



Legislation Text

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COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 220322

Amending Chapter 88, the Zoning and Development Code, Section 88-415 to revise the stream buffer standards.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Section 88-415 is hereby repealed and a new section of like number and subject matter is hereby enacted to read as follows:

88-415 STREAM BUFFERS

88-415-01 PURPOSE

In the Kansas City region and throughout the nation, vegetated stream buffers have been clearly shown to protect stream stability and related infrastructure, improve water quality, conserve wildlife habitat and provide flood water conveyance. The stream buffer standards of this article are intended to protect public safety and public infrastructure investments while mitigating the adverse environmental impacts that development can have on streams and associated natural resource areas. Other purposes of the stream buffer regulations include:

88-415-01-A. helping protect life and property;

88-415-01-B. improving stormwater management and helping to prevent flooding;

88-415-01-C. protecting environmental quality, including the quality of water resources and wildlife habitat;

88-415-01-D. decreasing infrastructure repair, maintenance and replacement costs;

88-415-01-E. providing open space amenities;

88-415-01-F. providing potential opportunities for trail location;

88-415-01-G. increasing the public's knowledge and understanding of natural resource protection issues and

88-415-01-H. providing certainty as well as flexibility in order to maximize sustainable economic development.

88-415-02 SCOPE AND APPLICABILITY

88-415-02-A. The stream buffer standards of this article apply to all stream corridors identified on

the Kansas City Natural Resource Map. In the event of conflict between the stream buffer standards of this article and the stream buffer provisions of the city's Standards, Specifications, and Design Criteria, the stream buffer standards of this article govern. If a variance is obtained, the stream buffer provisions apply to the relocated stream and mitigated natural resources. For the purpose of this article, storm sewer systems, human-made channels (except those designed to function as natural streams), and roadside ditches are not considered streams and are not subject to the stream buffer provisions of this article.

88-415-02-B. In the event of conflict between the stream buffer regulations of this article and Federal Aviation Administration (FAA) requirements, FAA requirements govern.

88-415-02-C. The stream buffer regulations of this article are not intended to prohibit maintenance of existing city-owned facilities within the stream buffer, nor do the regulations require the removal of lawfully established facilities or improvements from the stream buffer area.

88-415-02-D. Beginning February 14, 2009, the stream buffer regulations of this article (88-415) will apply to all applications for approval of development plans, project plans, preliminary plats, final plats, and amendments to such plans or plats except as follows:

1. If the city plan commission has not recommended approval of a final plat for a unified development plan, preliminary plan, development plan, special use permit or any other Board of Zoning Adjustment approval, or preliminary plat that was approved before January 1, 2003 (referred to as a "pre-2003 approved plan"), the regulations of this article will not apply to any phases of the pre-2003 approved plan as long as the city plan commission recommends approval of the first final plat within one year of the date that the city planning and development director sends certified mail notice of this requirement to the subject property owner.

2. If the city plan commission has recommended approval of a final plat for a pre-2003 approved plan before February 14, 2009, the regulations of this article will not apply to any phases of the pre-2003 approved plan as long as the city plan commission recommends approval of the next final plat for the pre-2003 approved plan by February 14, 2014.

3. In all other cases where a unified development plan, preliminary plan, development plan or preliminary plat has been approved after January 1, 2003 and before February 14, 2009, the regulations of this article will not apply to any phases of the unified development plan, preliminary plan, development plan or preliminary plat as long as the city plan commission recommends approval of the next final plat by February 14, 2014.

4. If the requirements of 88-415-02-D.1, 88-415-02-D.2 and 88-415-02-D.3 have been met, the regulations of this article will not apply to any phases of the unified development plan, preliminary plan, development plan or preliminary plat as long as the city plan commission recommends approval of each subsequent final plat within 3 years of the date that city plan commission recommended approval of the immediately preceding final plat.

