

# Marin Stream Ordinance

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# Myths & Facts

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## Myth

This is a new regulation that the County is trying to rush through.



## Fact

- SCA Ordinance is based on existing policies.
- SCA applies through Design Review, variances, native tree ordinance already.
- Ordinance expands scope of regulation to patios, driveways, veg. removal that don't currently require permits.



# Myths & Facts

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## Myth

The SCA means I can't use or make improvements on my property. It is a takings.



## Fact

- This regulation does not prevent use of property.
- The SCA is a special permit area. Permit applications are viewed in light of avoiding or mitigating riparian impacts.
- Most common home improvements are exempt or require a Tier 1 (administrative) permit.



# Myths & Facts

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## Myth

The County is using the SCA to make homeowners remove their unpermitted structures.



## Fact

- The ordinance will not change the County's code enforcement program.
- If a complaint results in a County investigation that confirms the presence of non-permitted construction, homeowners have the option to obtain permits to legalize the work.



# Myths & Facts

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## Myth

The SCA ordinance will add time and cost to permitting for my project.



## Fact

- The SCA doesn't add time or cost for exempt projects, even if they require other permits.
- SCA permits can be tracked with other permits (like building permits).
- Other existing costs, like Design Review, are offset.



# Myths & Facts

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## Myth

The SCA does not apply to my property. There are no fish and it is dry most of the year.



## Fact

- The SCA is about more than fish: stream channels, water quality, flood control, stream habitat (including fish), riparian habitat.
- Decisions about site development and vegetation can affect your stream segment as well as downstream areas.



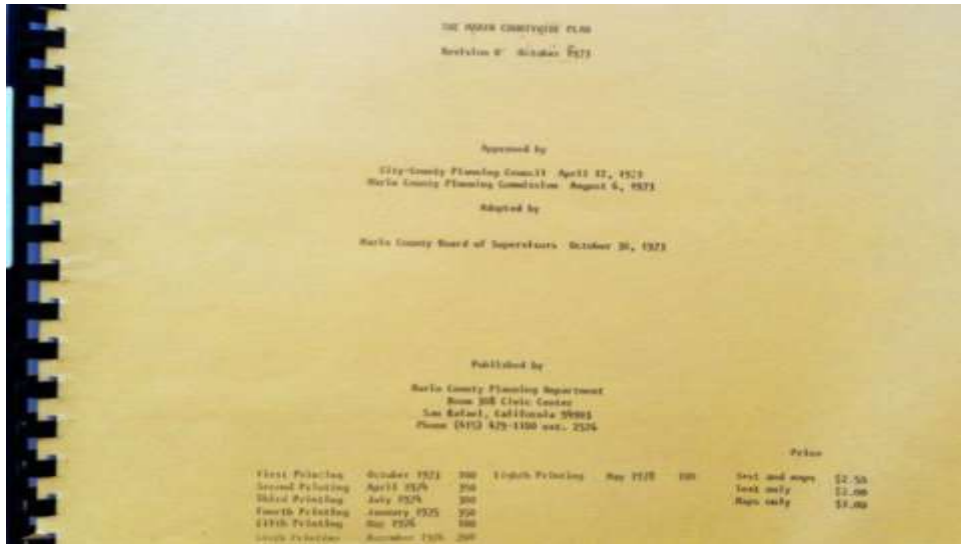
Marin Stream Conservation Area Ordinance

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# **BACKGROUND**



# Stream Setbacks Aren't New to Marin



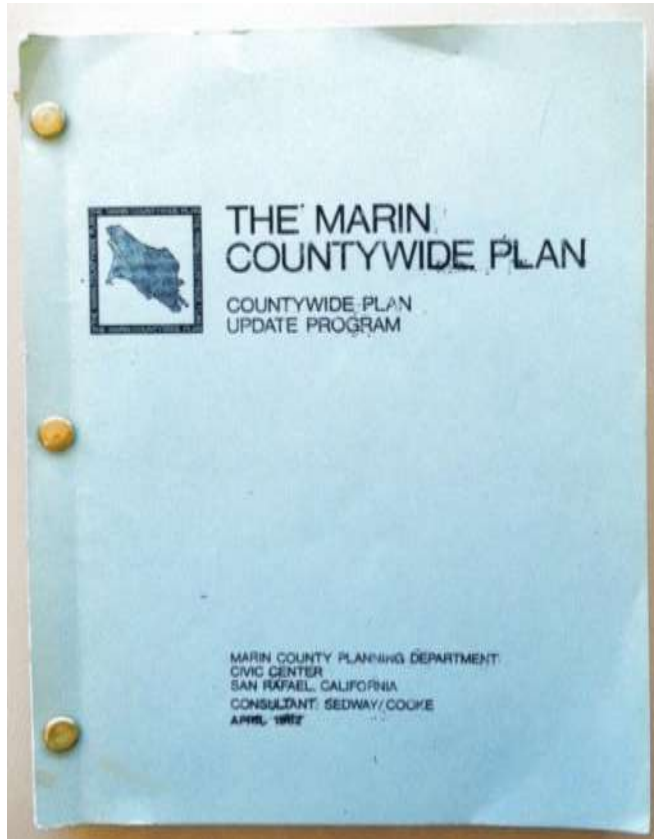
## 1973: Conservation Zones

- “...allow only limited development under strict controls.”



