LAFAYETTE
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Creek Setback Determination Guide

If you have a creek-side property and you are contemplating work, you will need a creek setback determination. The attached Article 5 of the Lafayette Municipal Code Ordinance No. 512 prohibits construction of structures within the creek setback area. This guide briefly explains what the setback area is, how to determine the setback line on your property, and the process for requesting an exception. There are other related regulations dealing with flood zones that you should also investigate at the same time by contacting the Planning Services Division at (925) 284-1976.

What is the setback area and how is it determined for my property?

Section 6-1841 of the ordinance contains the formula used to determine the setback line. We recommend that you obtain the services of a land surveyor to gather topographic information in the relevant area of your property. Based on the creek depth, the steepness of the bank, and the topography of the top on bank, the land surveyor can determine where the setback line is relative to the toe of the creek bank slope. All of the land between the creek and the setback line is defined as the creek setback area, and no structures are allowed within it.

In order to receive a building permit for your project, you need to submit evidence that your proposed work is outside the setback area. For the City's review, please submit a topographic plan of the project area, including the creek and its features (i.e., top of bank, toe of bank, bank slopes, flow channel, grade breaks, etc.). You should plot on the plan the setback line in accordance to the ordinance. Lastly, provide a cross-sectional view of the creek, creek bank, the setback line, and your proposed structure. The section should reflect a point where your proposed structure is the closest to the setback line.

We strongly recommend that you use a licensed surveyor to perform this work. You may make the determination yourself. If the City disagrees with your measurements, you may have to submit calculations prepared by a licensed surveyor to prove your case.

If my proposed work is within the setback area, can I apply for an exception to proceed with the work?

Yes, the requirements for an exception are explained in Section 6-1842 of the ordinance. You will need to supply three items outlined in paragraph (c) of that section. Please note that the certification by the soils engineer *must* state, "In the professional opinion of the engineer, there is no likelihood of a hazard to persons or property resulting from the proposed construction."

The City Engineer will review the exception application and make a recommendation for approval or denial to the City Council. As part of an approval, the City Engineer may impose certain conditions on your project to perform additional work in the vicinity of the project. The conditions will be based on the site conditions and the reports that you provide. If the City Council approves the exception, you will need to enter into a creek setback agreement with the City. A blank copy can be provided for your reference. After the agreement is executed, the City will issue your building permit. If you choose to appeal the City Engineer's recommendation, you may do so at the City Council meeting when the City Engineer presents the recommendation with your application.

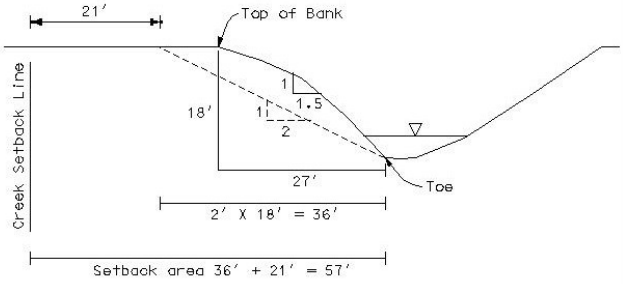
Is there a fee for the review?

Yes, the fee for the setback determination review is $125, and the fee for processing an exception is $500. Lengthy applications and appeals requiring more than 1 hour of staff time for the initial review and 4 hours for the exception review will be charged an additional $125 per hour. You may mail your submittal or deliver it to the City Offices -- attention of the City Engineer. The Engineering office will usually contact you within one week for the initial review and two weeks for the exception review. Please make checks payable to the City of Lafayette.

If you still have questions, please call the Engineering Technician at (925) 284-1951.

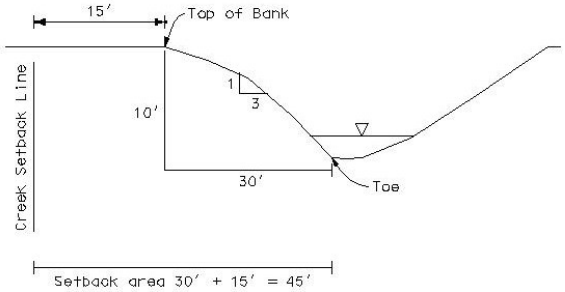
Revised 12/18/06 Engineering

Examples of creek setback determination



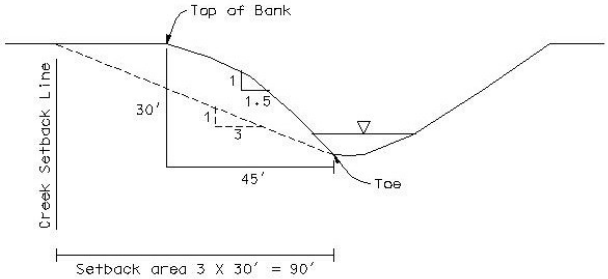
Example 1

Channel depth = 18 feet
Creek Bank Slope = 1.5:1
Using Section 6-1481 (a)(1)
Bank slope is steeper than 2:1 therefore the setback is determined by adding twice the channel depth to the minimum setback for the channel depth. This setback is measured from the toe of the slope.