5. The regulations of this article will not apply to amended development

plans or amended preliminary plats if no significant changes are made. A significant change is any change that: (1) adds additional land area to the approved plan; (2) changes the overall land use in a way that would increase stormwater runoff volumes and rates; (3) increases the number of lots by 10% or more (as compared to the number of lots included in the originally approved plan/plat); or (4) increases the developed area by 10% or more (as compared to the originally approved plan/plat).

6. The regulations of this article will not apply to amended development plans or amended preliminary plats if the proposed changes to the development plan or preliminary plat are not located in an area on the development plan or preliminary plat where the buffer requirements would normally apply. If the proposed changes are located in an area where the stream buffer requirements would normally apply, then the amendment of that area on the plan/plat must comply with the regulations of this article for the amended area only.

88-415-02-E. The city planning and development director is authorized to approve an extension of the time frames established in 88-415-02-D.1, 88-415-02-D.2, 88-415-02-D.3, and 88-415-02-D.4 for a maximum of one year. Extension requests must be submitted in writing and include an explanation and justification for the request.

88-415-02-F. For purposes of this section 88-415-02, "unified development" means a development consisting of one or more zoning or subdivision applications that were approved by city council on or about the same date on contiguous property through the same applicant. Additionally, for purposes of this section, commercial and residential plans approved collectively as one unified development (although approved through separate ordinances and plans) will be construed to be a single approved preliminary plan or phase.

88-415-03 BUFFER ZONES

Required stream buffer widths are measured horizontally from the edge of stream. Stream buffer zones do not apply to water structures such as ponds and lakes. The overall required buffer is organized into 3 zones, as follows:

88-415-03-A. STREAMSIDE ZONE

The streamside zone extends 25 feet landward from the edge of stream. Where wetland fills, alteration of adjacent vegetated stream buffers and mitigation are approved by the U.S. Army Corps of Engineers, the streamside zone will be adjusted to exclude filled wetlands.

88-415-03-B. MIDDLE ZONE

The middle zone extends landward from the outer edge of the streamside zone and encompasses the FEMA- or city-designated 1% (i.e., 100-year) floodplain where applicable, or the limits of the 1% (i.e., 100-year) conveyance, as determined by a qualified engineer using city-approved methods; and jurisdictional wetlands as determined using U.S. Army Corps of Engineers delineation methods or other city-approved means. Where wetland fills, alteration of adjacent vegetated stream buffers and mitigation are approved by the U.S. Army Corps of Engineers, the middle zone will be adjusted to exclude filled wetlands and include any mitigated wetlands contiguous to the floodplain or flood conveyance if required by the U.S. Army Corps of Engineers. Where the FEMA floodplain, 1% (i.e., 100-year) conveyance, or jurisdictional wetlands as defined above fall inside the outer limits of the streamside zone, the middle zone width as measured from the outer edge of the stream side zone is zero feet wide.

88-415-03-C. OUTER ZONE

The outer zone extends landward 75 feet from the outer edge of the middle zone, or in such cases where the middle zone is zero, from the outer edge of the streamside zone. When slopes exceeding 15% or mature riparian vegetation areas are contiguous with the middle zone boundary, the width of the outer zone is expanded to encompass such resource areas. Where wetland fills, alteration of adjacent vegetated stream buffers and mitigation are approved by the U.S. Army Corps of Engineers, the outer zone will be adjusted to exclude filled wetlands. Mature riparian vegetation includes vegetation areas that are field-surveyed, as described in 88-415-07-D. The maximum extent of the outer zone is established, at the landowner's election, as follows:

1. If 100% of the outer zone area is set aside and protected as permanent open space, the maximum extent of the outer zone is 150 feet, as measured from the edge of the middle zone.
2. If portions of the outer zone are to be developed in accordance with 88-415-05-C.2 through 88-415-05-C.4 and 88-415-07-C., the maximum extent of the outer zone is 250 feet.

