

Frequently Asked Questions:

Marin County Stream Conservation Area Ordinance

February 25, 2013

1. What is proposed?

The Marin County Community Development Agency is proposing to expand the Stream Conservation Area (SCA) ordinance to implement requirements from the 2007 Countywide Plan. The proposal includes amendments to the County's zoning ordinance (Development Code) that would establish SCA setbacks which range from 20, 50, or 100 feet or more upland from the top of stream banks, standards for development within the SCA setbacks, and review procedures and permit requirements.

2. What is the Countywide Plan?

The Countywide Plan is a long-term comprehensive general plan for the physical development of the unincorporated areas of Marin County. The Countywide Plan expresses the County's development goals and policy relative to the distribution of future land uses. For more information, please visit: www.future-marin.org.

3. Why are you proposing the Stream Conservation Area ordinance?

The proposed ordinance implements a key program from the Countywide Plan to strengthen protections of the County's streams through expanded zoning regulations that apply to development adjacent to streams.

4. What is the SCA setback?

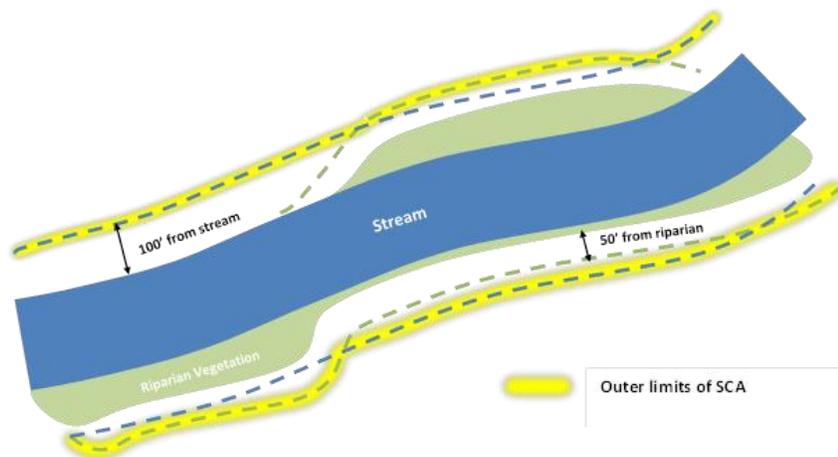
The SCA applies to perennial, intermittent, and ephemeral streams identified in the data and map that is maintained and periodically updated by the Community Development Agency. The SCA setbacks vary depending on which of the four Countywide Plan Corridors (Bayfront, City-Centered, Inland Rural, and Coastal) the property is situated in. Visit the Marin Countywide Plan (click [here](#)) to view a map of the Countywide Plan Corridors.

SCA Setback for properties in the City-Centered Corridor:

Lots more than 2 acres in size: a minimum of 100 feet from each side of the top of bank;
Lots from 0.5 acres to 2 acres in size: a minimum of 50 feet from each side of the top of bank; and
Lots less than 0.5 acres in size: a minimum of 20 feet from each side of the top of bank.

SCA Setback for properties in the other Corridors:

The greater of either: (a) 50 feet landward from the outer edge of woody riparian vegetation associated with the stream; or (b) 100 feet landward from the top of bank. The diagram below helps to illustrate how the SCA setback is determined in the Bayfront, Inland Rural, and Coastal Corridors.



In all Corridors, regardless of lot size, an additional SCA setback may be required based on the results of a site assessment.

5. *Is it true that I cannot use or improve the SCA on my property?*

No. You can continue to use your property. The SCA ordinance will require that *new* development be placed outside the SCA wherever feasible. New improvements (such as buildings, fences, patios) and site modifications (vegetation removal, grading) within the SCA will need to comply with the SCA ordinance. In some cases, the work may qualify for an exemption; while in other cases, the work will require a permit to ensure that it meets the stream standards to ensure that the development does not adversely impact the water quality, increase run-off, or affect the habitat values associated with the stream.

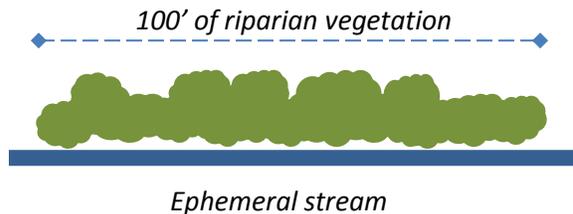
Stream Questions

6. *What if the creek is not in the location shown in your maps?*

Please contact us if you believe there is an error with respect to the mapping of a stream in or near your property. In some cases, this can be corrected through a review of aerial photographs, or a review of photographs, surveys, or other information that you may have that would help us correct the information in our database.

7. *The ordinance protects ephemeral streams which “support riparian vegetation for a length of 100 feet or more.” What does this mean?*

This refers to the extent of riparian vegetation along the length of the stream (or, parallel to the stream), as shown in the schematic below:



8. *How would a property owner know that he or she is adjacent to an ephemeral stream?*

A review of the County's stream maps would help determine whether a segment of stream is identified for protection under the SCA ordinance, regardless of whether it is an ephemeral, intermittent, or perennial stream. You can access this information on the County's online mapping tool that is available from www.co.marin.ca.us/sca.

Process Questions

9. *Can the SCA setback be reduced?*

No. While the ordinance allows for consideration of an SCA Permit for incursions into the SCA setback where no other option is feasible, it does not allow for a reduction to the SCA setback.

