

5A. HOW TO PLAN YOUR STREAMSIDE PROJECT

This chapter targets streamside property owners who are planning on:

- Building a new home near or next to a stream
- Adding new floor space onto an existing home near or next to a stream

5B. WHY CONSIDER LOCAL STREAM RESOURCES WHEN BUILDING OR REMODELING YOUR HOME?

A stream is more than just a channel for rainwater in its passage to the Bay. It is a complex, living system where the characteristics of the streambed—its composition, shape, and elevation drop—interact with the dissolved nutrients and organic matter in flowing water to create a dynamic environment rich with plant,

animal, and fish life. A number of conditions typify natural streams in their pristine state. These include cool, clear, oxygen-rich water free of contaminants and excess algae; plenty of clean gravel for fish spawning and aquatic insects; a balance of fast, flowing water for spawning and feeding; slow, calm pools for rest; and streamside vegetation to provide shade and food.

Human activities can influence all of these factors. Many animals and plants make their home in the narrow corridor of streamside vegetation known as riparian habitat—the area immediately adjacent to your stream. This high-moisture environment, which covers only a small percentage of the County’s watershed, provides food and shelter for a greater variety of wildlife than any other habitat type. This zone is also critical as a migration corridor for many animals, especially where nearby development acts as a barrier to overland travel.

In addition to the biological function of a stream, the gravel bed provides a conduit for groundwater recharge and ultimately water supply. The stream provides a conduit for conveying drainage water from the land surface including our streets and yards and provides for the conveyance of food water.

Too much water from roofs and paved surfaces in an urban environment has impacts on the stability of the stream channels. The velocity of the water increases which causes erosion and down cutting of the channel. Higher flows can also increase the frequency and depth of flooding. In addition to physical changes to the stream, pollutants from streets and hardened surfaces are carried to the stream, the temperature of the runoff is increased impacting the water quality.

A river seems a magic thing. A magic, moving, living part of the very itself – for it is from the soil, both from its depth and from its surface, that a river has its beginning.
—Laura Gilpin, *The Rio Grande*, 1949



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Even if the stream on or next to your property has been modified and no longer looks like a natural stream corridor, this guidance is still applicable. The water in the stream either flows to another stream or is carried to the Bay, in which case the water quality and stream bank protection concerns are still applicable. In any case, protection or enhancement of the stream corridor will always be betterment to the environment.

If you incorporate the natural features of a stream into your building plans, you will benefit in these ways:

- 1. Shade Trees:** Retention of riparian trees can provide a shade canopy for outside uses, and provide for cooler temperatures inside a home during hot summer months.
- 2. Safe Slopes:** By not building on or next to streambanks the potential for eroding and destabilizing such slopes, and related impacts to health and safety are reduced.
- 3. Stream Stability:** By not placing structures between stream banks, and by reducing the amount of pavement and other impervious surfaces adjacent to a stream, including directing drainage from roofs, driveways and patios away from streams, you will be contributing to stream stability.
- 4. Clean Water:** The water quality in local streams and the receiving waters of the bays and ocean will benefit if surface water is directed to vegetated areas before it flows into streams.
- 5. Wildlife and Aquatic Life:** Wildlife, such as resident and migratory birds, small mammals, fish and other aquatic life have a better chance of surviving in the urban environment if measures are taken to protect native vegetation, if newly planted vegetation is specific to your watershed and if streams are kept in the most natural condition possible.

6. Helping Mother Nature: As many urban and suburban streams have been degraded, opportunities abound for homeowners to restore environmental conditions of local streams, including erosion and streambank repair measures, planting of trees and shrubs suitable to your watershed, and joining with your neighbors to restore a reach of stream.

7. Open Space and Recreation: Healthy and intact stream ecosystems are a ready-made open space area for wildlife viewing that can be incorporated in your landscape design, while adding pleasure and amenity to your streamside property.

8. Buffers Between Homes: By preserving and maintaining riparian trees and vegetation, and siting structures appropriately, you can maintain or create a visual and physical buffer between other homes in the neighborhood, adding to the privacy and enjoyment of your streamside house.

5C. WHAT PERMITS DO I NEED?

Please consult with your local building department and ask what permits you need to build a new home or expand an existing home. Some communities only require a building permit while others require discretionary design review.

If you are planning to modify a streambank or streambed, you will probably need permits from the California Department of Fish and Game, the Regional Water Quality Control Board and the U.S. Army Corps of Engineers(see Chapter 2, Section K for contact information for permitting agencies). The mission of these agencies includes protection of stream habitats, water flows and water quality, so they will help to provide guidance for your project.

If your project is adjacent to a SCVWD facility or right-of-way, or if your local jurisdiction has chosen not to administer streamside permitting, a SCVWD permit is required. Please contact the SCVWD's Community Projects Review Unit at (408) 265-2607, ext. 2650 to find how to obtain a SCVWD permit. Information is also available at : http://www.valleywater.org/Business_Info_and_Permits/Permits/index.shtm.

5D. HOW TO USE THE STREAMSIDE PERMITTING TOOLS AND GUIDELINES AND STANDARDS FOR LAND USE NEAR STREAMS

As part of a multi-year cooperative process, all of the cities in Santa Clara County, the County, the Santa Clara Valley Water District as well as environmental, business, agricultural and community organizations developed a set of Guidelines and Standards for Land Use Near Streams, which are listed in Chapter 3 of this User Manual. Each local jurisdiction will decide how the Guidelines and Standards are administered and how they may apply to new homes and expansion of existing homes.

Please consult with planning or building officials in your local jurisdiction to find out how the Guidelines and Standards apply to you.

5E. STEP-BY-STEP PROCESS FOR USING THE PERMITTING TOOLS

In Chapter 2 of this User Manual there are several tools to help you prepare for obtaining a permit to build or remodel a home on your streamside property. If you wish, before you go to your local building or planning department, you can follow these seven steps, to start planning your home while preserving the stream and streamside ecosystem:

Step 1: See the List of Exempt Activities below, a-g. If the construction you are planning falls into one of the exempt categories (listed below), no special streamside requirements apply.

List of Exempt Activities

- a. Less than 3 cubic yards of earthwork; or,
- b. Interior building construction and alterations; or,
- c. Erection of storage buildings not greater than 120 sq. ft.; or,
- d. Replacement of sewer or water laterals; or,
- e. Re-roofing; or,
- f. Wood fences six feet and height or less; or,
- g. Exterior decks less or equal to 30" above grade.

Interior construction (b), replacement of sewer laterals (d), and reroofing are subject to local building permit requirements. In most jurisdictions minor grading (a), small storage buildings (c), fencing (f) and low decks are not subject to building permits. However, if you do plan on adding a storage shed, a fence or a deck, please consider how to design, site and build them in a manner that causes the least disruption to the stream and streamside resources. Decks should not overhang or extend beyond the creek bank. Fences should also be set back from the top of the bank.

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Ask your local building department for information that describes how to build exempt improvements so they cause the least disruption to the stream and streamside ecosystem.

Step 2: Determine whether or not your parcel is defined as a streamside parcel. If any portion of the parcel is within 50 ft. of the top of the streambank on or nearest to your parcel, the answer is 'yes'. See the following sections in Chapter 2 of this User Manual for reference material to help determine if your parcel is defined as a streamside parcel:

- 2D. Designation of Streamside Review Area
- 2E. Definition of a Stream
- 2F. Criteria to Identify or Verify a Watercourse as a Stream
- 2G. Definition of Top of Bank

Step 3: See the list of Streamside Resource Protection Questions for Single-Family Units, Chapter 2, Section I in this User Manual.¹ Answer the questions to the best of your ability. If you need help answering any of the questions, consult with your architect or local building department.

Step 4: See the Information to be Included on Plans for Streamside Development, Chapter 2, Section J in this User Manual. By including the information described, you can create a site plan which integrates the stream and streamside resources into your building plans. The Streamside Resource Protection Questions for Single-Family Units (see Step 3 above) will provide the basis for much of the information you will need to include on the site plan.

¹ Your local building department may use this same list of Questions, or may have changed their format by adding them to an existing permit questionnaire. Either way, completing the Questions will help provide information helpful to building on a streamside lot that causes the least disruption to the stream and streamside resources.

² In addition to protecting this area, BMP's should be used that are reflective of Guidelines and Standards, for activities adjacent to this areas where discretionary review is used (i.e redirecting drainage away from the stream and no removal of native riparian plants).

Step 5: See the section below titled Slope Stability Protection Area for Single-Family Homes. Determine how the Slope Stability Protection Area needs to be accommodated by your Site Plan. If the top of bank is not easily determined by visual inspection, see Chapter 2, Section G of this User Manual for a detailed description on how to determine the top of the streambank.

5F. SLOPE STABILITY PROTECTION AREA FOR SINGLE-FAMILY HOMES.

The Slope Stability Protection Area is an area between a structure and the stream². The purpose of the Slope Stability Protection Area is to prevent:

- 1) Problems with slope stability and erosion, and related hazards to structures, public health and safety;
- 2) Adverse effects on flood control and drainage facilities and related infrastructure; and,
- 3) Adverse effects on streams and riparian corridors, including stream-dependent vegetation.

The width of the Slope Stability Protection Area will vary depending on the depth of the stream from the top of bank to the bottom, the condition of the stream and the steepness of the bank. Generally, the width of the Slope Stability Protection Area will be between 10-25 ft. from top of bank, but this may be different depending on site and streambank conditions.

Building within the Slope Stability Protection Area is discouraged; however, if your plans include building within that area or if the affected stream is deeply incised or has highly erodable banks, the building department in your community may ask you to hire a licensed expert to conduct a

geotechnical analysis of slope stability on your property. The purpose of this analysis is to assure that the building will not be damaged if the stream erodes or fails and that the stream bank will not be damaged by the construction and placement of the structure.