88-415-04 FLEXIBILITY

88-415-04-A. The stream buffer regulations of this article have the effect of limiting development near streams identified on the Kansas City Natural Resource Map.

88-415-04-B. To help offset potential adverse impacts on development yields for property near stream corridors, property owners are encouraged to use the open space development and conservation development options of 88-410 for residential development.

88-415-05 ALLOWED USE OF BUFFER ZONES

Stream buffers-including any floodplains, wetlands, slopes over 15%, and mature riparian vegetation areas-must be managed to enhance and maximize their natural resource value. Management includes specific limitations on alteration of the natural conditions of these resources. The following practices and activities are allowed within stream buffers. If this code conflicts with the American Public Works Association Section 5600 Storm Drainage Systems and Facilities ("APWA 5600") design standard, the Code of Ordinances govern.

88-415-05-A. STREAMSIDE ZONE

1. Activity in the streamside zone is limited to vegetation management to maintain healthy, existing, native vegetation; streambank stabilization; road, trail, and utility crossings; and stormwater outfalls designed in accordance with the city's Standards, Specifications, and Design Criteria. Stream access for fishing and wildlife viewing and trail overlook areas are allowed if they are in compliance with the city's Standards, Specifications, and Design Criteria and maintain the integrity of the stream buffer.

2. Stormwater detention, as defined in APWA 5600, is allowed in the streamside zone when the stormwater detention is accomplished by 1) utilizing a road, trail (see 88-415-05-A.3) or utility crossing if riparian

vegetation is planted in the project area in an amount that is equal to the amount disturbed by the detention dam and the buffer or 2) the stormwater detention system meets the following requirements:

- a. is designed to provide 20 percent more stormwater detention than required by APWA 5600 design standards;
- b. does not change the existing topography or native vegetation; and
- c. and the linear crossing of the streamside zone does not exceed 200 feet in cleared width of the detention basin structure.

3. Trails may encroach into the streamside zone only when the water services director determines that alternative alignments are not feasible because of topography, the presence of existing structures such as bridges or flood control levees, the inability to acquire property to accommodate other trail alignments, or that the trail represents the termini of existing trails and trail rights-of-way. Streambanks and natural resource areas affected by allowed encroachments must be stabilized in accordance with 88-415-05-A.1, the city's Standards, Specifications, and Design Criteria, and natural resources must be mitigated in accordance with 88-415-07-C and 88-415-08-B.4.

4. This subsection does not apply to public utility or trail corridors when ownership, an easement, or a binding access agreement is secured prior to February 14, 2009.

88-415-05-B. MIDDLE ZONE

Any activity allowed in the streamside zone is allowed in the middle zone. The following additional uses and activities are also allowed in the middle zone:

1. underground utility corridors that are fully vegetated and designed in accordance with the city's Standards, Specifications, and Design Criteria and all applicable state and federal requirements; and

2. paved and unpaved recreational trails for hiking and biking.

88-415-05-C. OUTER ZONE

Any activity allowed in the streamside and middle zones is allowed in the outer zone. The following additional uses and activities are also allowed in the outer zone:

1. BMPs as outlined in the Manual of Best Management Practices (BMPs) for Stormwater Quality and used in conjunction with the city's Standards, Specifications and Design Criteria. BMP's and related activities include:

- a. stormwater management;
- b. BMP maintenance such as sediment removal and harvesting of vegetation; and

c. stormwater discharge with appropriate energy dissipation and native vegetation to preserve the integrity of the area.

2. Property owners may establish the maximum outer zone width in accordance with 88-415-03-C.2 and may develop in the outer zone, subject to the following standards:

a. no more than 40% of the outer zone area may be disturbed (i.e., cleared of mature riparian vegetation and/or graded) unless mitigation is provided in accordance with 88-415-07-C);

b. no more than 50% of the outer zone area may be disturbed where mitigation is provided in accordance with 88-415-07-C; and

c. in all cases, the first 25 feet must be maintained as a no-build area, except for activities as allowed in 88-415-05-D.