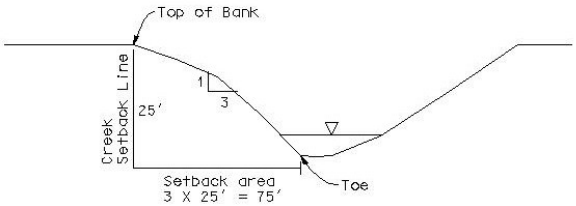
Example 2

Channel depth = 10 feet
Creek Bank Slope = 3:1
Using Section 6-1481 (a)(1)
Bank slope is flatter than 2:1 and the depth is 10 feet. Therefore the minimum setback of 15 feet from the top of bank is used.



Example 3

Channel depth = 30 feet
Creek Bank Slope = 1.5:1
Using Section 6-1481 (a)(2)
Bank slope is steeper than 2:1 therefore the setback is determined by multiplying the channel depth by 3. The setback is measured from the toe of the slope.



Example 4

Channel depth = 25 feet
Creek Bank Slope = 3:1
Using Section 6-1481 (a)(2)
Bank slope is flatter than 2:1 and the depth is over 21 feet. Therefore the setback is the top of bank.

Article 5. Creek Setback Requirements

6-1841 Structure setback.

(a) As defined by Section 6-312 and Section 6-355, buildings and structures shall be set back from an unimproved creek channel as follows:

(1) Channel Depth of Zero through 21 Feet. If the side slopes of the channel are steeper than 2:1 (horizontal:vertical), the width of the structure setback is determined by a line measured from the toe of the slope a distance of twice the channel depth plus the appropriate top-of-bank setback as follows:

Channel Depth (Feet)	Top of Bank Setback Minimum Width (Feet)
0 — 6	12 each side
6 — 12	15 each side
12 — 18	18 each side
18 — 21	21 each side

If the side slopes of the channel are flatter than 2:1 (horizontal:vertical) the structure setback is the appropriate setback indicated in the table above, measured from the top of the bank.

(2) Channel Depth Exceeding 21 Feet. If the depth of a channel exceeds 21 feet, the width of the structure setback is determined by measuring from the toe of the slope a distance of three times the channel depth.

(b) If a parcel is subject to subdivision easements or setback requirements under Contra Costa County Ordinance Code Sections 914-14.002 through 14.014 which are inconsistent with Section 6-1841(a), those subdivision requirements control.

(c) No permanent structure other than fences and drainage and erosion protection improvements may be constructed within the setback area. Landscaping (including trees and shrubs) is permitted within the setback area.

(Ord. 512 § 1 (Appx. A (part)), 2000)

6-1842 Exception.

(a) The city engineer may approve exceptions to the requirements of Section 6-1841 to allow construction of structures within the setback area if:

(1) The submitted materials under Section 6-1842(c) are complete and adequate; and

(2) The property owner agrees to enter into and record an agreement holding the city and other public agencies harmless in the event of flood or erosion damage. The agreement shall bind successors in interest and be in a form acceptable to the city attorney.

(b) In approving an exception, the city engineer may impose conditions deemed necessary for creekside erosion protection and on-site drainage.

(c) A person requesting an exception under this section shall submit to the city engineer:

(1) A topographical survey of the lot precisely showing the creek bottom, sides, top of bank and proposed and existing structures;

(2) A soils report prepared by a licensed civil engineer specializing in soils analysis which describes the soils condition for the proposed structure and analyzes and makes recommendations as to the creek bank stability and erosion hazard; and

(3) Certification signed by the engineer who prepares the soils report that in the professional opinion of the engineer there is no likelihood of a hazard

to persons or property resulting from the proposed construction.

(d) The decision of the city engineer may be appealed in to the city council as provided in Section 6-1852(b).

(Ord. 512 § 1 (Appx. A (part)), 2000)