# Stream Setbacks Aren't New to Marin

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## **1973: Conservation Zones**

- “...allow only limited development under strict controls.”

## **1982: Stream Conservation Areas**

- “...values for erosion control, water quality, fisheries production, aesthetics and recreation.”
- Incl. perennial, intermittent, ephemeral.



# Stream Setbacks Aren't New to Marin



## 1973: Conservation Zones

- “...allow only limited development under strict controls.”

## 1982: Stream Conservation Areas

- “...values for erosion control, water quality, fisheries production, aesthetics and recreation.”
- Incl. perennial, intermittent, ephemeral.

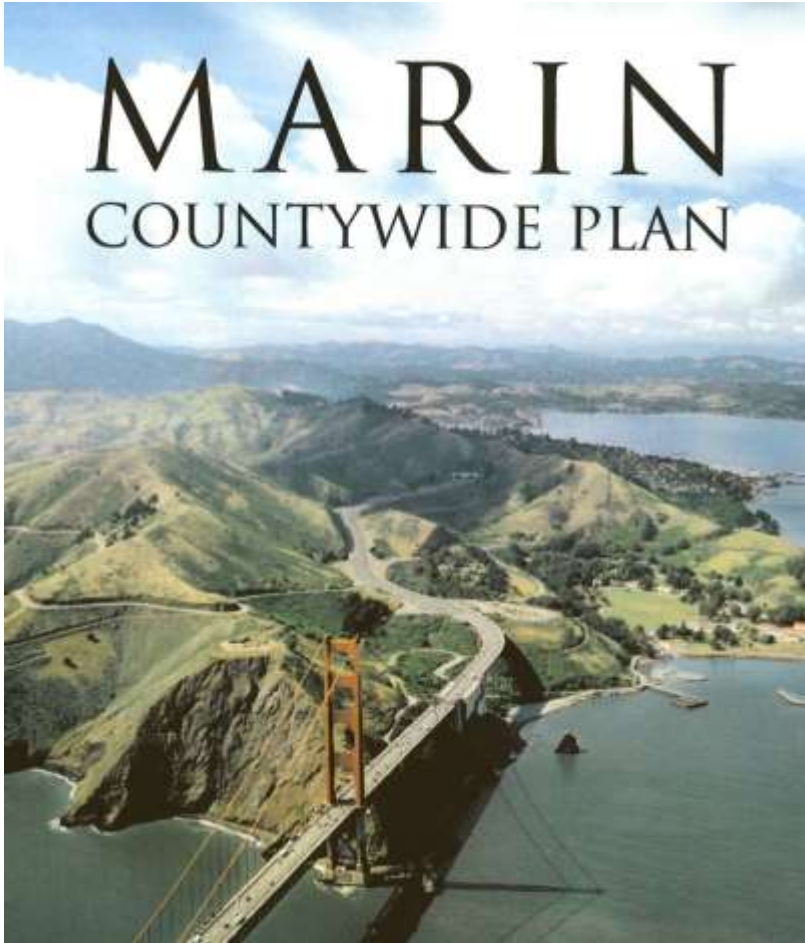
## 1994: Stream Conservation Areas

- Built upon 1982 CWP policies
- Implement through established permit processes, new ordinances, “development permits”



# Current Countywide Plan Policies

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## **2007: Stream Conservation Areas**

- Build upon previous CWP policies.
- 20' SCA setback on parcels < 0.5 acres in City-Centered Corridor.
- Site assessment required for development application in SCA.
- Standards of compliance:
  - Hydraulic capacity
  - Habitat acreage, value, function
  - Water quality
- Implementing programs



# County Currently Regulates Streams

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- Creek Permit
- Drainage Setback
- SCA Policies Applied:
  - Design Review
  - Variances
  - Subdivisions
  - Native Tree Ordinance





# Stream Setbacks are Common

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Fairfax, Mill Valley, Novato, Ross, San Rafael, Sausalito, Tiburon

- Applicability varies (permit type)
- Distance varies, 20' -100'