3. Areas required to be undisturbed within the outer zone may not contain permanent buildings, structures, impervious cover or active recreation facilities, such as golf courses or athletic fields.

4. Property owners may elect to establish the maximum outer zone width or in accordance with 88-415-03-C.2 may also elect to use the conservation development option of 88-410 for residential development within the outer zone. In such cases, they may elect to establish a conservation subdivision for the entire development site or confine the conservation subdivision to the outer zone area only. When a conservation subdivision is confined to the outer zone area, minimum conservation subdivision open space requirements apply only to the outer zone area.

For nonresidential development that includes protected stream corridors, building heights may be increased by up to 20% over otherwise applicable height limits, and minimum off-street parking ratios may be reduced by up to 20%.

88-415-05-D. ALL STREAM BUFFER ZONES

In addition to the activities expressly allowed in the streamside, middle and outer stream buffer zones pursuant to 88-415-05-A, 88-415-05-B, and 88-415-05-C, the following uses and activities are allowed in all stream buffer zones and do not require mitigation provided that mature riparian vegetation is disturbed as little as is reasonably practical:

1. BMPs as outlined in the Manual of Best Management Practices (BMPs) for Stormwater Quality. See 88-415-05-C.1;

2. existing and on-going agricultural activities (except in the streamside zone);

3. maintenance/repair of public rights-of-way, streets, and public structures;

4. site investigation work including surveys, soil logs, percolation tests, and special tests;
5. reconstruction, remodeling, or maintenance of existing structures as long as these activities do not expand into and/or adversely impact the buffers;
6. control of noxious and/or invasive vegetation;
7. emergency actions necessary to prevent dangers to public health or safety, environmental degradation, or public and private property;
8. wetland fills, alteration of adjacent vegetated stream buffers and mitigation approved by the U.S. Army Corps of Engineers; and
9. open space uses that protect natural resources such as wildlife sanctuaries, forest preserves, nature centers, picnic areas, and similar uses, as well as game farms, fish hatcheries, hunting or fishing preserves or other activities designed for the protection or propagation of wildlife.

88-415-06 PROHIBITED ACTIVITIES AND USES

Any activity or use that is not identified as being allowed within required stream buffers is prohibited. Streams regulated by this article may not be enclosed, relocated, dammed, or inundated unless all necessary city, state and federal approvals are first obtained.

88-415-07 ADDITIONAL STANDARDS

The following additional standards apply within stream buffers.

88-415-07-A. CONTINUOUS VEGETATION

When existing vegetation within stream buffers is disturbed, required buffers must be revegetated with appropriate native riparian vegetation, unless mitigation is granted per 88-415-07-C.

88-415-07-B. STORMWATER DISCHARGE

Direct stormwater discharge into stream channels is allowed only in accordance with the city's Standards, Specifications, and Design Criteria.

88-415-07-C. MITIGATION

1. Property owners who elect to establish the maximum outer zone width in accordance with 88-415-03-C.2 may exceed the 40% disturbance limit established in 88-415-05-C.2 (a) by an additional 10%, up to 50%. This additional disturbance is allowed if offset by mitigation. Mitigation can be accomplished through purchasing federal mitigation credits including compensatory mitigation or through mitigation areas as described herein.
2. Federal mitigation credits including compensatory mitigation shall be in accordance with a U.S. Army Corps of Engineers Permit under Section 404 of the Clean Water Act (33 USC 1344) and implementing regulations (33 CFR 320-332) and mitigation banks shall

be located in the Missouri River Basin within the greater Kansas City area..

3. Mitigation areas must be equal or greater than the additional disturbed land area. The mitigation areas shall be added to the outer zone and the applicant shall mitigate the impacts by maintaining natural resource functions, including: base flood elevations, stream stability and geomorphology, and by replacing existing mature riparian vegetation with an equivalent amount of appropriate native riparian vegetation.

