

## 18.40.140 Stream Corridor Protection

### (a) Purpose

The purpose of the water resources protection measures specified below is to provide site planning and development standards designed to preserve riparian resources, protect improvements from damage caused by potential stream flooding and bank erosion, and minimize storm water pollution. The further intent of the regulations and guidelines is to consider these factors in site planning early in the review process.

### (b) Water Resources Protection for Streamside Properties

#### (1) Streamside Review Area Defined

"Streamside review area" means all properties abutting a stream or located within 50 feet from the top of a stream bank, except those properties separated from the stream by a public street.

#### (2) Applicability of Streamside Review Area Requirements and Guidelines

For parcels within the streamside review area, the following types of developments are subject to these requirements and guidelines listed in subsections (3) and (4) below.

- (a) Development in all zones except the R-1, R-2 and RMD districts;
- (b) Development in the R-1, R-2, or RMD zones requiring discretionary review, including but not limited to:
  - (i) Individual review for a new two-story home
  - (ii) Individual review for a new second story on an existing house, where an expansion or change in the building footprint results
  - (iii) Variances, including for fences
  - (iv) Home Improvement Exceptions; and
- (c) Development requiring a Conditional Use Permit in the R-1, R-2, or RMD zones.

The following projects are exempt from streamside review area requirements and guidelines:

- (a) Less than 3 cubic yards of earthwork associated with landscaping with native riparian vegetation or with remedial creek bank stability work deemed necessary by the director of public works;
- (b) Interior construction; or
- (c) Replacement of utility service laterals where location outside the protected areas is not readily available.

#### (3) Requirements Within streamside review area

(a) Slope stability protection area. All development shall be located outside the slope stability protection area. The slope stability protection area shall extend to a point 20 feet landward from the top of bank or to a point measured at a ratio of 2:1 (horizontal: vertical) landward from the toe of bank, whichever is greater.

The following structures/uses shall not be allowed within the slope stability protection area:

- (i) All structures (including accessory structures);
- (ii) Decks of any height;
- (iii) Swimming pools, spas, and hot tubs; and
- (iv) Parking lots.

Exceptions to this requirement may be granted by the director of public works where the applicant provides a geotechnical slope stability analysis, demonstrating that the proposed development would not threaten the stability of the stream bank slope, require introduction of hardscape in order to maintain the stream bank slope, or be at risk of damage from future bank stability or erosion, and demonstrating how maintenance and repair of the stream could be provided with the proposed development in place, subject to compliance with requirements (b) through (i) below and with all applicable zoning setbacks.

- (b) New fences shall be constructed a minimum of five feet landward from the top of bank.
- (c) All native riparian vegetation within 100 feet from the top of bank shall be retained unless its removal is approved by the director of planning and development services. Replacement planting shall be required when native riparian vegetation is approved for removal.
- (d) Planting of non-native invasive plant species is not permitted. Prohibited plant material is listed in the Santa Clara Valley Water Resources Protection Collaborative's User Manual *Guidelines and Standards for Land Uses Near Streams*.
- (e) Only native riparian vegetation shall be planted between the top of the banks of a stream.
- (f) Loading docks, trash enclosures, chemical storage areas, and stationary noise-producing mechanical equipment shall be located a minimum of 50 feet from the top of bank of a stream, provided that the director may allow noise-producing

equipment closer than 50 feet where site conditions and/or other setback requirements make compliance impractical.

(g) Nighttime lighting shall be directed away from the riparian corridor of a stream.

(h) Irrigation systems shall be designed such that they do not cause soil erosion.

(i) All permitted improvements shall be constructed in a manner consistent with the current version of the Santa Clara Valley Water Resources Protection Collaborative User Manual *Guidelines and Standards for Land Uses Near Streams*.

(4) Guidelines Within Streamside Review Area

(a) The distance between nighttime lighting and the riparian corridor of a stream should be maximized.

(b) Bright colors and glossy or glare-producing building finishes on buildings facing streams or riparian areas should be avoided.

(c) Lot Measurement Along Watercourses

No portion of a lot which is located within the easement lines, or top of the banks in the event such easement lines cannot be ascertained, of any natural watercourse, river, stream, creek, waterway, channel, or flood-control easement or drainage easement shall be included in the determination of lot area and lot dimensions. In the case of any such lot which is bounded, in whole or in part, by any such natural watercourse, river, stream, creek, waterway, channel, or flood-control easement or drainage easement, for those portions of the lot so bounded, all measurements and dimensions specified by this title and related to or determined from lot lines shall be measured from said easement line, or top of the bank, of such watercourse. Provided the expansion of an existing easement over a lot adjacent to San Francisquito Creek and fronting on Edgewood Drive in favor of the Santa Clara Valley Water District (or its successor in interest) on or after January 1, 2002 shall not alter the calculation of lot area. Lot area, lot dimensions, and setbacks shall be calculated for such lots as if the post-January 1, 2002 easement had not been created.

(Ord. 5494 § 3, 2020: Ord. 4934 § 3 (part), 2007)