

-New Section – Watercourse and Wetland Buffer Ordinance-

9-4.166 Watercourse and Wetland Buffers.

The purpose of the following Sections 9-4.166 through 9-4.172 is to establish standards for the review of proposed development adjacent to watercourses and wetlands within the City of Atascadero. Watercourse and wetland standards are organized into the following sections:

9-4.167 Applicability

9-4.168 Definitions

9-4.169 Dimensions of Watercourse and Wetland Buffers

9-4.170 Measurement of Watercourse and Wetland Buffers

9-4.171 Permitted Improvements

9-4.172 Application Submittal

9-4.173 Process

9-4.167 Applicability.

(a) The provisions of Sections 9-4.166 through 9-4.173 shall apply to the following.

(1) The major watercourse features within the city limits, consisting of the Salinas River, Atascadero Creek, Graves Creek, Paloma Creek, Boulder Creek, and other perennial, intermittent, or ephemeral watercourse features that may also be considered jurisdictional by the state and/or federal government, all of which are referred to herein as “watercourses.”

(2) All jurisdictional wetlands within the city limits.

(b) Development and activities within watercourse and wetland buffer areas shall also comply with the provisions of Chapter 11 (Flood Damage Protection) and of Title 7 (Public Works), as applicable. Where there is conflict between these Sections 9-4.166 through 9-4.173 and Chapter 11 of Title 7, the more restrictive provisions shall prevail.

9-4.168 Definitions.

(a) “Riparian Vegetation” means those herbaceous plants, shrubs, and trees that are naturally associated with watercourses where the plant species tolerates, or

requires, moist soil conditions. Riparian vegetation canopies may extend over, or beyond, the existing associated watercourse.

- (b) “Watercourse” means rivers, streams, brooks, creeks, waterways, lakes, ponds, and all other bodies of water, vernal or intermittent, public or private, that are contained within, flow through, or border the city, and which are not considered “wetlands.”
- (c) “Wetland” as currently defined by the Clean Water Act and the California Fish and Game Code. Wetlands are typically areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

9-4.169 Dimensions of Watercourse and Wetland Buffers.

- (a) Watercourse Buffers. Watercourse buffers shall be as follows:

- (1) Salinas River: 100 feet

- (2) All other major and minor watercourses: 30-feet.

- (b) Wetland Buffers. Wetland buffers shall be 30 feet.

- (c) Floodway and Floodplain. The provisions established by these Sections 9-4.166 through 9-4.173 shall not preclude implementation of Title 7, Chapter 11 (Flood Damage Prevention), which may further restrict or prevent development or placement of items within the buffer areas.

- (d) Prior Approvals. Where the City has explicitly approved a watercourse- or wetland-adjacent development with differing standards than those listed by these Sections 9-4.166 through 9-4.173, that approval shall govern development standards so long as the approval remains active.

9-4.170 Measurement of Watercourse and Wetland Buffers.

- (a) Watercourse Buffers.

- (1) For watercourses in all zoning districts, measurement shall be from the existing top of bank, or ordinary high watermark if no defined bank exists, or the future top of bank resulting from a watercourse alteration in a plan approved by the City.

- (2) Top of bank determination shall be consistent with the California Department of Fish and Wildlife definition.

(b) Wetland Buffers. Wetland buffers shall be measured from the edge of the jurisdictional wetland boundary as identified by a qualified biologist.

9-4.171 Permitted Improvements.

(a) Permitted Development and Placement of Items. The following items are allowed within the watercourse and wetland buffer area with ministerial approval pursuant to Section 9-4.173(a), provided they do not extend beyond the top of bank into the watercourse channel or within the delineated jurisdictional boundary of a wetland; will not reduce flooding capacity pursuant to Title 7, Chapter 11 (Flood Damage Prevention); ; and are consistent with all other property development standards of Title 9:

(1) Fences, provided such fences maintain 75 percent transparency, enclose no more than 50 percent of the required watercourse or wetland buffer area on any development site, and, when crossing a watercourse, does not extend below the ordinary high-water mark or otherwise impede water flow;

(2) Paved or unpaved Patios no greater than 200sf within the buffer area

(3) Paved or unpaved walkways no greater than 6 feet in width;

(4) Decks, stairs, and landings no greater than 300sf within the buffer area;

(5) Trellises, arbors, and gazebos constructed with an open lattice design no greater than 200sf within the buffer area;

(6) Non-fixed outdoor furniture that is not permanently attached to a structure or the ground;

(7) Natural flood control and stormwater improvements planted with non-invasive vegetative species, including bioswales and rain gardens;

(8) Repairs to existing permitted structures and facilities that do not increase the size or footprint of the structures or facilities;

(9) Minor landscape features not requiring grading;

(10) Landscape installation of non-invasive vegetative species;

(11) Watercourse or wetland monitoring or gauging facilities operated by local, state, or federal agencies; and

(12) Underground utilities permitted by the United States Army Corps of Engineers, California Department of Fish and Wildlife, or Regional Water Quality Control Board.