10. *Please explain the difference between Tier 1 and Tier 2 permits.*

A Tier 1 permit is processed as a "ministerial" permit by CDA staff. A ministerial permit can be approved with no exercise of discretion if it complies with objective standards. Ministerial permits do not require a public hearing and are not appealable.

A Tier 2 permit is processed as a "discretionary" permit. Discretionary permits allow for the exercise of considerable judgment, are noticed (online and/or by direct mail), and may require a public hearing.

11. *If I believe I am completing my construction activity outside of the SCA, would any County review be required? What if I have measured wrong or if I have unanticipated impacts within the SCA (such as placing heavy equipment)? Will I receive a citation from Code Enforcement?*

The SCA ordinance does not apply to construction outside of the SCA. If a County inspection or a complaint reveals that there has been unauthorized development (including vegetation removal) within the SCA, you will be given the opportunity to correct the violation. If Code Enforcement action does not result in a timely resolution to the violation, the matter will be scheduled for a Code Enforcement Hearing at which time you would be subject to payment of staff costs and financial penalties.

12. *What fees will I need to pay for complying with this ordinance and how are the fees established?*

The fees for reviewing proposals to develop within the SCA will be considered by the Board of Supervisors. At present, staff is proposing a flat fee structure of approximately \$300 for those exemption determinations involving review of plans, \$1,500 for Tier 1 permits, and \$4,000 for Tier 2 permits. Fees for any required environmental review associated with Tier 2 permits would not be included in these estimates. The fees cannot exceed the County's cost associated with administering the ordinance and the review of applications.

Site Assessments:

13. *What if my project is limited in scope? Do I need to pay for the full site assessment identified in the ordinance?*

The costs for preparation of a site assessment shall be borne by the applicant. However, the cost of the assessment may vary depending on whether the development requires Tier 1 or Tier 2 permit, as well as the magnitude of the project.

14. *What if I want to have a site assessment prepared by my own biologist?*

While you can submit an assessment prepared by a biologist that you retain, it is subject to peer review and the potential for a separate assessment to be required under the oversight of the County. The site assessment should be prepared by a qualified professional retained by the County but paid for by the applicant. Recognizing that costs to prepare assessments may vary widely, the Community Development Agency intends to provide a list of qualified professionals who have agreed to complete the required site assessment at a competitive price, or have the assessment prepared by a qualified County staff.

Use & Interpretation Questions

15. *What is considered a "disturbed" area?*

A disturbed area, in the context of the SCA Ordinance, includes lawns, gardens, patios, driveways, agricultural fields, parking lots, and other similar areas that have been significantly altered from their natural condition and maintained/managed for human use.

16. *What is considered a threat to public health and safety?*

Threats to public health and safety include trees that pose an imminent threat of falling or splitting, obstructions to roads or accessways, fire hazards, etc.

17. *If a development activity that is "exempt" or ministerial under this ordinance is approved, how would the County ensure that the project meets the defensible space requirements of Public Resources Code Section 4291(a)?*

Certain exemptions require submittal of a request and plans to the Planning Division for review and approval. In cases where the work involves a new or replacement structure, review of the plans by the local Fire Department will be needed to ensure that it meets applicable vegetation management and modification requirements.

18. *What level of review will I need if I'm adding a second story that does not change the footprint of my house?*

This work qualifies for an exemption under the proposed SCA ordinance. You will need to submit a request along with plans to the Planning Division for review and approval.

19. Do I need a SCA Permit if I want to reseal or replace my driveway?

Resealing a driveway qualifies for an exemption, as long as the “footprint” of the driveway remains unchanged. Changes to the driveway configuration, size, or location will trigger a Tier 1 SCA Permit.

20. Would play structures in the rear yard be subject to an SCA Permit?

Play structures may be exempt under the proposed ordinance if is located in an area that has been previously disturbed. Some play structures also require a building permit.

21. Would lawn mowing be subject to an SCA Permit?

Landscape maintenance is exempt under the proposed ordinance.

22. Would replacement of a septic tank be subject to an SCA Permit?

An in-kind septic tank replacement is exempt under the proposed ordinance as long as it does not expand beyond the area that was occupied by the previous tank.

Riparian Vegetation

23. How do I know whether I have woody riparian vegetation?

Woody riparian vegetation includes plants with tough, fibrous stems, vines, and branches covered with bark. Examples include willow, alder, big-leaf maple, and California blackberry. We are preparing a SCA tool kit that would include a plant identification guide with photos, names, and descriptions of woody riparian vegetation that are common in Marin’s streams.

24. Is removal of woody riparian vegetation prohibited under the ordinance?

The ordinance applies to removal of any woody riparian vegetation. It may qualify for an exemption under certain circumstances (such as if the plant poses a threat to public health or safety), or would require a SCA Permit.

Illegal Structures

25. When I bought my property, I was told that some of the work is unpermitted. Will I be required to remove that work if it is in the SCA?

The proposed ordinance does not affect the County’s complaint-based code enforcement program, nor does it change the status of illegal structures. Unless a code enforcement action is initiated by the County in response to a complaint, the ordinance provides property owners with the ability, but not the obligation, to legalize unpermitted work through the SCA permitting process.

Existing permitted and legal non-conforming structures would be allowed to be used, maintained, and even replaced in kind under the proposed SCA Ordinance.

For more information, please visit www.co.marin.ca.us/sca

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