effective date. This ordinance shall become effective thirty (30) days from the date of its adoption.