4. Mitigation areas become part of the property's permanent open space and must be:

- a. contiguous to the original outer zone;

- b. permanently stabilized where slopes greater than 15% are present;

- c. revegetated in accordance with 88-415-07-A;

- d. established and maintained in accordance with the provisions of this article and Article 88-410;

- e. designed, established, and maintained in accordance with the city's Standards, Specifications and Design Criteria and applicable state and federal laws and regulations; and

- f. completed during the development phase in which disturbance occurs, if applicable.

- g. additional mitigation requirements are found in 88-415-08-B.4. (a) through (g).

5. The mitigation standards of this section also apply whenever an exception to stream buffer standards is approved under 88-415-08-B.

88-415-07-D. BUFFER PLAN

1. A stream buffer plan must be provided when the stream buffer standards apply. The plan must delineate the buffer zones and the proposed development site in relation to:

- a. the FEMA- or city-designated floodplain or the estimated 1% flood conveyance, as determined by a qualified engineer using city-approved methods;

- b. wetlands within or adjacent to the floodplain or required stream buffer;

- c. slopes in excess of 15% within or adjacent to the floodplain, as field-surveyed; and

- d. mature riparian vegetation, including woodlands, wetlands, and other habitat

areas identified by a field survey.

2. A preliminary buffer plan must be submitted for city review with preliminary plats and site or development plans. The preliminary buffer plan must include a plan at a scale no smaller than 1" = 100' showing at a minimum:

- a. existing topography with at least 2-foot contour intervals;
- b. approximate stream locations based on approved city geographic information system mapping or city-approved mapping from state and federal agencies;
- c. approximate boundary of the FEMA- or city-designated floodplain based on city-approved geographic information system mapping or federal mapping;
- d. approximate 1% flood conveyance limits where no regulatory floodplain is identified as determined by a qualified engineer using city-approved methods;
- e. approximate wetland locations from the Mid-America Regional Council Natural Resource Inventory, or the U.S. Fish and Wildlife Service National Wetlands Inventory;
- f. approximate boundary of existing, mature riparian vegetation based on a field survey;
- g. slopes of 15% or greater in each sub-drainage area based on city-approved geographic information system mapping or a site topographic survey;
- h. the location of proposed structures or activities;
- i. identification of required stream buffer zones based on city-approved geographic information system mapping or a site topographic survey and a survey of mature riparian vegetation;
- j. the total acreage of mature riparian vegetation and steep slopes in the outer zone;
- k. the location and total acreage of proposed clearing and grading in the outer zone and the percentage of proposed outer zone area to be cleared (if applicable in accordance with 88-415-03-C88-415-03-C; and
- l. the limits and total acreage of proposed mitigation of outer zone vegetation, and the percentage of outer zone area to be mitigated (if applicable in accordance with 88-415-07-C).

3. The final buffer plan must be submitted for city review with or be included in final plats and site or development plans. The final buffer plan must include a plan at a scale not smaller than 1" = 100' showing at a minimum:

- a. existing topography with at least 2-foot contour intervals;

- b. field delineated, marked, and surveyed streams and wetlands;
- c. field delineated, marked, and surveyed mature riparian vegetation limits as described in 88-415-07-D.4;
- d. existing sub-drainage areas of the site;
- e. slopes of 15% or greater in each sub-drainage area based on a site topographic survey;
- f. the location of proposed structures or activities;
- g. the location of field delineated and surveyed stream buffer zones;
- h. the total acreage of mature riparian vegetation and steep slopes in the outer zone;
- i. the location and total acreage of proposed clearing and grading in the outer zone, and the percentage of proposed outer zone area to be cleared (if applicable in accordance with 88-415-03-C88-415-03-C; and
- j. the limits and total acreage of proposed mitigation of outer zone vegetation and the percentage of outer zone area to be mitigated (if applicable in accordance with 88-415-07-C).