Napa, Sonoma, Santa Cruz Counties

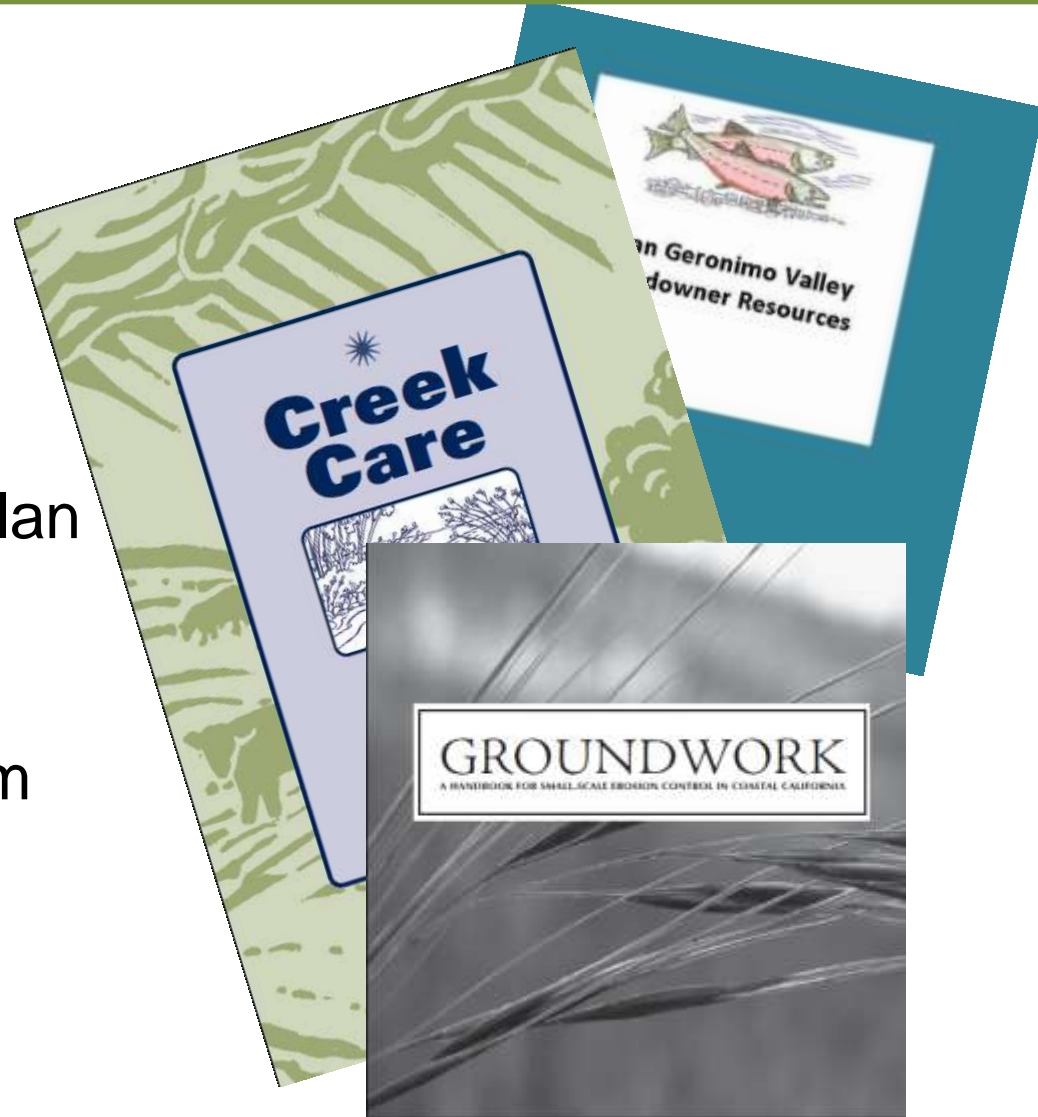
- Applicable to discretionary and ministerial
- Distance varies, 10' (arroyos) – 200' (Russian River)



# This is a Continuation of Previous Work

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- Native Tree Protection Ordinance (2012)
- Riparian Vegetation Ordinance (2010)
- Salmon Enhancement Plan (2008-2010)
- Countywide Plan (2007)
- Anadromous Fish Stream Ordinance (2002)





# Ordinance Complements Broader Effort

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Marin Stream Conservation Area Ordinance

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# **ACTION & EDUCATION**



# What has Marin done for streams and fish ?

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## Fishnet 4C Program

- Six County effort coordinating with State and Federal agencies
- Salmon stream road crossings inventoried and prioritized for fish passage
- Grant support for fish passage and habitat restoration
- Developed road maintenance standards for protection of fish habitat
- Commitments by County Parks, Fire, and MMWD to implement best practices for road and trail maintenance
- Commitment by County Parks, Public Works, and MMWD to preserve large wood for fish habitat
- Staff training to support these efforts





# What has Marin done for streams and fish ?

## Fish Passage & Creeks Restoration Program

Projects Constructed	Watershed
Willis Evans Canyon	San Geronimo
Woodacre Improvement Club	Woodacre
Woodacre Creek at Park St.	Woodacre
Kent Canyon Creek	Redwood Creek
Woodacre Creek at SG Valley Dr.	Woodacre
Vineyard Creek	Novato
Woodacre Creek at Carson Rd.	Woodacre
Arroyo Creek at Castro St.	Arroyo
Future Projects	Watershed
Larsen Creek at Sir Francis Drake Blvd.	Larsen
Montezuma Creek in Forest Knolls Park	Montezuma