If a new home or remodel requires discretionary review by your local planning department, you will be asked to pay special attention to directing surface drainage away from the stream and possibly take measures to increase the Slope Stability Protection Area to better protect any structures and streams from possible impacts.

Some communities may adopt exemptions to existing single-family homes, which are built on lots 10,000 sq. ft. or less. The exact lot size subject to exemption may vary from community to community. Please consult with building officials in your community to find out how the Slope Stability Requirements may affect your property. See Appendix C to this User Manual for a complete description of the Slope Stability Requirements for Single-Family Units on Streamside Properties.

Step 6: See the Guidelines and Standards for Land Use Near Streams, Chapter 3, Section B of this User Manual. Review the Guidelines and Standards, starting with section I, Riparian Corridor Protection, and proceeding to section XIV, Flood Protection. Consider how you can incorporate the recommendations in the Guidelines and Standards into your single-family home site plan to protect stream and streamside resources. Also refer to the Best Management Practices for Single-Family Homes listed below.

5G. BEST MANAGEMENT PRACTICES FOR SINGLE-FAMILY HOMES

The following Best Management Practices (BMP's) have been developed to support the protection of streamside natural resources on parcels where single-family development is planned. The goals of the BMP's are:

- a. To take advantage of the stream and streamside resources on your property by designing and locating improvements to be in harmony with them.
- b. To incorporate stream and streamside resources into your development plans in a way that leaves natural stream systems intact.
- c. To take opportunity where possible to prevent or address problems, such as bank erosion and/or spreading invasive species, while improving the existing conditions of the stream and/or streamside environment.

The BMP's for single-family homes are:

1. Water Quality:

- a. Direct surface drainage away from streams and do not allow water to sheet flow over the stream bank.
- b. Encourage infiltration by minimizing paving materials and installing pervious materials such as porous pavement.
- c. Use vegetated buffer zones to reduce surface runoff into streams.
- d. Plant landscape materials that minimize the use of pesticides and fertilizers. Use organic soil amendments rather than chemical fertilizers.
- e. Do not drain pools or spas to the storm drain, gutter or creek. Chlorine and copper algacides are toxic to aquatic life. Drain to sanitary sewer or let chlorine dissipate for two weeks and drain to landscaping.

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- f. Dispose of vegetation debris, lawn clippings and animal waste with your household trash. Although biodegradable, too much organic material degrades the riparian habitat.

2. Stream Banks and Streambeds:

- a. Preserve existing riparian vegetation.
- b. Keep structures out of the stream zone. Stairs and retaining walls can degrade creek banks and impact your neighbor's stream bank.
- c. Drain roof gutters to landscaped areas or to the street. Pipes draining onto or overhanging the stream bank cause erosion.
- d. Don't dam or take water from the stream.
- e. Monitor the stream bank condition. Replant barren or disturbed slopes as soon as possible or provide erosion blanket or straw to protect slope until permanent vegetation is established.
- f. Do not use tires or broken concrete for erosion repair or slope protection.
- g. Eroded stream banks should be repaired with 'soft' methods, such as geotextiles or soil filled mats or for severely eroded areas boulders interspersed with willow wattles. Seek professional help with this work to ensure proper technique and that there are no impacts to your neighbors.
- h. If possible, coordinate with upstream or downstream property owners to

design and implement streambed or streambank improvements for a reach of stream.

3. Riparian Vegetation:

- a. Plant riparian vegetation to provide shading of streams, where possible.
- b. When planting new vegetation in riparian areas:
 - 1. Use native watershed-specific plants or non-local California natives. See plant lists in Chapter 4- Design Guides.
 - 2. Exclude invasive plants from your landscaping plan. Refer to the list of invasive plants in Chapter 4- Design Guides
- c. Do not place structures within the drip line of mature riparian trees, such as oak, sycamore, alder, etc.
- d. New native plantings may need irrigation to help ensure establishment but should be weaned from irrigation for long term survival
- e. Remove invasive plants from riparian corridors, especially those which spread rapidly and degrade riparian habitat, such as pampas grass (*Cortaderia selloana*) and *Arundo donax*.

4. Fisheries:

- a. Preserve in-stream and near-stream riparian vegetation whose canopies provide shade and nutrients for aquatic life.
- b. Avoid removing woody debris, which provides fish habitat in streams unless it poses a flooding or erosion threat.

Step 7: See the Construction-related Permit Conditions for Streamside Permits, Chapter 2, Section L of this User Manual, for ways to protect stream and streamside resources during the construction phase of your project.

5H. TECHNICAL ASSISTANCE

When considering how to use the BMP's, especially if you are planning to make improvements to, or reconfigure the stream channel or stream bank, you can call the Community Projects Unit of the Santa Clara Valley Water District: (408) 265-2607 x 2650 for assistance.

Please consult with planning or building officials in your community to find out how the Guidelines and Standards apply to your site and your project.

5I. RELATED INFORMATION AND PROGRAMS FOR STREAM STEWARDSHIP

There are a variety of programs available to assist homeowners and community groups in promoting stream stewardship. The programs and information listed below are available through the Santa Clara Valley Water District. Other programs are also available through a variety of other agencies.

Stewardship for Small Acreages Workshops

The SCVWD sponsors the Stewardship for Small Acreages program which provides an annual series of educational workshops for landowners on how to attain their property goals while protecting soil, water, plant, animal and other natural resources. The goal is to help reduce pollution entering storm and surface water from residential and agricultural properties by sharing the knowledge and skills necessary to manage land and animals in a way that helps keep water clean. The program targets more than 5000 landowners in the Uvas/Llagas Watershed who own between one and sixty acres of land and is co-sponsored with the Loma Prieta Resource Conservation District and the University of California Cooperative Extension. Specific workshop topics have included: well and septic system maintenance, general storage and disposal issues, landscape design, native plant selection, erosion control, small vineyard nutrient and fertilizer management, composting, fire safety and water conservation.

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Watershed Stewardship Grant Program

The SCVWD sponsors the Watershed Stewardship Grant Program to support community-based, non-profit organizations in their watershed stewardship efforts to enhance ecosystem health, water supply, and water quality in Santa Clara County. The program aims to provide community-based, non-profit organizations with the tools and resources to improve ecosystem quality in Santa Clara County and to promote awareness, education, and research related to ecosystem sustainability. Since the program's inception in 2001, more than \$300,000 in grant funding has been awarded to community groups.

Adopt-A-Creek and Creek Connections Volunteer Programs

The SCVWD's Adopt-A-Creek and Creek Connections volunteer programs provide the opportunity for community members to have a hands-on experience in improving the condition of local waterways. Adopt-A-Creek is a formalized program that allows schools, businesses or community groups to care for a specific stretch of SCVWD-owned creek for a minimum two year period. The SCVWD provides supplies, such as trash bags, and hauls away the debris collected by volunteers. Hundreds of groups have participated in the program since its inception in 1993. Creek Connections sponsors two countywide creek clean-up in conjunction with California Coastal Cleanup Day and National River Cleanup Day. These events provide an opportunity for spontaneous "drop-in" participation. More than 10,000 volunteers have participated in Creek Connections events since 1996.

School Programs

The SCVWD offers classroom presentations on watersheds, flood plains, run-off, flood protection, creek ecology and clean water. Presentations feature hands-on, interactive activities, including a watershed diorama and bay pollution activity. There are also several original watershed songs that have been incorporated into the curriculum. Many teachers make follow-up field trips to nearby creeks and schools are one of the largest categories of groups participating in the Adopt-A-Creek program. Nearly 20,000 students per year are reached through the school program.

Stream Care Publications and Direct Mail

The SCVWD has several publications and direct mail pieces that focus on the issues of creek care and watershed stewardship including:

Streamcare Guide for Santa Clara County: this twelve page booklet touches on such subjects as healthy streams and watersheds, the living stream, streams in decline, guidelines for stream care, and native plant species. Its first printing included mailed distribution to all of the county's creek side property owners.

Creek Care: this annual mailer to creek side property owners includes general information on responsible behavior around waterways including contacts to report illegal dumping.

Why do people dump their trash in creeks?: this tri-fold brochure takes a broad look at what is dumped in creeks - from lawn clippings to motor oil - and explains the negative effects of the dumping.

Working Around Watercourses: this self-mailer talks about the SCVWD's permit process and the activities that require review and permitting from the district.

CHAPTER 6

GUIDANCE FOR DEVELOPERS

6A. HOW TO PLAN YOUR STREAMSIDE PROJECT

The purpose of this chapter is to help you, as a developer planning a project on streamside land, to anticipate the special needs inherent in planning and building residential, commercial or industrial projects on streamside properties.

6B. THE IMPORTANCE OF PROTECTING AND MANAGING LOCAL STREAMS

The streams and rivers that helped form the picturesque Santa Clara Valley are an integral part of the natural beauty of the region. Early land development in the Santa Clara Valley often maximized lot yield by placing the back fences of individual lots directly onto streambanks. This restricted access to streams, reduced the value of stream-related open space to the community, degraded water quality, damaged streams and streamside resources and limited design options for flood protection measures. Some streams were redesigned to be straight, smooth, and efficient drainage ways, sometimes lined with concrete. These sterile waterways were

often hidden from view, and hence became perfect corridors for illegal and disruptive activities. It doesn't have to be this way.

