

## ARTICLE 1

### BUILDING ALONG WATERCOURSES

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## ARTICLE 1

### BUILDING ALONG WATERCOURSES

SEC. 9-1.00 DEFINITIONS. For the purposes of this Article, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from the context that a different meaning is intended.

SEC. 9-1.01 WATERCOURSE DEFINED. Watercourse is defined as a river, stream, creek, watercourse, waterway or channel land including any property over which the City of Hayward has an easement for drainage purposes duly recorded in the Office of the County Recorder of the County of Alameda.

SEC. 9-1.02 STRUCTURE DEFINED. Structure is defined as any wall, retaining wall, crib wall, bulkhead, dwelling, business structure, garage or other outbuilding and anything of such substance and conformation capable of deflecting or controlling the flow of water in a watercourse under any circumstances and to any degree or capable of damaging, weakening or reducing the effectiveness of the bank of a watercourse to withhold storm or flood waters.

SEC. 9-1.03 RUBBISH DEFINED. Rubbish is defined as any substance which is not readily soluble in water.

SEC. 9-1.04 BANK DEFINED. Bank is defined as a strip of land lying parallel to and adjoining the center line of a watercourse and extending on each side of said centerline a width equal to one-half the distance determined by multiplying by two, the horizontal distance measured at right angles from the center line of a watercourse at any given point to a point constituting the highest ground elevation at right angles to the center line at said given point provided, however, that the bank so measured on each side of the centerline of a watercourse shall not extend beyond a horizontal distance of one hundred (100) feet from the said centerline at any given point where the average slope of the intervening land between said centerline and the actual point of highest ground elevation on the side under consideration is less than five percent (5%).

SEC. 9-1.10 DEPOSIT OF RUBBISH - PROHIBITED. It shall be unlawful for any person to place or cause or permit to be placed or maintained in the channel or bed of any watercourse any rubbish that may impede, restrict, retard or change the direction of the flow of water in such watercourse or that will catch or collect debris carried by such water, or that is placed or maintained where the natural flow of the storm and flood water would carry the same downstream to the damage and detriment of either private or public property adjacent to said watercourse, and the presence of such rubbish shall constitute a public nuisance.

SEC. 9-1.20 REMOVAL OF SAND, GRAVEL. PERMIT REQUIRED. It shall be unlawful for any person to remove any sand, gravel or material of any kind from any watercourse or any tributaries of the same in the City of Hayward without first securing a permit so to do as herein provided.

SEC. 9-1.30 BUILDING OF STRUCTURES. PERMIT REQUIRED. It shall be unlawful for any person to build, construct or maintain any structure in or upon private property, which said structure abuts or is upon the bank of any watercourse, or any of the tributaries of the same in the City of Hayward, without first securing a permit to build, construct or maintain any such

structure as herein provided.

SEC. 9-1.40 APPLICATION FOR PERMIT. FEE. An application for any permit required herein shall be filed with the Division of Permits and Licenses upon forms furnished by said Division together with an application fee of Twenty-Five Dollars (\$25.00), no part of which shall be refundable.

The application shall set forth the location and exact nature of the work proposed to be done, names and addresses of all parties connected with said work, and such other information as may be required.

Applicant shall also furnish detailed plans and drawings of proposed structures, areas of proposed work, and of existing structures on said premises.

The application and all accompanying information shall be referred to the City Engineer for his review and action.

SEC. 9-1.50 ACTION BY CITY ENGINEER. The City Engineer shall make such investigations as he deems necessary to conclude that the proposed construction will not impede, restrict, retard or change the direction of the flow of water in such watercourse and will not catch or collect debris carried by such water, and is not placed where the natural flow of the storm and flood waters will carry the structure or any part thereof downstream, and will not in his opinion damage, weaken, or reduce the effectiveness of bank to withhold storm and flood waters.

The City Engineer, before taking action on said application shall refer said application, together with all information to the Alameda County Flood Control and Water Conservation District for appraisal of said District of the effect of the proposed construction and work upon plans of said District within the area of the proposed construction and work.

The City Engineer may approve, conditionally approve, or disapprove said application on the basis of his investigations and findings.

Upon completion of the investigation, the City Engineer shall return said application to the Division of Permits and Licenses.

SEC. 9-1.60 PERFORMANCE OF PERMITTED WORK. The application when approved and signed by the City Engineer or by his authorized representative shall constitute the permit except as to that work for which other permits are required by the City of Hayward, and as to that work for which other permits are required the said permits by this Article authorized to be granted shall not be effective prior to receipt of valid permits otherwise required.

All construction or work for which a permit is required shall be subject to inspection by the Building Inspector, and shall be subject to such administrative regulation as may be necessary to insure complete inspection.

SEC. 9-1.70 APPEAL. In case an applicant is aggrieved by the action of the City Engineer, or by reason of the requirements of this Article, he may, within fifteen (15) days from the date of decision of the City Engineer, make an appeal in writing to the City Council. Notice of such appeal and of the time and place of hearing thereon shall be given by the City Clerk to the appellant and the City Engineer.

SEC. 9-1.80 ACTION BY COUNCIL. Upon review of the matter, the City Council

may approve, reverse, modify or reject, wholly or partly, the action taken by the City Engineer, and its decision shall be final and conclusive.

In the event action of the Council reverses, modifies or rejects, wholly or partly the action taken by the City Engineer, the Council must find that the action taken by the City Engineer will cause undue hardship on the applicant and prevent him from a reasonable use of his property and the structure so proposed will not impede, restrict, retard or change the direction of the flow of water in such watercourse and will not catch debris carried by such water, and is not placed where the natural flow of the storm and flood waters will carry the structure or any part thereof downstream, and will not damage, weaken or reduce the effectiveness of a bank to withhold storm and flood waters.