# What has Marin done for streams and fish ?

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## San Geronimo Valley Salmon Enhancement Plan

- Existing Conditions Report completed in 2009
- Salmon Enhancement Plan completed in 2010
- Reports and resources available at [www.marinwatersheds.org](http://www.marinwatersheds.org)





# What has Marin done for streams and fish ?

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## San Geronimo Valley Landowner Assistance Program (2011-2013)

- ✓ Site evaluations & recommendations for 40 landowners
- ✓ Conceptual restoration designs for 10 projects
- ✓ Two Public workshops





# What has Marin done for streams and fish?

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## Marin County Parks Habitat Restoration Program (2007-2013)

- ✓ Assessed 37 miles of roads and trails to find sites contributing sediment into watershed streams.
- ✓ With state grant funding repaired 84 erosion sites and more than eight miles of roads and trail.





# What has Marin done for streams and fish?

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## Marin County Parks Habitat Restoration Program (2007-2013)

- ✓ Prevented more than 9000 cubic yards of sediment from entering salmon-bearing streams.
- ✓ Acquired 22-acre parcel allowing Parks to repair the chronically erosive Manzanita Fire Road.

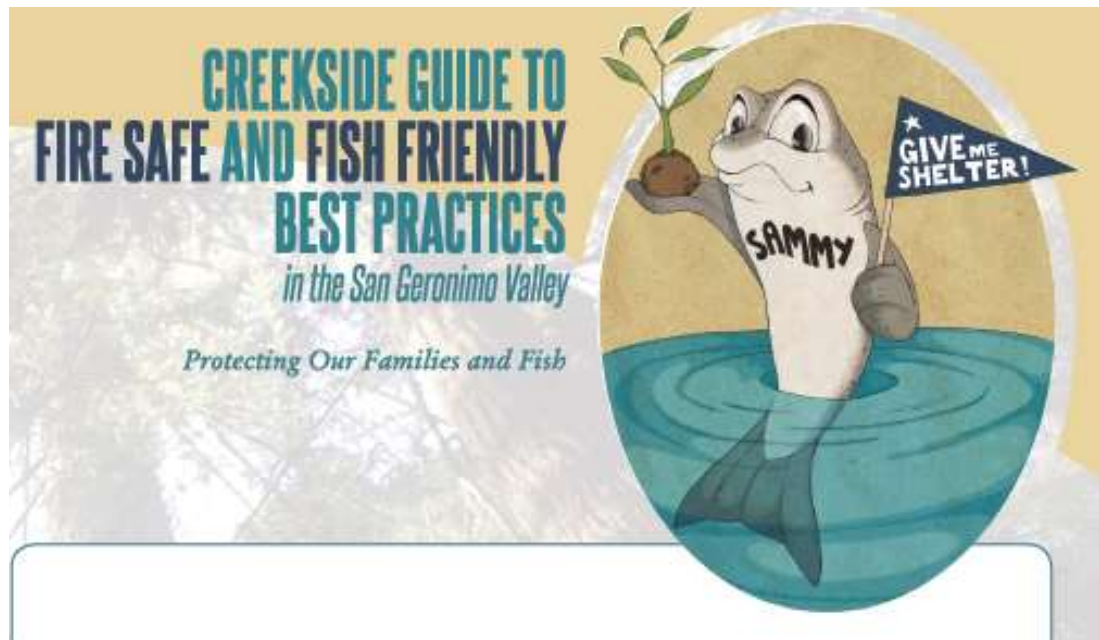




# What has Marin done for streams and fish?

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## Fire Safe Fuels Management brochure