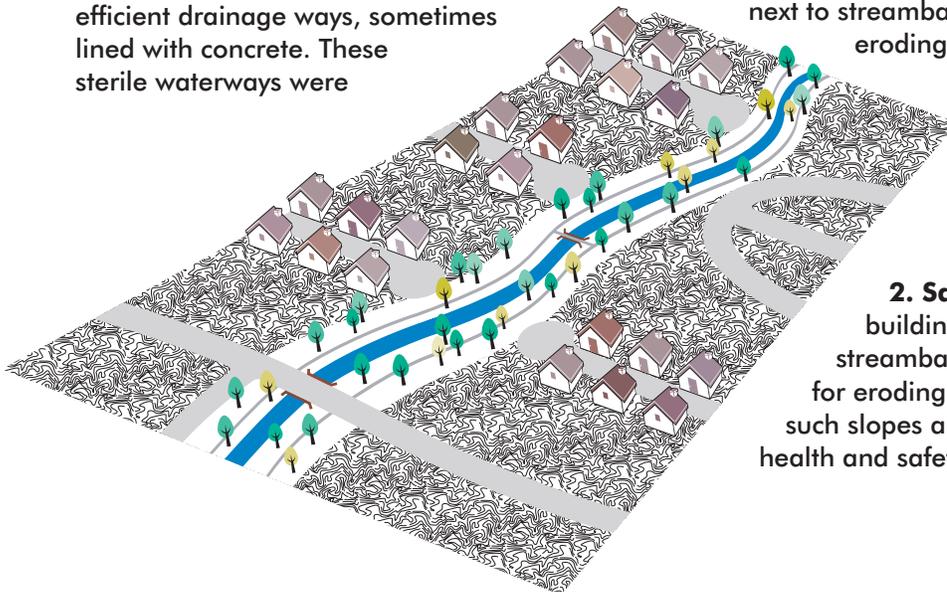
Today, the community's desires for open space and recreational opportunities, state and Federal mandates to protect water quality and endangered fish, such as salmon and steelhead, combined with the Santa Clara Valley Water District's preference for non-structural, natural flood protection methods, create the opportunity for streamside development which both preserves the natural values the public desires and provides the security and privacy residents need.

6C. BENEFITS OF INTEGRATING STREAMS INTO YOUR SITE PLANS

By integrating measures to protect and/or restore streams and streamside natural resources into your development plans, you can create these benefits:

1. Safe Structures: By not building on or next to streambanks the potential for eroding and destabilizing such slopes, impacts to health and safety and related liability are reduced.

2. Safe Slopes: By not building on or next to streambanks the potential for eroding and destabilizing such slopes and related impacts to health and safety are reduced.



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3. **Stream Stability:** By not placing structures between stream banks, and by reducing the amount of pavement and other impervious surfaces adjacent to a stream, including directing drainage from roofs, driveways and patios away from streams, you will be contributing to stream stability.
4. **Open Space and Recreation:** healthy and intact stream ecosystems are a ready-made open space area that can be incorporated in your landscape design and site plan.
5. **Buffers Between Structures:** by preserving and maintaining riparian trees and other vegetation, and siting structures appropriately, you can maintain or create a visual and physical buffer between structures on a site, and between structures on a neighboring site, adding to the privacy and enjoyment of your development.
6. **Proactively Meeting Requirements:** by protecting streams and streamside resources by integrating them into your plans for development, as you follow the Guidelines and Standards for Land Use Near Streams (see below), you will lay the foundation for meeting State or Federal requirements you may encounter when developing streamside lands.

6D. BASE YOUR SITE PLAN ON LOCAL STREAM RESOURCE CONDITIONS

It is very important, given the dynamic and changing nature of streams and stream ecosystems, that each phase of your project and site planning process take into account the special conditions that exist on streamside properties. Your project and site planning process should include measures designed to:

1. **Prevent Damage:** in designing your project, consider how best to protect and prevent damage to sensitive stream resources, and prevent future damage to structures and their occupants.
2. **Address Specific Problems:** if specific problems exist on a site, such as streambed or streambank erosion, a barrier to fish passage, untreated surface drainage flowing directly into a stream or a degraded riparian corridor, your site plan should address each problem with a specific solution.
3. **Anticipate the Needs of Dynamic Stream Systems:** streams are dynamic; they can vary seasonally and from year to year, based on periodic high flows, floods and wet and dry cycles that can occur over a period of years. It is essential that you keep the theme of 'flexibility' in mind when you devise methods of protecting streamside resources or repairing streamside problems. Keep in mind the dynamic nature of stream systems as you plan and carry out your development project.

Please consult with planning or building officials in your community to find out how the Guidelines and Standards apply to your site.

6E. THE GUIDELINES AND STANDARDS FOR LAND USE NEAR STREAMS

The Santa Clara County Water Resources Protection Collaborative, whose members include all of the cities in Santa Clara County, the County, the Santa Clara Valley Water District (SCVWD) as well as environmental, business, agricultural and community organizations, has undertaken a multi-year cooperative process to develop the Guidelines and Standards for Land Use Near Streams, which are listed in Chapter 3 of this User Manual, and the companion Permitting Tools, which are in Chapter 2 of this User Manual.

While each community will decide how and the Guidelines and Standards (G&S's) are administered, each City and the County is expected to require that the G&S's be met when developing streamside properties.

6F. GOALS OF THE GUIDELINES AND STANDARDS AND PERMITTING TOOLS

The Guidelines and Standards and Permitting Tools have been designed to provide:

- **Certainty and clarity in development standards:** the Guidelines and Standards have been developed so that each local permitting agency will apply them in a similar manner countywide. The actual Guidelines and Standards have been peer reviewed by planning and public works staff to help ensure clarity and consistency.
- **Predictability:** the Guidelines and Standards are available for you to review and examine, so you can predict how they will likely apply to your proposed project.
- **Permit Streamlining:** the Guidelines and Standards are designed to fit into each local jurisdiction's existing planning, building and permit systems, to streamline permitting.

- **Proactivity:** by reviewing the Guidelines and Standards as part of your preapplication process, you can see how they apply to your proposed project, so that by the time you file out a permit application, related requirements of the local permit agency are already integrated into project planning, and eventually, into your site plan.

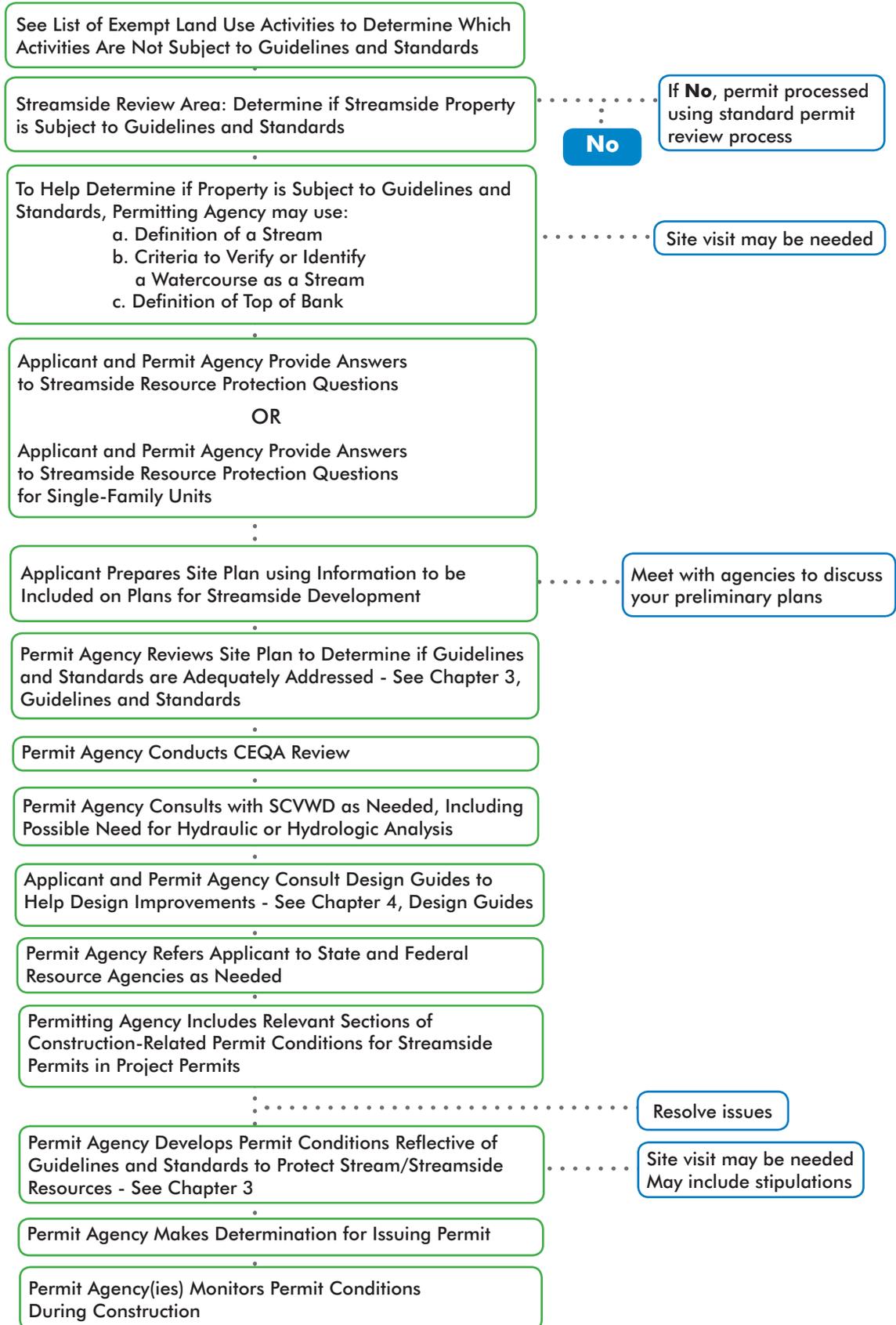
6G. PROJECT PLANNING TIPS

To facilitate the planning of your proposed project, and the processing of related permits, consider these tips:

- **Start Early:** leave plenty of time to understand the Guidelines and Standards and to develop alternate site plans and development scenarios for project site. Allowing plenty of time for this phase of project planning will bear fruit later in the planning and permit process.
- **Develop a Preliminary Plan:** sketch a simple preliminary site plan, with proposed improvements showing specifically how the Guidelines and Standards will be applied.
- **Answer the Streamside Resource Protection Questions:** if you fill out the Streamside Resource Protection Questions you will quickly gain valuable knowledge to apply to your project and site planning.
- **Contact State and/or Federal Permitting Agencies:** if your proposed development activities include alteration of a stream channel or development next to a stream which contains threatened or endangered fish, such as salmon or steelhead, or similar terrestrial or aquatic life, contact the California Department of Fish and Game, the U.S. Fish and Wildlife Service, etc. See the Resource Agency Referrals for Streamside Development in Chapter 2, Section K of this User Manual for contact information as well as the type of issues in which resource agencies are interested.