4. Field surveys of mature riparian vegetation must identify the limits of the mature riparian vegetation for inclusion with the preliminary and final buffer plans, to a maximum of 250 feet from the edge of the middle zone or 150 feet from the edge of the middle zone at the property owner's election pursuant to 88-415-03-C88-415-03-C. At a minimum, a licensed surveyor, professional engineer, or landscape architect must delineate the existing edge of the tree canopy. The survey must identify the critical root zone of all trees at the mapped canopy cover boundary with a diameter breast height (DBH) of 10 inches or greater. The surveyor may identify specific tree species to more accurately delineate the riparian vegetation boundary if the mature vegetation appears to extend into uplands. The riparian boundary is assumed to exist when less than 50% of the mature trees (10-inch DBH or greater) are of riparian or bottomland species as defined by The Terrestrial Natural Communities of Missouri (Nelson 2006) and approved by the city. The surveyor must delineate the canopy cover boundary of the mature riparian tree specimens.

88-415-07-E. BOUNDARY MARKERS

- 1. Boundary markers must be put in place clearly marking required stream buffers before, during, and after construction.
- 2. Boundary markers must be installed at the intersection of private lot lines with the outer edge of the permanent open space before receiving final city

approval of plans for clearing, grading, or sediment and erosion control.

3. Construction fencing must be placed at the outer edge of the permanent open space in the outer zone to delineate the buffer. This fencing must be maintained throughout the construction process.

4. Permanent signs must be placed at the edge of the permanent open space after construction to denote the buffer as follows:

- a. For single-lot developments, signs must be posted every 100 feet along the boundary of the permanent open space.
- b. For multiple lots located along a buffer, signs must be located at the intersection of every other lot line along the boundary of the permanent open space.

5. Required signs must read: "Protected Stream Buffer - Do Not Disturb (City Code Section 88-415)," with the sign message located approximately 4 feet above the ground. Signs must be maintained and remain legible at all times.

88-415-08 ADMINISTRATION AND PROCEDURES

88-415-08-A. REVIEW FOR COMPLIANCE

Review for compliance with these standards will be conducted in conjunction with platting. Developments that are not subject to platting, will be subject to site or development plan review, which must be conducted prior to application for a building permit.

88-415-08-B. EXCEPTIONS

Exceptions to the stream buffer standards of this section may be approved by the city council subject to all applicable city, state, and federal regulations. When exceptions are approved, applicants must mitigate impacts in accordance with the mitigation standards 88-415-07-C.

1. In order to approve an exception request, the city council must find that strict application of one or more stream buffer standards would result in an unnecessary hardship for the subject property and that such unnecessary hardship is unique to the subject property and not generally applicable to other similarly situated property. In order to approve the exception request, the city council must also determine that adequate mitigation measures in accordance with 88-415-07-C will be provided in conjunction with the project.

2. Applicants must submit a stream buffer exception application and mitigation plan to the water services director in a form and manner required by the water services director. The exception application and/or mitigation plan must include the following:

- a. a written description of the perceived hardship;
- b. a description of all measures taken to avoid or otherwise minimize encroachment into the buffer zone (beyond the extent of encroachment allowed by 88-415-05-C.2);
- c. proposed mitigation for any encroachment, as required by 88-415-08-B.4; and

- d. a preliminary buffer plan, as required by 88-415-07-D that clearly displays the location and total acreage of proposed clearing and grading, and the percentage of outer zone area proposed to be cleared. The buffer plan must also include the limits and total acreage of proposed mitigation, and ratio of proposed mitigation to cleared area.

3. The water services director must review the plan for compliance with the stream buffer regulations of this article and recommend that the exception request be approved, approved with conditions or denied and forward such recommendation in writing to the city planning and development director by the deadline for review established by the city planning and development director. An exception may be recommended for approval when the water services director determines that a bona fide hardship exists and when the integrity of the stream corridor will be protected through avoidance, minimization, and appropriate mitigation measures.