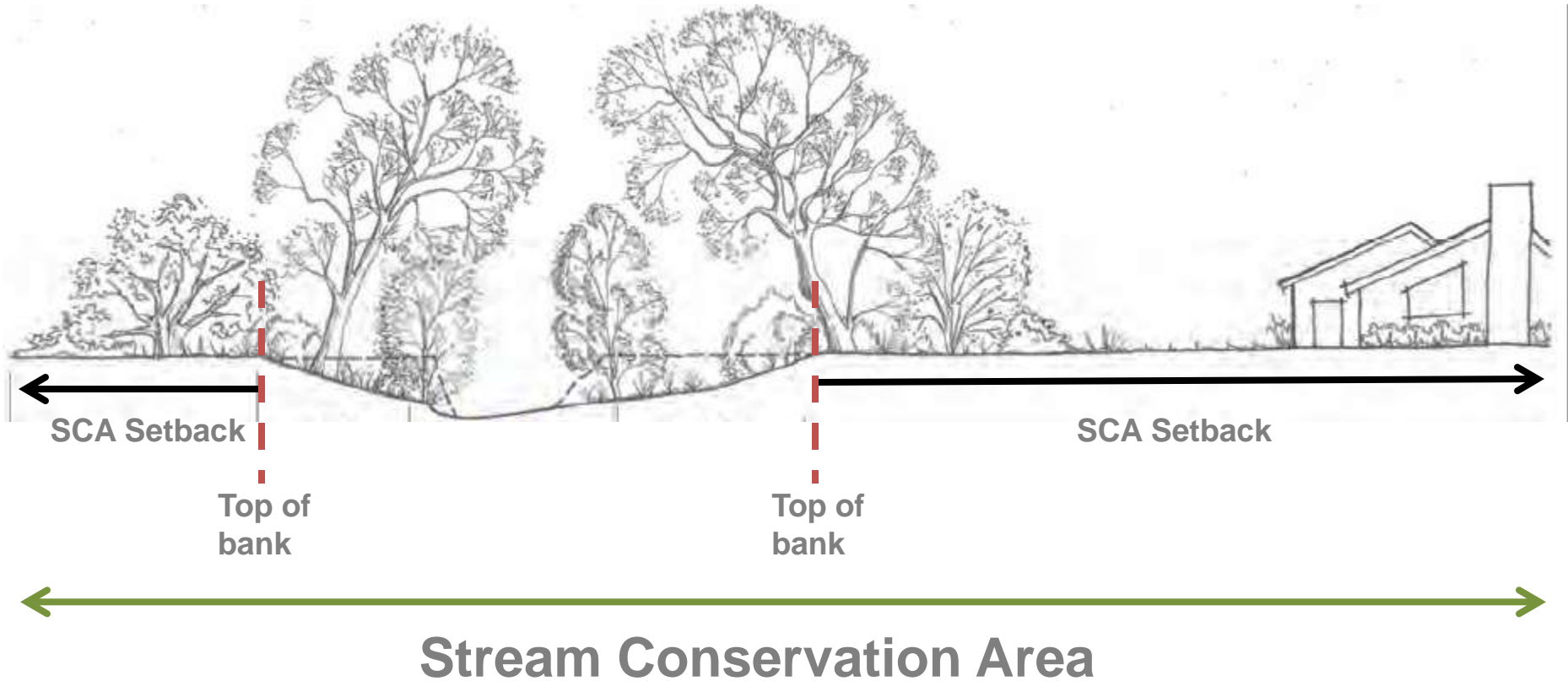
Marin Stream Conservation Area Ordinance

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# **REGULATORY – SCA OVERVIEW**



# What is the SCA





# Why is this Important?

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“A Stream Conservation Area (SCA) is established to protect the active channel, water quality and flood control functions, and associated fish and wildlife habitat along streams.”

- 2007 Marin CWP





# CASE Principle

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**C**lear

**A**ffordable

**S**imple

**E**nforceable





# Structure

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## Chapter 22.33: Stream Protection