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STREAMSIDE PERMIT REVIEW PROCESS FLOW CHART



- **Be Flexible:** if your preliminary development plans do not meet the needs of a permitting agency, be creative to find another way to meet these needs.

- **Market Your Success:** by protecting and enhancing local stream and streamside resources by integrating the Guidelines and Standards into your development plans, you will help create greater environmental and community values within your project. Tell potential buyers or tenants of this benefit.

6H. HOW TO USE THE STREAMSIDE PERMITTING TOOLS AND THE GUIDELINES AND STANDARDS FOR LAND USE NEAR STREAMS

Chapter 2 of this User Manual contains all of the Permitting Tools that accompany the Guidelines and Standards. Please review the Flow Chart to get a sense of which Permitting Tools you should use to help you step through the streamside permitting process as easily as possible. The following discussion will take you through the streamside permit application process in a step-wise manner.

Step 1: Land Uses That are Subject to the Guidelines and Standards: the following list of land use activities are exempt from the Guidelines and Standards. All other land use activities are subject to Guidelines and Standards.

List of Exempt Land Use Activities

- Less than 3 cubic yards of earthwork; or,
- Interior building construction and alterations; or,
- Erection of storage buildings not greater than 120 sq. ft.; or,
- Replacement of sewer or water laterals; or,

- Re-roofing; or,
- Wood fences six feet and height or less; or,
- Exterior decks less or equal to 30" above grade.

Interior construction (b), replacement of sewer laterals (d), and reroofing are subject to local building permit requirements. In most jurisdictions minor grading (a), small storage buildings (c), fencing (f) and low decks are not subject to building permits. However, if you do plan on adding a storage shed, a fence or a deck, please consider how to design, site and build them in a manner that causes the least disruption to the stream and streamside resources. Decks should not overhang or extend beyond the creek bank. Fences should also be set back from the top of the bank.

Step 2: Determine whether or not your parcel is defined as a streamside parcel. If any portion of the parcel is within 50 ft. of the top of the streambank on or nearest to your parcel, the answer is 'yes'. See the following sections in Chapter 2, of this User Manual for reference material to help determine if your parcel is defined as a streamside parcel:

- 2D. Designation of Streamside Review Area
- 2E. Definition of a Stream
- 2F. Criteria to Identify or Verify a Watercourse as a Stream
- 2G. Definition of Top of Bank

Step 3: See the list of Streamside Resource Protection Questions, Chapter 2, Section H in this User Manual.¹ Answer the questions to the best of your ability. If you need help answering any of the questions, consult with your project planner, engineer, architect or local building/planning department.

¹ Your local building department may use this same list of Questions, or may have changed their format by adding them to an existing permit questionnaire. Either way, completing the Questions will help provide information helpful to building on a streamside lot that causes the least disruption to the stream and streamside resources.

Step 4: See the Information to be Included on Plans for Streamside Development, Chapter 2, Section J in this User Manual. By including the information described, you can create a site plan which integrates the stream and streamside resources into your building plans. The Streamside Resource Protection (see Step 3 above) will provide the basis for much of the information you will need to include on the site plan.

Step 5: See the Guidelines and Standards for Land Use Near Streams, Chapter 3, Section B of this User Manual. Review the Guidelines and Standards, starting with section I, Riparian Corridor Protection, and proceeding to section XIV, Flood Protection. Determine how you will incorporate the Guidelines and Standards into your development plans to protect stream and streamside resources.

Model Enhanced Practices

The Santa Clara County Water Resources Protection Collaborative has developed a set of Model Enhanced Practices, which build on the basic Guidelines and Standards. If you want to go beyond the basic Guidelines and Standards and provide additional protection and/or restoration of a stream or related streamside resources, please see the Model Enhanced Practices in Chapter 6 of this User Manual and see how they can be used to add environmental and community benefit to your development.

6I. PERMITS AND GUIDANCE BY STATE AND/OR FEDERAL REGULATORY AGENCIES

Depending on the location of your proposed project and the potential for it to impact natural resources, such as wetlands and protected fish, wildlife or plant resources, you may need to obtain permits from one or more State or Federal agencies, such as the California Department of Fish and Game, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service or the San Francisco Bay Regional Water Quality Control Board. If you need to obtain permits from more than one of these agencies, you may elect to complete a single Joint Aquatic

Resources Permit Application (JARPA) which is then reviewed by the relevant State and Federal Permit Agencies. If you think you will need permits from any of these agencies, you should talk to their staff representatives as early as possible in the permit process. Please see Chapter 2 Section K for a referral list to Resource Agencies.

Step 6: See the Construction-related Permit Conditions for Streamside Permits, Chapter 2, Section L of this Users Manual, for ways to protect stream and streamside resources during the construction phase of your project.

6J. PERMITS AND TECHNICAL ASSISTANCE FROM THE SCVWD

If your project is adjacent to a SCVWD facility or right-of-way, or if your local jurisdiction has chosen not to administer streamside permitting, a SCVWD permit is required. Please contact the SCVWD's Community Projects Review Unit at (408) 265-2607, ext. 2650 to find how to obtain a SCVWD permit. Information is also available at: http://www.valleywater.org/Business_Info_and_Permits/Permits/index.shtml

Use of the Santa Clara Valley Water District's (SCVWD) Website for Streamside Information

The SCVWD, in cooperation with the Santa Clara County Water Resources Protection Collaborative, has established a website to support the implementation of the Guidelines and Standards. You may find it useful to use the website to access information, including GIS-based maps of the Santa Clara Valley, to help plan your streamside project. See Chapter 9 of this User Manual for more information about the website and how to access it.

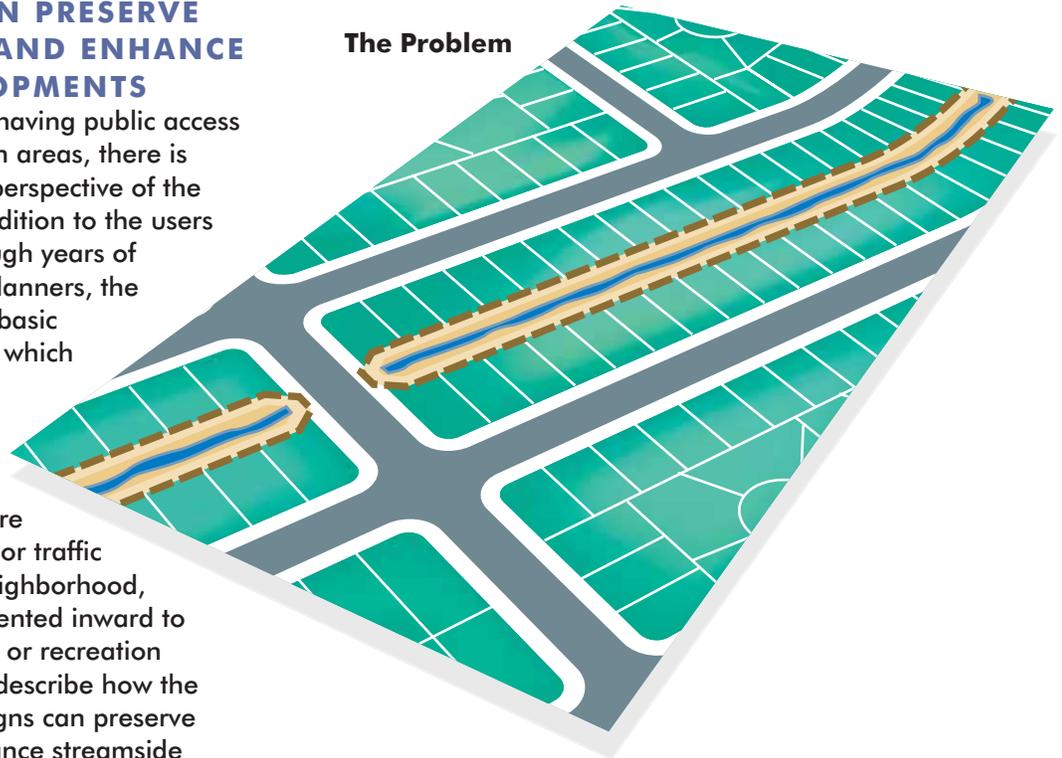
Please consult with planning or building officials in your community to find out how the Guidelines and Standards apply to your site and your project.

6K. STREAMSIDE PLANNING: HOW USING ALTERNATIVE STREET DESIGNS CAN PRESERVE NATURAL STREAMS AND ENHANCE STREAMSIDE DEVELOPMENTS

When there is an interest in having public access to stream-oriented recreation areas, there is also a need to consider the perspective of the adjacent homeowners, in addition to the users of the parks and trails. Through years of working with development planners, the SCVWD has identified three basic street alignment alternatives which can enhance the interface between homes and a linear stream park, trail facility or flood protection channel. These alignments are most effective where the major traffic is on the perimeter of the neighborhood, and residential areas are oriented inward to a central linear park, school, or recreation facility. The following pages describe how the use of alternative street designs can preserve our natural stream and enhance streamside developments.

Housing developments that are designed with the back fences along a stream bank isolate that waterway from the rest of the community instead of integrating it into the neighborhood. Such a design allows the stream to become a detriment to the area, instead of an asset. This type of plan tends to hide the stream from view, restricts access to it, and makes flood protection projects difficult to design.

