

# City of Raymore Unified Development Code

## Chapter 455 Natural Resource Protection

### Section 455.040 Stream Buffer Protection *(Amendment 19 – Ordinance 2014-063 9.8.14)*

#### A. Applicability

1. This section applies to all streams within the jurisdiction of the U.S. Army Corps of Engineers except those streams located upon land which:
  - a. is on land covered by an approved, unexpired final plat; or
  - b. is on land covered by an approved, unexpired preliminary plat or preliminary plan; or
  - c. is on land covered by a development agreement containing provisions for post development water quality mitigation and best management practices; or
  - d. is on land being used for agricultural operations.
2. To identify those stream segments to which this section applies, a letter of jurisdictional determination shall be provided from the U.S. Army Corps of Engineers for any property proposed for development.
3. No development shall be approved that proposes disturbance on any parcel of land wholly or partially within the defined stream corridor unless the proposed development is in compliance with the applicable provisions of this section.
4. Except as otherwise provided by this section, the Director of Public Works shall administer, implement and enforce the provisions of this section. The director may delegate any powers or duties granted by this code to other City personnel or authorized representatives.
5. The City is authorized to develop administrative policies and guidelines to implement this section.
6. Stream buffers, as required by this section, are a part of the City's Storm Water Management Program.
7. If a development obtains a CWA Section 404 permit allowing a stream to be relocated or otherwise altered, this section shall apply to the new stream location and order.

#### B. Buffer and Stream Setback Requirements

Stream buffers required by this section shall meet the following requirements:

##### 1. Plan Requirements

- a. A buffer plan shall be submitted for all stream segments to which this section applies. The plan shall set forth an informative, conceptual, and schematic representation of the proposed activity so as to enable the City an opportunity to make a reasonably informed decision regarding the proposed activity.
- b. The delineation of the stream buffer and its component zones shall be shown on any building construction plans, preliminary plat and final plat, as may be required by City Code. The buffer plan shall be submitted in conjunction with

the required preliminary plat, or final plat if no preliminary plat is required, and engineering plans for any development and the boundaries of the stream buffer shall be clearly delineated.

- c.** A buffer plan shall contain the following information:
  - (1)** A location or vicinity map showing the limits of the FEMA-delineated 100-year flood limits or the 100-year elevation for areas not identified as special flood hazard areas.
  - (2)** Field-delineated and/or surveyed streams, springs, bodies of water (include a minimum of 150 feet into adjacent properties).
  - (3)** Labels for the stream buffer zones and any structures or activities by the zone where they are to be located.
  - (4)** A plan that specifies the required annual maintenance tasks and procedures necessary to maintain stream buffer health.
  - (5)** A restoration plan identifying the percentage removal of colonizing species of native and non-native trees and shrubs and the replacement of such woody perennial species with desirable hardwood species. The restoration plan shall also specify the requisite herbaceous seed mix required for restoration of the soil where disturbed through tree and shrub removals.
- d.** The stream buffer plan must be approved by the Director of Public Works prior to submittal of the preliminary plat to the Planning and Zoning Commission.

## **2. Boundary Markers**

Boundary markers shall be installed prior to final approval of the required clearing and grading plan.

## **3. Construction Fencing**

Construction fencing shall be placed to delineate the buffer and shall be maintained throughout the construction of the project.

## **4. Final Plats**

All final plats and survey documents prepared for recording shall clearly:

- a.** show the extent of any stream buffer on the subject property.
- b.** provide a note to reference any stream buffer stating: “There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the approved maintenance plan.”
- c.** provide a note to reference any conservation easements governing all stream buffer areas stating: “Any stream buffer shown hereon is subject to conservation easements that restrict disturbance and use of these areas.”

## **C. Design Standards for Stream Buffers** *(Amendment 14 – Ordinance 2012-079) (Amendment 19 – Ordinance 2014-063 9.8.14)*

- 1.** A buffer for a stream shall consist of a strip of land extending along both sides of a stream.
- 2.** Stream buffers shall be measured as follows:

- a.** The required width for all stream buffers shall be as follows:

Stream	Minimum Average Buffer Width (feet) Each Side of Stream
First order	50
Second order	90
Third order	100
Fourth order	140
Fifth order	185
Sixth order	300