- Establishes the SCA & SCA setbacks

## Chapter 22.63: SCA Permit

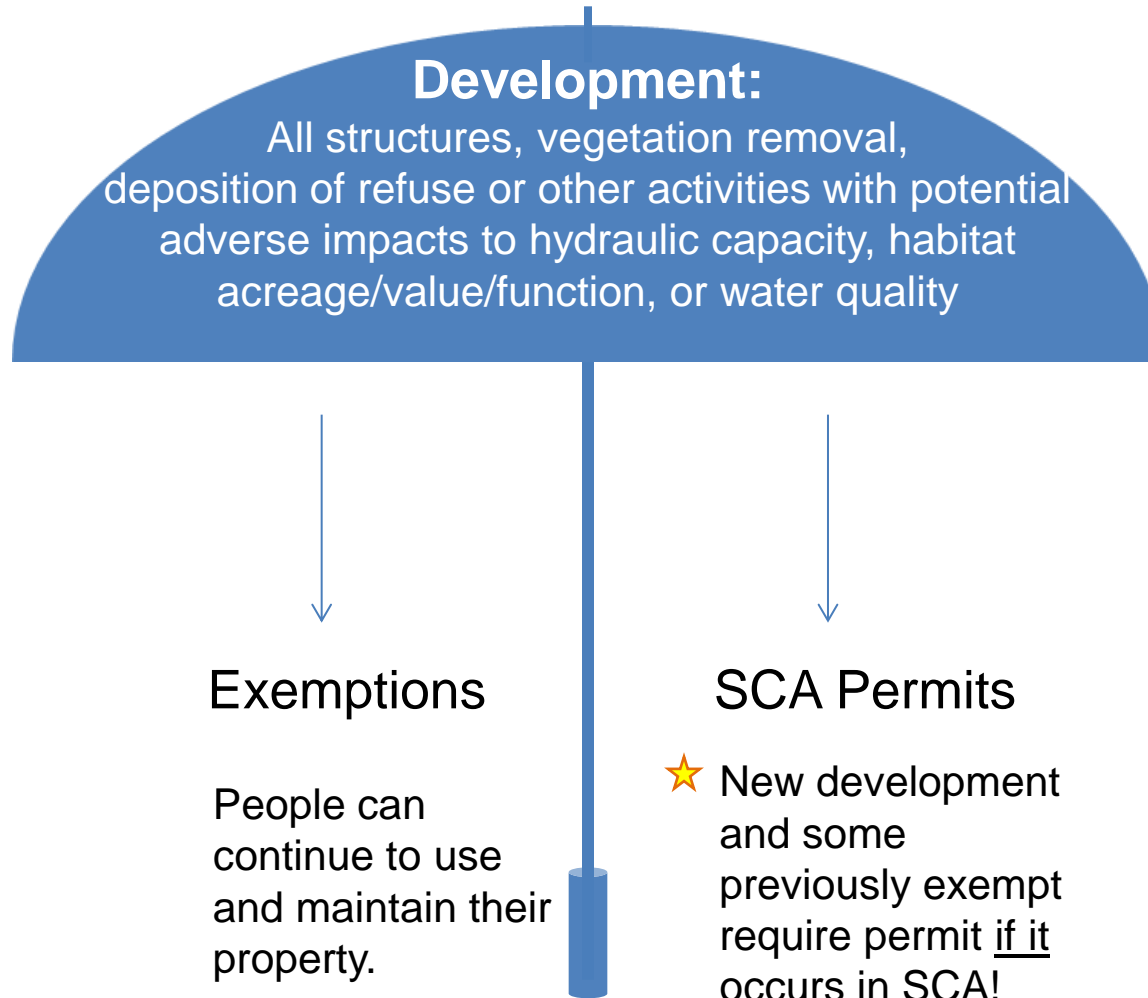
- Exemptions & permit tiers
- Permit requirements & procedures

## Chapter 22.130: Definitions



# SCA Permit Procedures

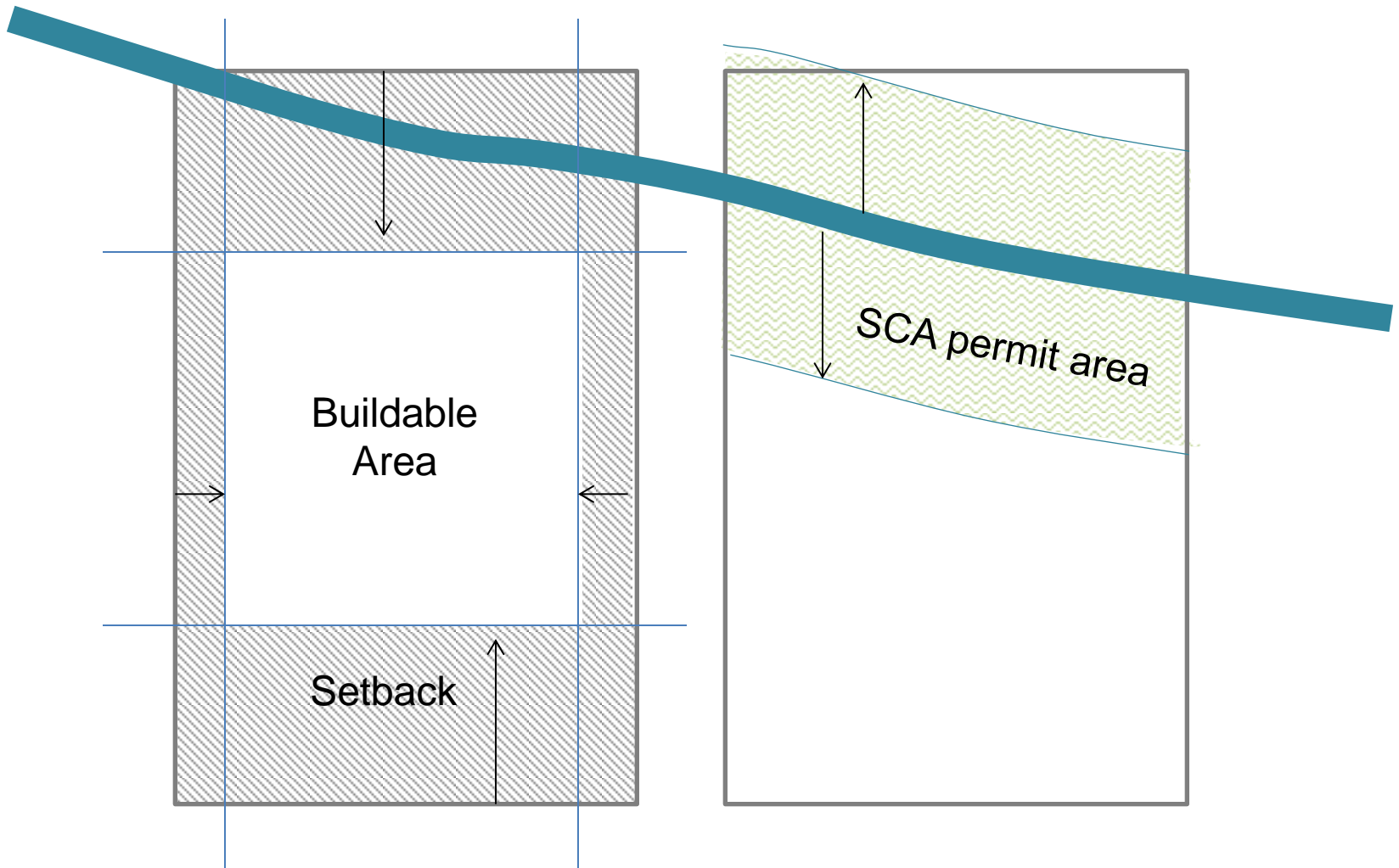
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# SCA Setback is a Permitting Area