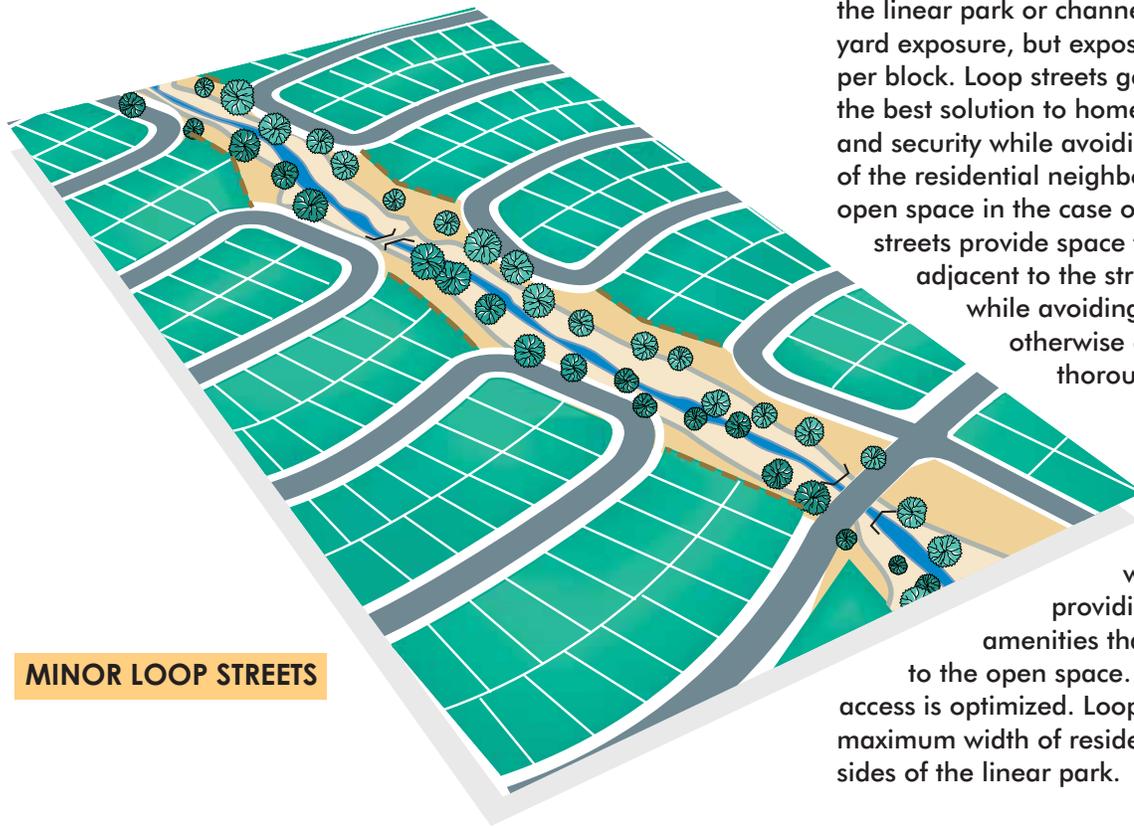
The Problem



CREEK BETWEEN BACKYARDS

GUIDANCE FOR DEVELOPERS

The Solutions

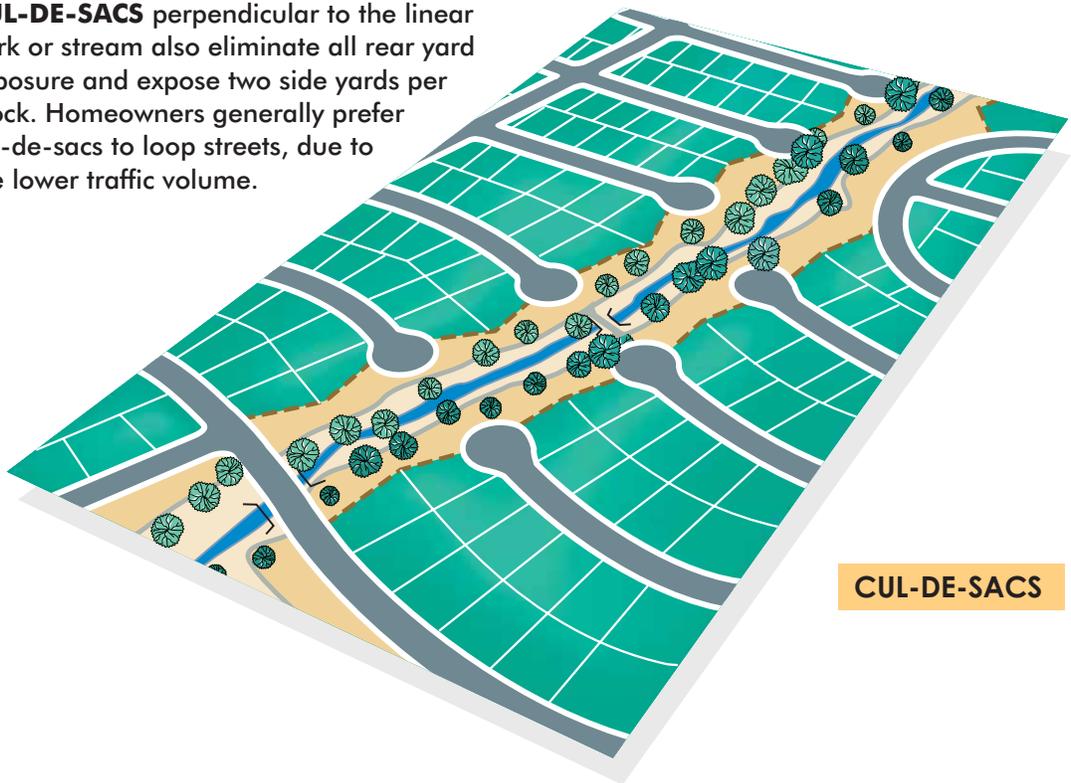


MINOR LOOP STREETS

MINOR LOOP STREETS perpendicular to the linear park or channel eliminate all rear yard exposure, but expose two side yards per block. Loop streets generally provide the best solution to homeowner privacy and security while avoiding a separation of the residential neighborhood from the open space in the case of linear parks. Loop streets provide space for public parking adjacent to the stream park chain while avoiding through-traffic otherwise created by a major thoroughfare.

Loop streets allow a more attractive development with regard to providing open space amenities than streets parallel to the open space. Visual and physical access is optimized. Loop streets also allow maximum width of residential area on both sides of the linear park.

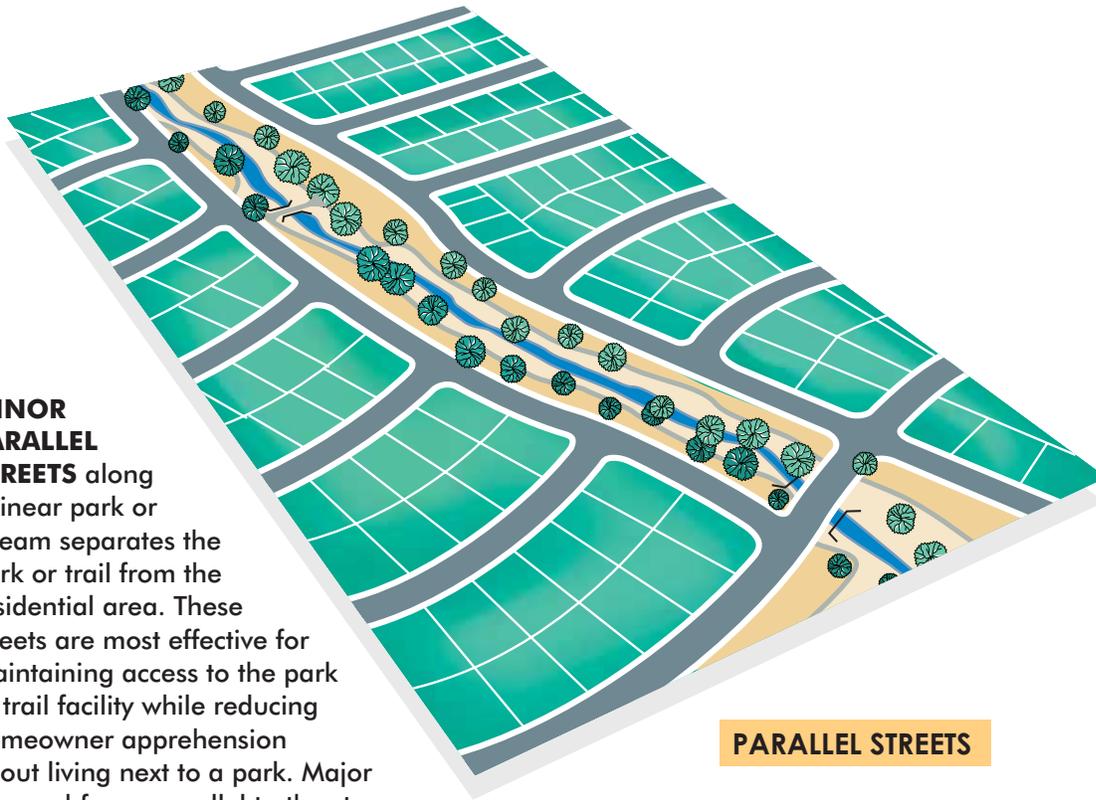
CUL-DE-SACS perpendicular to the linear park or stream also eliminate all rear yard exposure and expose two side yards per block. Homeowners generally prefer cul-de-sacs to loop streets, due to the lower traffic volume.



CUL-DE-SACS

**The Solutions
(continued)**

MINOR PARALLEL STREETS along a linear park or stream separates the park or trail from the residential area. These streets are most effective for maintaining access to the park or trail facility while reducing homeowner apprehension about living next to a park. Major thoroughfares, parallel to the stream, tend to isolate the neighborhood from the open space.