4. Disturbed natural resources must also be mitigated in conjunction with 88-415-07-C. Any additional mitigation beyond that allowed in 88-415-07-C must comply with the following criteria. Federal mitigation credits, revegetation or restoration of any portion of the original disturbance counts toward the required mitigation.

- a. Mitigation of outer zone vegetation that is contiguous to the remaining outer zone vegetation must be provided at a ratio of 1.5 units of mitigation area to 1 unit of existing outer zone area.
- b. Mitigation of outer zone vegetation that is not contiguous to the remaining outer zone vegetation but is along the same stream reach must be provided at a ratio of 2 to 1.
- c. Mitigation of outer zone vegetation that is not located along the same stream reach, but is provided within the same watershed, must be provided at a ratio of 2.5 to 1.
- d. Mitigation of outer zone vegetation that is not located in the same watershed must be provided at a ratio of 3 to 1.
- e. In all cases, a continuous outer zone vegetation connection of at least 25 feet must be maintained to avoid fragmenting the vegetated area.
- f. Encroachment into the middle or streamside zones or alteration of the stream channel must be mitigated at a ratio of 4 to 1.
- g. The water services director may approve mitigation at city-designated locations in lieu of locations owned or controlled by the applicant.

5. Utilities may encroach into the streamside zone only when available system connection points physically preclude an alignment farther from the edge of stream, or, in the case of sanitary and storm sewers, when the controlling elevations provide insufficient head for normal system function. Streambanks and natural resource areas affected by allowed encroachments must be stabilized in accordance with the city's Standards, Specifications, and Design Criteria, and natural resources must be mitigated in accordance

with 88-415-07-C and 88-415-

08-B.4.

88-415-08-C. MAP REVISIONS

The water services director is authorized to maintain, update and make corrections to the Kansas City Natural Resource Map to ensure its accuracy. When map updates add stream reaches or otherwise propose to or have the effect of expanding the land area affected by the stream buffer regulations of this article, the water services director shall cause all affected owners to be noticed in the same manner as zoning map amendments (See 88-515-04).

88-415-09 OWNERSHIP AND RESPONSIBILITY FOR STREAM BUFFERS

Stream buffers must be established and recorded by the developer or property owner. Particular zones may be established and protected by different methods. One or more of the following methods must be used to provide for the preservation of the stream buffer in perpetuity:

88-415-09-A. drainage or conservation easements;

88-415-09-B. inclusion in a development's common area through a restrictive covenant involving both the city and the property owners association; or

88-415-09-C. dedication to the city with the city's acceptance.

88-415-10 INSPECTIONS

Required stream buffers must be inspected by the water services director who must provide written confirmation to the city planning and development director that such buffers conform to the approved stream buffer plan prior to recording of a plat or prior to the issuance of a building permit, whichever occurs first. The property owner shall cause the stream buffer to be accessible to the water services director to facilitate inspection, construction, maintenance, and other activities related to the stream and public infrastructure in the buffer area.

88-415-11 PLAN REVIEW PROCESS

Upon the filing of any application required by this zoning and development code, the city planning and development director shall provide a review to water services director:

88-415-11-A. When a regulated stream or floodplain is present on the subject property; or

88-415-11-B. When a regulated stream is located on an adjacent property and within 200 feet of the subject property; or

88-415-11-C. When the outside edge of a 100-year floodplain, with or without a regulated stream contained therein, is located on adjacent property and is within 150 feet of the subject property.

Section 2. That the Council finds and declares that before taking any action on the proposed amendments to Chapter 88 hereinabove, all public notices have been given and hearings have been held as required by law.

I hereby certify that as required by Chapter 88, Code of Ordinances, the foregoing ordinance was duly

advertised and public hearings were held.

Secretary, City Plan Commission

Approved as to form and legality:

Eluard Alegre
Associate City Attorney