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# Example #1

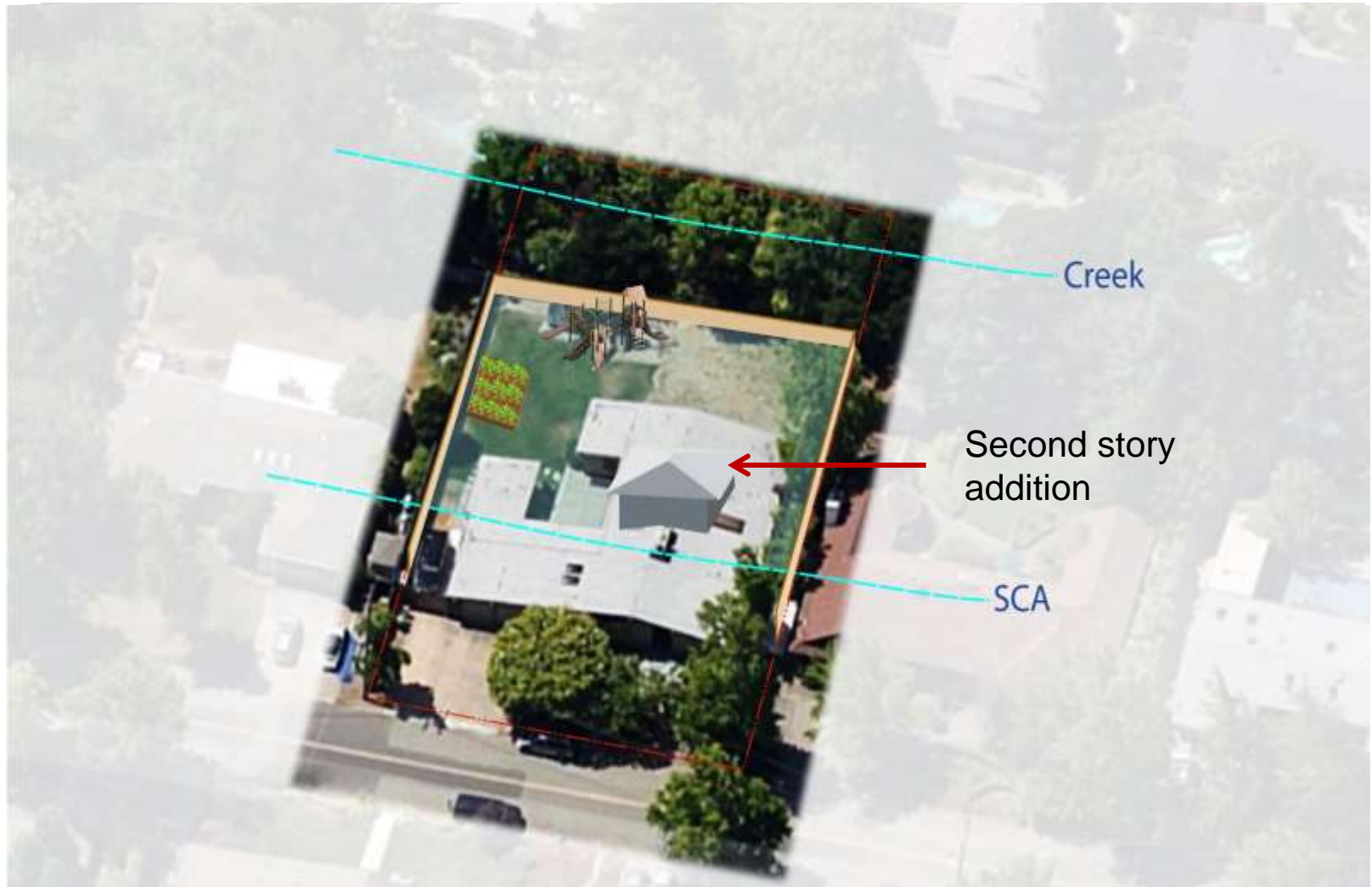
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# Example #1: Exemptions