**PARALLEL STREETS**

7A. INTRODUCTION TO THE MODEL ENHANCED PRACTICES

The Guidelines and Standards for Land Use Near Stream (Guidelines and Standards), and the corresponding Permitting Tools are the primary focus of this User Manual. However, as they developed the Guidelines and Standards, the members of the Water Resources Protection Collaborative also developed a list of additional practices, which they have entitled the Model Enhanced Practices.

The Model Enhanced Practices consist of voluntary measures which could be undertaken by streamside property owners, cities, the County, the Santa Clara Valley Water District (SCVWD) and developers to provide substantial additional benefits to streams and stream resources. By their nature, the Model Enhanced Practices are proactive in nature. Some would require concerted cooperation among adjacent property owners or jurisdictions, which cannot be easily accomplished through the permitting process.

The following list of Model Enhanced Practices will be further refined by the Collaborative in 2006, but Practices on the current list can be used and incorporated into streamside development plans to improve local environmental conditions. It is anticipated that sometime in 2006 the SCVWD Board of Directors will consider adopting a set of financial and technical incentives to help encourage use of the Model Enhanced Practices.

There is a wide range of Model Enhanced Practices. Some of the Practices can stand on their own, while others would be more effective if bundled with other Practices. Some Practices involve long-term policy and planning work, while others can be used now, and be integrated into individual development or capital improvement projects. Because some of the Model Enhanced Practices tend to require collaboration among neighbors and agencies, it is anticipated that they will provide the basis for future strategic and coordinated efforts between Collaborative member organizations, as well as property owners and developers.

The Model Enhanced Practices have been grouped into the same activity areas as the Guidelines and Standards. However, within each activity area, the Model Enhanced Practices are further divided into the following five categories:

- A. Policy and Planning Work
- B. Public Works or Local Capital Improvements
- C. Enhanced Land Use Permit Requirements/Guidelines
- D. Stream Improvement and Restoration Efforts
- E. Outreach and Education

MODEL ENHANCED PRACTICES

7B. MODEL ENHANCED PRACTICES

I. Riparian Corridor Protection Near Streams and Reservoirs

A. Policy and Planning Work

General Plans

1. Jurisdictions to incorporate stream protection or restoration goals and objectives in General Plans in cooperation with the District.
2. Jurisdictions to incorporate Source Water Protection (SWP) goals/objectives in General Plans in cooperation with the District.

General Planning

1. Jurisdictions to develop a riparian buffer of at least 40 – 150 feet from top of bank or outward dripline of riparian area (whichever is greater).
2. Jurisdictions to develop a riparian protection areas in SWP Zone A (400 ft from reservoir high water line, 200 ft from reservoir tributaries top of bank) and in SWP Zone B (2500 ft from reservoir intakes), and implement measures identified in the District's Source Water Protection Management Guide.

Ordinances

1. Jurisdictions to adopt a comprehensive stream protection ordinance.
2. Jurisdictions to update their local tree protection ordinance to expand the list of protected trees to include riparian species and the recommended planting lists to eliminate non-native invasive species and to promote native species.

B. Public Works or Local Capital Improvements

1. Jurisdiction to consider and implement the watershed stewardship plans when they develop capital improvement plans and evaluate private development proposals.

C. Enhanced Land Use Permit Requirements/Guidelines

1. Plant native vegetation in and near buffer zone to provide more habitat for wildlife and to protect existing habitat from invasive plants.
2. Remove or control non-native invasive plants, where possible, to prevent further propagation and to protect existing riparian resources.
3. Discourage and, where possible, remove other non-native vegetation planting and replace with native riparian vegetation.
4. Take measures to provide in and near-stream riparian vegetation whose canopies provide shade and nutrients for aquatic life.
5. Take measures to create stream characteristics suitable for fish habitat, including riffles, pools, gravel beds, overhanging vegetation & woody debris.
6. Remove barriers to fish passage, including dams where possible.

E. Outreach and Education

1. Improve education efforts in the county to discourage property owner from buying/planting invasive species and plant retailers/wholesalers from selling them. Where possible, coordinate with other efforts to educate retailers.

2. Local jurisdiction to work with SCVWD to implement a program to remove invasive species from watersheds

II. Bank Stability/Streambed Conditions

A. Policy and Planning Work

1. Identify reaches of stream that possess sensitive or riparian habitat values, based on Water District maps or other sources; develop measures to protect such areas. Incorporate this information into District-sponsored internet-based GIS/information system.
2. Consider decreasing the front yard setback on a specific property in order to accommodate greater setback from the stream in the back/side.

B. Public Works or Local Capital Improvements

1. Inform and/or pursue right of way dedications or offers of dedication for flood protection purposes from the property owner and trigger early consultation with District. [District will provide criteria to assist Jurisdictions]
2. Consider future District flood protection needs when zoning land or allowing structures near streams. [District to provide input to Jurisdictions through early consultation.]

C. Enhanced Land Use Permit Requirements/Guidelines

1. Reduce over bank surface runoff from existing yards, commercial and industrial facilities, maintenance roads, and planned developments.

2. Restore meanders and natural stream processes, where possible, including modifying dams, weirs, erosion control measures and water diversions;
3. Reestablish or create floodplain terraces, where possible, to improve flood protection, channel form and environmental values
4. Consider and incorporate, where possible, future District flood protection needs when zoning land or allowing structures near streams. (District will provide input to Jurisdictions through early consultation.)
5. Provide a 20-foot setback in addition to the slope stability setback for maintenance access.
6. For levee sections, recommend a 50 to 100 foot setback from outboard toe of levee to allow for future increases to a channel cross-section, relieve stress on the channel, allow opportunity for future flood protection design and create environmental value.

E. Outreach and Education

1. Develop a program working with residents, cities, and the District to properly remove and discourage non-native vegetation planting and reintroduce native riparian vegetation.

MODEL ENHANCED PRACTICES

III. Encroachments between the Top of Bank

- B. Public Works or Local Capital Improvements
 - 1. No dewatering of natural waterways to construct project.
 - 2. As part of developments, require replacement, removal or reconstruction of bridges/ structures that are not clear span, have piers/structures in the active channel, or are substandard (e.g., tree houses or patio decks).
 - 3. Require that new construction/ replacement be constructed with adequate freeboard to accommodate future widening of the bridge.
 - 4. Require that new construction/ replacement be constructed with the abutments far enough apart to accommodate floodplain widening for flood protection projects
 - 5. If feasible, provide minimum 15 feet clearance under bridge for creeks wider than 50 feet.
- D. Stream Improvement and Restoration
 - 1. Identify and require removal of existing permitted overhanging structures, which cause public health and safety problems and/ or damage to stream resources.
 - 2. Illegal water diversions will be identified and removed as appropriate.
 - 3. Establish a plan and date for the removal of all illegal in-stream dams. For legal dams, ensure there is fish passage and sufficient flows around any such dams.

IV. Erosion Prevention and Repair

- D. Stream Improvement and Restoration
 - 1. When undertaking erosion control, coordinate erosion design and repairs with upstream and downstream property owners/District.
 - 2. Property owners of streamside parcels should identify existing erosion problems in the initial stages before such problems create a significant hazard. Once identified, property owner should take proactive measures to resolve such problems using "soft" erosion control measures where possible.

V. Grading

- C. Enhanced Land Use Permit Requirements/Guidelines
 - 1. Prepare a SWPPP for any grading exceeding 3 cubic yards within 100 feet of top of bank.
 - 2. Provide BMPs, standards, and specifications for erosion control for all earth disturbing activities.

VI. Outfalls, Pump Stations and Site Drainage

- B. Public Works or Local Capital Improvements
 - 1. Jurisdictions will update their storm drain master plans to take into account stream stability and ecology.
 - 2. Retrofit or install filters in existing drainage system to reduce pollutants and include a maintenance plan for cleaning or replacing filters.
 - 3. Install Monitoring Wells near infiltration basins (consult with District).

4. Pretreat stormwater from pump stations prior to discharging to creeks or infiltration basins (retrofitting of existing systems is encouraged).
 5. Jurisdictions to place operational controls on private stormwater pumps consistent with the standard.
- C. Enhanced Land Use Permit Requirements/Guidelines
1. Consider stream stability impacts for new outfalls (if available, utilize District's Hydrologic Modification Plan for guidance).
 2. Flap gates are to be installed in manhole structure adjacent to stream.
 3. Outfall should be at least 2 feet above the stream bottom.
- D. Stream Improvement and Restoration
1. Redirect drainage to the original watershed if a proposed development already has drainage crossing watershed boundaries.
 2. Eliminate or modify existing outfalls that cause erosion.
 3. Identify stream reaches and/or outfalls where trash is a problem and install trash collectors at outfalls where feasible and include a maintenance plan for removal of trash from collectors.

VII. Channelization

- A. Policy and Planning Work
1. Local jurisdictions to use updates to existing planning documents, such as General Plans, Specific Plans and other relevant mechanisms, as an opportunity to incorporate information from other efforts about which stream reaches that have been channelized, hardened or improperly modified should be prioritized for restoration.
- C. Enhanced Land Use Permit Requirements/Guidelines
1. Require developments to daylight buried creeks unless otherwise required by a Specific Area Plan.
 2. Construct road crossings using a clear-span design that avoids impacts to the channel bed and banks. Exceptions (e.g., box culverts, pipes) will only be considered once the applicant has proven that a clear-span design is not possible.

VIII. Utility Encroachments

- C. Enhanced Land Use Permit Requirements/Guidelines
1. Aerial utility crossing will not be placed over sensitive biological resources or vegetation mitigation areas.