(13) Public Utilities

(14) Driveways that utilize clear span bridges, standard round culverts up to 24", or natural bottom culverts in excess of 24" are permitted over minor drainage watercourses.

(b) Permitted Development and Placement of Items in Downtown Office (DO) and Downtown Commercial (DC) Zoning Districts. In addition to the items listed in Section 9-4.171(a), within the Downtown Office (DO) and Downtown Commercial (DC) zoning districts, the following additional items are allowed within the watercourse or wetland buffer area with ministerial approval pursuant to Section 9-4.173(a), provided they do not extend beyond the top of bank into the watercourse channel or within the delineated jurisdictional boundary of a wetland; will not reduce flooding capacity pursuant to Title 7, Chapter 11 (Flood Damage Prevention); in total do not occupy **more than 50 percent of the total required** setback area on the lot; and are consistent with all other development standards of the Zoning Regulations:

(1) Publicly accessible trails;

(2) Outdoor dining areas and gathering spaces

(c) Watercourse Crossings. Fences, walls, arched or natural bottom culverts, engineered drainage outlets, bridges, and other watercourse-dependent features necessary to protect water flow, water quality, biological resources, or access, and that are deemed necessary to construct within the watercourse buffer area, shall be designed in accordance with all applicable best management practices to prevent obstruction or diversion of flood and drainage flow and to minimize adverse impacts to riparian vegetation and habitat and scenic resources along or within the watercourse. Concrete sides and/or bottoms of watercourses are prohibited.

(d) Prohibited Activities. The keeping and grazing of swine, ovines and/or bovines is prohibited in buffer areas.

9-4.172 Application Submittal.

In addition to the requirements of Chapter 2 (Applications: Content, Processing and Time Limits), applications for development or placement of items in a watercourse or wetland buffer area shall include the following, unless waived by the Community Development Director

upon determining that no purpose will be served by such a report because no applicable watercourse or wetland resources will be affected:

(a) For lots with riparian vegetation associated with a watercourse, lots with wetlands, and/or, at the discretion of the Community Development Director, for lots adjacent to those with riparian vegetation associated with a watercourse or wetland, a technical report prepared by a qualified biologist that describes and maps the types of vegetation, identifies and maps the watercourse tops of banks, and determines the edge of riparian vegetation and wetlands, pursuant to Section 9-4.167.

(b) For lots with a watercourse and without riparian vegetation, a technical report prepared by a qualified biologist or licensed civil engineer that identifies the watercourse tops of banks and ordinary high-water mark, as applicable, pursuant to Section 9-4.170.

(c) For any structures proposed, a technical report prepared by a qualified soil engineer that confirms that the creekbank is stable and is unlikely to erode, ensuring that the structure will not be structurally undermined.

9-4.173 Process.

(a) Ministerial Review. Development or placement of items in a watercourse or wetland buffer area that does not otherwise require a discretionary approval, or is not part of a project that requires discretionary approval pursuant to this Title 9 (including, but not limited to, Conditional Use Permits and Precise Plans), shall be processed as a ministerial approval (e.g., Building/Grading Permit, as applicable), only if the development and placement of items are consistent with Section 9-4.171, and upon confirmation by the Community Development Director based on a site visit and/or documentation that no applicable resources would be adversely affected.

(b) Discretionary Review. Development or placement of items in a watercourse or wetland buffer area that does not comply with Section 9-4.170 and/or that the Community Development Director has determined has the potential to adversely affect watercourse or wetland resources, shall require discretionary approval of a Precise Plan pursuant to Section 9-2.109. The following reports shall be submitted by an applicant, in addition to those identified in subsection 9-4.172, unless waived by the Community Development Director upon a site visit and/or documentation determining that no purpose will be served by such a report because no such resources will be affected by the granting of a Precise Plan:

(1) Technical report prepared by a qualified biologist determining that the watercourse or wetland will not be significantly impacted by the improvement, including a biological survey, a written analysis of the project impacts to special status species, riparian and/or wetland habitat, and required avoidance and minimization measures.

(2) Hydrology report by a qualified licensed engineer demonstrating that the watercourse bank and/or wetland is stable and will be able to accommodate the improvement, and a written analysis of the project impacts to hydrology, hydraulics, and bank stability, and required avoidance and minimization measures. The hydrology report shall include a topographical survey of the watercourse or wetland feature with one-foot contour lines at one (1) to twenty (20)-foot scale from bank to bank within the property lines (and which may, at the discretion of a qualified licensed engineer, include one hundred (100) feet up and downstream from property lines), engineered grading and drainage plan of the site, and required avoidance and minimization measures.

(3) Archaeological review and documentation, if required by Section 9-4.162,

(c) Applicants for development within a watercourse, wetland, or associated buffer identified in this ordinance may also be subject to state and/or federal regulatory agency jurisdiction and shall ensure compliance with applicable regulations and permitting procedures.