- b.** All buffers are measured from the top of the bank of the stream and are required on each side of the stream.
- c.** If a feature exists wherein it would be impractical to provide a buffer equidistant on each side of the stream bank then the location of the buffer area can be modified, subject to approval by the Director of Public Works.
- d.** The default setback distance is specified in Section 455.040C2. A property owner may choose to submit a Geomorphic Study to justify lesser setback distances. The Geomorphic Study must be completed by a licensed professional trained in such evaluations. Such studies are subject to approval by the Director of Public Works.
- 3.** The buffer shall not be greater than the flood plain limits as shown on the Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) for Cass County, Missouri Panels 29037C0028F, 29037C0029F, 29037C0034F, 29037C0035F, 29037C0036F, 29037C0037F, 29037C0038F, 29037C0039F, 29037C0041F, 29037C0042F, 29037C0043F and 29037C0044F dated January 2, 2013, as amended, and any future revisions thereto.
- 4.** If stream buffers, or stream channels, are disturbed or destroyed during development or construction activities, they shall be restored using native vegetation or plantings as outlined in the required restoration plan.
- 5.** Except as specifically authorized by the developer's CWA 404 permit, the following structures, practices, and activities are permitted in the stream buffer, with specific design or maintenance features, subject to the review and approval of the Director of Public Works:
- a.** Activities for the purpose of building any of the following:
- (1)** a stream crossing by a driveway, transportation route or utility line;
  - (2)** public water supply intake or public wastewater outfall structures;
  - (3)** public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
  - (4)** paved foot trails and paths; or
  - (5)** activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
- b.** Crossings for roads, bridges and utilities, subject to the following:

- (1) the right-of-way should be the minimum width needed to allow for maintenance access and installation;
  - (2) the angle of the crossing shall be as close to perpendicular to the stream or buffer as is practicable to minimize clearing requirements; and
  - (3) the minimum number of road crossings should be used within each subdivision, and no more than one crossing is allowed for every 1,000 feet of buffer.
- c. Public sewer line easements paralleling the creek, except that all easements (permanent and construction) and land disturbance should be at least 25 feet from the top of the bank. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
  - d. Within an easement of any utility existing on the effective date of this section or approved under the terms of this section, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
  - e. Emergency work necessary to preserve life or property. However, when emergency work is performed under this section, the person performing it shall report such work to the Director of Public Works on the next business day after commencement of the work. Within 10 days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the Director of Public Works to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.
  - f. Placement of structures for the control and monitoring of water quality and water quantity within a stream buffer, as required by the City.

**D. Variance Procedures**

Any variance request to the requirements of this section shall be filed in accordance with Section 470.220.

**E. Compatibility with Other Buffer Regulations and Requirements**

This section is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. The requirements of this section should be considered minimum requirements, and where any provision of this section imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

**F. Additional Information Requirements for Development on Buffer Zone Properties**

Any permit applications for property requiring buffers and setbacks hereunder must include the following:

- 1. A site plan showing:
  - a. The location of all streams on the property;
  - b. Limits of required stream buffers and setbacks on the property;



## **J. Violations, Enforcement and Penalties**

Any action or inaction which violates the provisions of this section or the requirements of an approved plan may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

## **K. Notice of Violation**

If the City of Raymore determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this section, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this section without having first secured the appropriate approvals therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:

- 1.** The name and address of the owner or the applicant or the responsible person;
- 2.** The address or other description of the site upon which the violation is occurring;
- 3.** A statement specifying the nature of the violation;
- 4.** A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this code and the date for the completion of such remedial action;
- 5.** A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
- 6.** A statement that the determination of violation may be appealed to the Director of Public Works by filing a written notice of appeal within 30 days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient).

## **L. Penalties**

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, anyone or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the Director of Public Works shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than 10 days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Director of Public Works may take anyone or more of the following actions or impose anyone or more of the following penalties.

### **1. Stop Work Order**

The Director of Public Works may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to

enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.

**2. Withhold Certificate of Occupancy**

The City of Raymore may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

**3. Suspension, Revocation or Modification of Permit**

The Director of Public Works may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the Director of Public Works may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

**4. Civil Penalties**

In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within 10 days (or such greater period as the Director of Public Works shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) after the Director of Public Works has taken one or more of the actions described above, the Director of Public Works may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

**5. Criminal Penalties**

For intentional and flagrant violations of this section, the Director of Public Works may issue a citation to the applicant or other responsible person, requiring such person to appear in (appropriate municipal, magistrate or recorder's) court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

**M. Administrative Appeal and Judicial Review** (*Amendment 2 – Ordinance 29073 7.27.2009*)

**1. Administrative Appeal**

Any person aggrieved by a decision or order of the City, may appeal an enforcement action in writing within 10 days after receipt of such action to the Director of Public Works of the City of Raymore and shall be entitled to a hearing before the Board of Appeals of the City of Raymore within 30 days of receipt of the written appeal.

**2. Judicial Review**

Any person aggrieved by a decision or order of the City, after exhausting all administrative remedies, shall have the right to appeal de novo to the Municipal Court of the City of Raymore.