IX. Trail Construction

- B. Public Works or Local Capital Improvements
1. Incorporate Water Quality BMP's in design of trails (refer to SJSU Trail Standard Details and Specifications)

MODEL ENHANCED PRACTICES

X. Septic Systems

- B. Public Works or Local Capital Improvements
 - 1. Jurisdictions shall develop and implement Septic Management Plans (includes denitrification of existing systems).
- C. Enhanced Land Use Permit Requirements/Guidelines
 - 1. Consider alternative sewage management systems
 - 2. Remove existing septic and connect to alternative or municipal systems.
- E. Education and Outreach
 - 1. Provide an education program by County Department of Environmental Health (DEH).

XI. Trash Control and Removal

- D. Stream Improvement and Restoration
 - 1. Proactively organize communities to implement measures to eliminate and remove trash.
 - 2. Conduct focused efforts to identify and prevent trash production.
 - 3. Install trash collectors at outfalls/ develop plan for removal of trash from collectors.

XIII. Recycled Water

- B. Public Works or Local Capital Improvements
 - 1. New developments should be double plumbed to allow for use of recycled water, where appropriate.
 - 2. New/existing buildings or high water uses to connect to recycled water, where appropriate.

XIV. Flood Protection

- B. Public Works or Local Capital Improvements
 - 1. Jurisdictions will have at least one Certified Floodplain Manager on staff working with FEMA requirements.
 - 2. Jurisdictions will obtain a Community Rating System score of greater than 8 (<http://www.fema.gov/nfip/crs.htm>)
- C. Enhanced Land Use Permit Requirements/Guidelines
 - 1. For development within special flood hazard zones A, AE, AH, AO, design project to allow for the passage and storage of floodwater within the site and construct the lowest floor to be a minimum of 1 to 2 feet above the 1 percent water surface elevation.
 - 2. In Zone X (areas less than 1 foot of flooding), recommend that the lowest floor and highest adjacent grade be 1 to 2 feet above the existing ground.
 - 3. In zone A (areas where base flood elevations have not been determined) request that a hydraulic analysis be completed to determine the base flood elevation
- D. Stream Improvement and Restoration
 - 1. Encourage or provide incentives for private property owners to decrease storm runoff from their properties.

XV. Stream Restoration Activities

- A. Policy and Planning Work
 - 1. Local jurisdictions in conjunction with SCVWD to conduct an inventory of all or key stream in the jurisdiction (similar to San Jose's Riparian Corridor Inventory), to identify which streams and/or stream reaches have the most stream restoration potential.
 - 2. Use inventory to prioritize and conduct restoration activities.
- D. Stream Improvement and Restoration
 - 1. Encourage property owners to cooperate among themselves to identify and restore stretches of stream by providing guidance on how to do creek restorations, navigate the regulatory process, ensure that the restoration activities are compatible with the overall goals for the entire creek, and apply for grant funding, where available.
 - 2. In places where SCVWD has easement or right of way along certain stream reaches next to private property owners, SCVWD to work in concert with adjacent landowners to identify and conduct restoration and/or other environmental enhancements.

XVI. Stream Monitoring

- A. Policy and Planning Work
 - 1. Provide field team support to the District's Hydrogeomorphic Monitoring Effort to determine designs for improving creek stability and ecology.

XVII. Stream Education

- D. Stream Improvement and Restoration
 - 1. For creeks where SCVWD has prepared analyses of the creek segment cross sections needed for stable stream, distribute literature to streamside property owners showing how the desirable cross section for their creek segment can be designed as a property amenity and address stability/ecological issues on a site specific basis.
 - 2. Distribute literature to streamside property owners showing listings of desirable and undesirable plants with examples of creek-friendly landscape designs.
 - 3. City/County/District to participate and support watershed council stakeholder processes to enhance community stream awareness and develop stream protection/restoration projects.

CHAPTER 8

SCVWD ORDINANCE 83-2

8A. INTRODUCTION AND BACKGROUND

Santa Clara Valley Water District was created by an act of the California State Legislature which is identified as the Santa Clara Valley Water District Act (SCVWD Act).

The SCVWD Act identifies the District's purpose and authority. These purposes are:

- to protect Santa Clara County from flood and storm water;
- to provide comprehensive conservation and management of flood, storm and recycled waters for all beneficial uses;
- to increase and prevent the waste of the water supply in the District
- to enhance, protect and restore stream, riparian corridors, and natural resources in connection with other purposes of water supply and flood protection;

The mission of the District is a healthy, safe, and enhanced quality of living in Santa Clara County through watershed stewardship and comprehensive management of water resources in a practical, cost effective and environmentally sensitive manner.

8B. SANTA CLARA VALLEY WATER DISTRICT ORDINANCE 83-2

The SCVWD enacts ordinances to carry out its mission. The first ordinance (Ordinance 59-1), which required a permit for construction activities near a stream, was adopted in 1960. This ordinance was revised in 1974 and again in 1983 (Ordinance 83-2).

The intent of this ordinance is to secure the health, safety and welfare of people by facilitating prudent floodplain management, protecting water quality, securing maintenance of watercourses and prohibiting injury to District property and facilities. The Ordinance also defines the District's permitting jurisdiction on streams and describes the requirements and procedure to obtain a permit for construction or encroachment activities on a stream.

8C. SCVWD PERMIT REQUIREMENTS

The District's jurisdiction on a watercourse begins at a point where the upstream watershed area is 320 acres (one-half square mile).

The District currently requires construction/encroachment permits for:

- Construction of structures or grading within a floodway, between the banks of a watercourse, within 50 feet of top of bank, on a levee or on a District project
- Excavation or deposition of any material within a floodway, between the banks of a watercourse, on a levee or on a District project
- Construction of any outlet for discharging drainage waters within a floodway, within the banks of a watercourse or a District project
- Planting of any form of flora upon or within the banks of a watercourse
- Trespassing on District property or exclusive easements except where such areas have been opened and developed for public use

Factors Considered in Review of Projects

The factors currently considered in the review of a project adjacent to a District facility are those that directly impact the facility. The District may investigate factors such as whether the proposed work will:

- Impede, restrict, retard, pollute or change the direction of the flow of water
- Catch or collect debris carried by such water;
- Be located where natural flow of the storm and flood waters will damage or carry any structure or any part thereof downstream;
- Damage, weaken, erode, or reduce the effectiveness of the banks to withhold storm and flood waters;
- Resist erosion and siltation and prevent entry of pollutants and contaminants into water supply;
- Interfere with maintenance responsibility or with structures placed or erected for flood protection, water conservation, or distribution.

Other Elements of 83-2

The ordinance places prohibitions on the pollution of water supplies whether in stream, reservoirs, groundwater or conduits. Also, the ordinance establishes the responsibility of a property owner to maintain the stream as it flows through his/her property and establishes some criteria for the District in its role and responsibility for flood control.

8D. SCVWD PERMIT PROCESS

SCVWD currently uses the following procedures when it reviews and issues permits:

1. Preliminary project consultation is preferred and can occur at any time.
2. Provide engineered improvement plans or other project drawings and description of the activity to be performed.
3. Provide a cover letter requesting a permit and providing a project explanation, any time constraints and contact information.
4. Allow 3 to 4 weeks review time.
5. There is no cost for the permit.

8E. REVISION OF ORDINANCE 83-2

It is anticipated that SCVWD will be initiating a revision to Ordinance 83-2 in the fall of 2005. The goal is to incorporate the Proposed Guidelines and Standards for Land Use Near Stream and related permitting tools to ensure a clear, consistent approach to streamside permitting throughout the County.

8F. TEXT OF ORDINANCE 83-2

The text of the SCVWD Act and Ordinance 83-2 are available on the SCVWD's website www.valleywater.org/About_Us/index.shtm and www.valleywater.org/Business_Info_and_Permits/index.shtm respectively.

The SCVWD Act text:
www.valleywater.org/About_Us/index.shtm

Ordinance 83-2 text:
www.valleywater.org/Business_Info_and_Permits/index.shtm

SCVWD ORDINANCE 83-2

ORDINANCE NO. 83-2

AN ORDINANCE OF SANTA CLARA VALLEY WATER DISTRICT DEFINING LIMITS OF FLOOD CONTROL RESPONSIBILITY; PROVIDING FOR MAINTENANCE OF WATERCOURSES; FOR JOINT USE OF PROJECTS, AND FOR DEDICATIONS; PROHIBITING POLLUTION OF DISTRICT WATER SUPPLIES AND INJURY TO DISTRICT PROJECTS, AS DEFINED, AND ENCROACHMENT UPON OR INTERFERENCE WITH WATERCOURSES EXCEPT BY PERMIT; PROVIDING PENALTIES FOR VIOLATION HEREOF; AND REPEALING ORDINANCE 74-1

The Board of Directors of Santa Clara Valley Water District do ordain as follows:

SECTION 1

INTENT

It is the intent of this Ordinance to secure the health, safety and welfare of the people of the District by prudent floodplain management, by protecting the quality of District water supplies, and by securing maintenance of watercourses and prohibiting injury to District property and projects and harmful amendment of watercourses.

It is further the intent of this Ordinance to provide a definition of the general limits of watercourses on which the District may request rights of way for flood control purposes and construction of flood control facilities.

It is further the intent of this Ordinance to insure that the repeal of Ordinance 74-1, accomplished hereby, shall not affect permits heretofore given and rights of every nature heretofore established pursuant to said Ordinance 74-1.

SECTION 2

DEFINITIONS

- 2.1 ``Bank or Banks of a Watercourse'' means the sides of a watercourse the top of which shall be the topographic line roughly parallel to stream center line where the side slopes intersect the plane of ground traversed by the watercourse. Where banks do not distinguishably end, the surrounding country being extensions of the banks, the top of such banks shall be as determined by the District.
- 2.2 ``Board'' means the Board of Directors of the Santa Clara Valley Water District.
- 2.3 ``Design Flood'' means the selected flood against which protection is provided, or eventually will be provided, by means of flood protective or control works.
- 2.4 ``Designated Floodway'' means the channel of a stream and that portion of the adjoining floodplain required to reasonably provide for passage of the design flood.
- 2.5 ``District'' means Santa Clara Valley Water District.
- 2.6 ``District Project'' means any facility, structure or improvement of the District including, without limitation, lands, facilities, structures or improvements and appurtenances thereto owned or controlled by the District for water conservation, water utility, flood control or any lawful District purpose.
- 2.7 ``Levee'' means an elongated embankment constructed where required to contain flooding.
- 2.8 ``Pollution'' means impairment of water quality to a degree which adversely and unreasonably affects a beneficial use of the water.
- 2.9 ``Structure'' means anything made or constructed and having its foundation or support upon or within the ground.
- 2.10 ``Watercourse'' means an elongated channel or depression, whether natural or man-made, in which water does or may flow and may include the overflow area, if any, of such channel or depression. For the purposes of this Ordinance ``watercourse'' includes such channels or depressions, although the same may be by reason of size of area drained not deemed to be a flood control facility.

SECTION 3**MAINTENANCE BY OWNER**

Every owner of a watercourse whether a person, firm, corporation, or governmental agency, or such owner's lessee or tenant, shall keep and maintain the same in a condition which will not contribute to pollution as prohibited by Section 6.1 hereof and which will not unreasonably change or retard the flow of the water; and every owner of a structure within or directly affecting a watercourse shall maintain the safe condition and function of the same.

SECTION 4**DISCHARGE OF DRAINAGE**

The County of Santa Clara, any municipality and any agency or person within the District shall have the right to discharge drainage water of non-polluting quality directly into watercourses, except water supply canals and percolation facilities, of the District subject only to the approval procedure set forth in this Ordinance.

SECTION 5**FLOOD CONTROL RESPONSIBILITY**

- 5.1 The responsibility of this District for the control of flood and storm water is an obligation to make efficient use of its funds in the areas of study, planning and acquisition and to act lawfully in designing, constructing and maintaining such works as the Board shall approve. The responsibility of the District does not and cannot extend to an affirmative obligation to take specific measures of any nature not mandated by governing legislation or judicial order. This Ordinance may not be deemed an imposition of a duty upon the District other than as specified above and no assertion of public liability shall be based thereon. Nothing in this Ordinance shall be deemed to be or construed as a warranty or assurance that flooding and flood damage will not or cannot occur anywhere in the District. However, the District will provide flood control service in an emergency to the extent of its resources and ability. The District accepts an obligation to design, construct and maintain its works in such manner as to avoid or minimize harmful disturbance of the natural environment.
- 5.2 Construction and maintenance, or acceptance and maintenance, of flood control works and control of flood and storm waters by the District shall be subject to the following:
- A. The District will so act in a reach or portion of a watercourse only if it has sufficient legal title or right of way therein.
 - B. Artificial channels of any kind, regardless of the size of tributary watershed, are excluded from District responsibility unless the same are constructed by the District or are approved and adopted by the Board.
 - C. A reach or portion of a natural watercourse will not be deemed within District flood control jurisdiction unless the tributary watershed area upstream of such reach or portion is in excess of 320 acres (one-half square mile); provided, that such area may be either greater or less than 320 acres pursuant to agreement with the city or county having jurisdiction.
- 5.3 A watercourse or reach or portion thereof over which the District is not deemed to have flood control jurisdiction by reason of the exclusions specified in Subparagraphs B and C of Section 5.2 above is deemed a local drainage facility.
- 5.4 Flood control facilities serving a watershed area of 320 acres (one-half square mile or more) shall have a design capacity to safely convey the one percent flood ("100-year flood") plus freeboard. The standard, however, may be lowered to be consistent with land use designations of city or county land use master plans. Freeboard design criteria shall be established by the District based upon accepted engineering practices.

SCVWD ORDINANCE 83-2

5.5 Storm water drainage facilities serving a watershed area less than 320 acres (one-half square mile) and qualifying under agreement per paragraph 5.2c shall have a design capacity to convey the ten percent flood ("10-year flood") plus freeboard. Freeboard design criteria water drainage facilities referred to in this section are the major collectors and are not deemed to include storm sewers used to drain urban developed sites. The design of storm sewers rests with the local agency having jurisdiction of the urban development served. In drainage areas less than 320 acres, where urban development exists or may occur, the drainage facilities should be designed to provide for the conveyance or detention of the flood flows in excess of the ten percent flood up to the one percent flood in the streets or open space areas so that development is not subject to flooding by such excess flood flows. Otherwise, the structures must be flood-proofed, as prescribed by Federal Emergency Management Agency regulations, or the storm water drainage facility must be designed as provided in Section 5.4 above.

SECTION 6 PROHIBITIONS

- 6.1 The pollution of the water supplies of the District, whether in surface streams, reservoirs or conduits of any kind, or of groundwater, by any direct or indirect means whatever, including the deposit of polluting matter of any kind upon the banks of a watercourse, lake or reservoir where the same may reach or affect such water supplies, and including the discharge of polluting storm waters or sanitary sewage, is prohibited.
- 6.2 Without having first secured a permit pursuant to Section 7 hereof, or other written approval from the District, it shall be unlawful after the effective date of this Ordinance for any person, firm, corporation, the County of Santa Clara, the Government of the United States and agencies thereof, the Government of the State of California and agencies thereof, or any municipal corporation or district to do or cause to be done any of the following:
- A. Construct or place any structure or perform any grading within a designated floodway between the banks of a watercourse, or within 50 feet of the top of such banks.
 - B. Construct, place or maintain any structure or perform any grading upon a levee or on a District project.
 - C. Excavate within a designated floodway, upon a levee, or upon or between the banks of a watercourse, or District project.
 - D. Deposit material of any kind within a designated floodway, upon a levee, or District project, or upon or within the banks of a watercourse.
 - E. Construct or place any outlet for discharging drainage waters within a designated floodway, upon or within the banks of a watercourse, or District project.
 - F. Plant any form of flora upon or within the banks of a watercourse or a District project.
 - G. Trespass in any manner whatsoever including the driving of vehicles on any property in which the District owns a fee simple interest or on which the District owns an exclusive easement for flood control, drainage or water conservation or distribution purposes, except such areas as have been opened to and developed for public recreational or other use.
- 6.3 Permits shall not be withheld upon unreasonable or insubstantial grounds.

SECTION 7
PERMIT PROCEDURE

- 7.1 Any person, firm, corporation or public agency, except those filing maps pursuant to the State Subdivision Map Act or local ordinances adopted pursuant thereto, desiring to do any of the acts for which a permit is required pursuant to this Ordinance shall make application for such permit to the District. Said applications shall contain such information as the District shall reasonably require.
- 7.2 Any public agency, or any person, firm or corporation filing a map pursuant to the State Subdivision Map Act or local ordinance adopted pursuant thereto, desiring to do any of the acts for which a permit is required pursuant to this Ordinance shall, in lieu of the application procedure set forth above, submit engineered improvement plans to the District.
- 7.3 Upon receipt of such application for permit or engineered improvement plans or additional information as herein set forth, the District shall make such investigations as are necessary to determine, among other things, whether or not the proposed work or activities intended will impede, restrict, retard, pollute, change the direction of the flow of water, catch or collect debris carried by such water; is located where natural flow of the storm and flood waters will damage or carry any structure or any part thereof downstream; or will damage, weaken, erode, or reduce the effectiveness of the banks to withhold storm and flood waters, to resist erosion and siltation and entry of pollutants and contaminants, or interfere with maintenance responsibility or with structures placed or erected for flood control, water conservation or distribution. In order to make said investigation, the District may return said application or improvement plans to the applicant for additional information as may be required to complete the investigation. After investigation the District shall approve conditionally, or disapprove the application or improvement plans on the basis of such investigations. If a permit is granted, it shall state the conditions subject to which it is granted.
- 7.4 Within fifteen (15) days of District receipt of such application for permit or engineered improvement plans or additional information, the District shall respond, acknowledging the same and advising the applicant of any reason beyond the District's control why action thereon cannot be taken within thirty (30) days of said District receipt. Where no such notification of anticipated delay and the reason therefor is given by the District, the District shall act upon every application for permit, or engineered improvement plans or additional information within thirty (30) days of its receipt.
- 7.5 In the event an applicant is aggrieved by the action of the District, or by reason of the requirements of this Ordinance, the applicant may within fifteen (15) days from date of decision of the District, make an appeal in writing to the Board. The Clerk of said Board shall set a time for hearing on such appeal within three (3) weeks from the date of receipt of said appeal, and shall mail or deliver notification to the appellant of said date at least two (2) weeks prior to the date so set. The appellant may waive such notification and seek a hearing at the next meeting of the Board. At the hearing of such appeal, it will be incumbent upon the appellant to show to the satisfaction of the Board that the work or activities so proposed will not violate Section 7.3 of this Ordinance.

SECTION 8

JOINT USE

The use of District projects jointly with a public agency, subject to conditions established by resolution of the Board, is favored wherever such joint use is possible and conformable to the District's public duty.

SECTION 9

REQUEST FOR DEDICATIONS AND CONSTRUCTION

In order to permit the provision of flood control services by the District, the District will request, wherever equitable and appropriate, that the city or the county having jurisdiction secure flood control dedications to the District from landowners seeking a change of land use. Where equitable and appropriate, the District may also request that the city or the county having jurisdiction secure from such landowners construction of flood control measures as determined by the District. Such requests shall be pursuant to and in accordance with the master plans, ordinances, resolutions, procedures and conditions established by such city or county.

SECTION 10

VALIDITY

Should any Section or provision of this Ordinance be found to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part decided to be unconstitutional or invalid.

SECTION 11

ORDINANCE 74-1 REPEALED

Ordinance 74-1 of this District is hereby repealed; provided that permits heretofore given and rights of every nature heretofore acquired under said Ordinance 74-1 shall remain unaffected.