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# Example #1: Tier 1

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# Example #1: Tier 2

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# Example #2





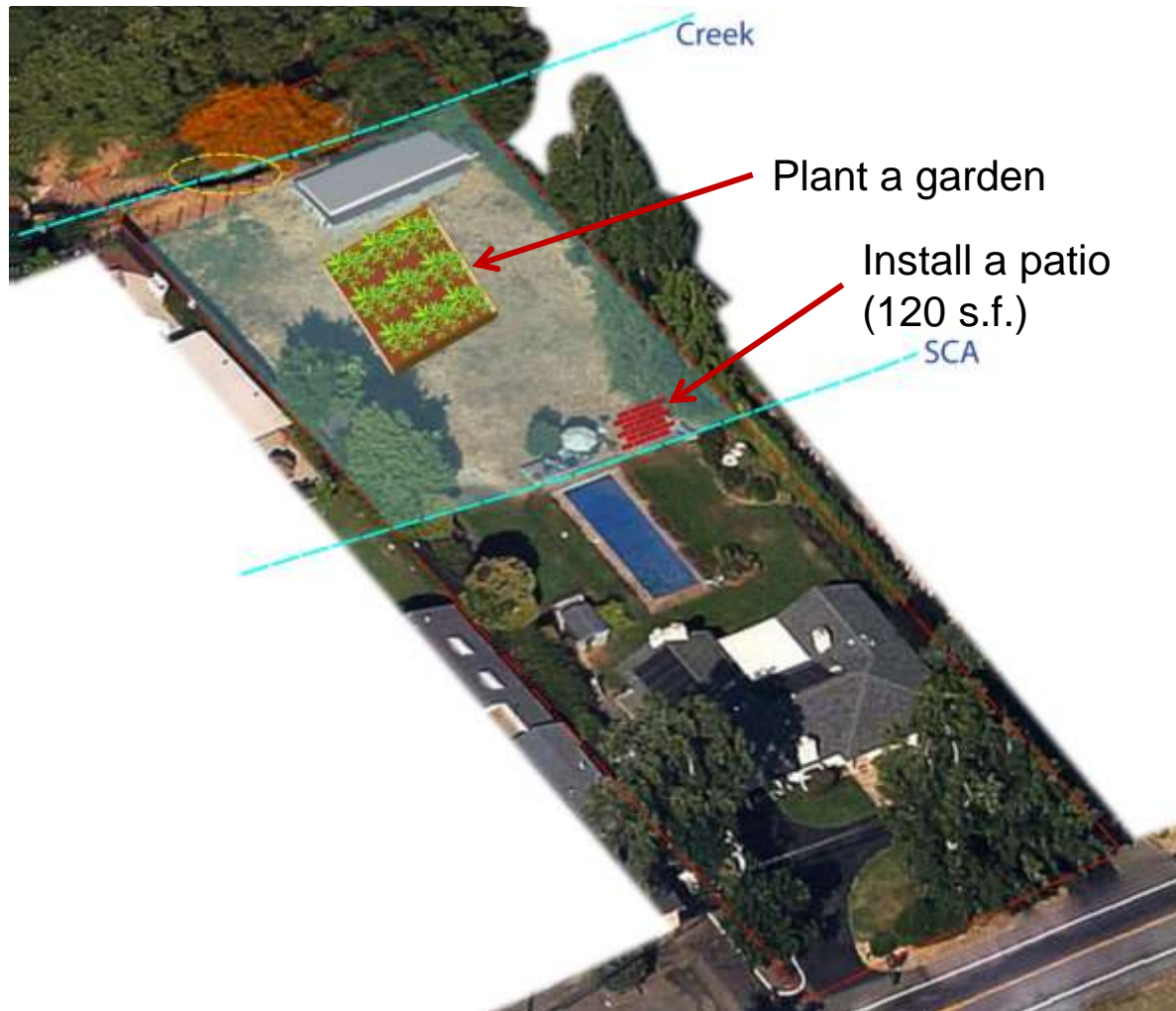
# Example #2: Creek Permit

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# Example #2: Exempt





# Example #2: Tier 1

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# Example #2: Tier 2

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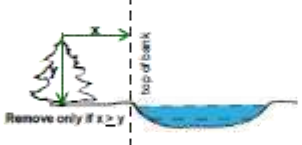


# Standard Management Practices



COMMUNITY DEVELOPMENT AGENCY  
PLANNING DIVISION

## Standard Management Practices DRAFT June 18, 2013

Riparian Vegetation and Wildlife Habitat.			
SMPs are required for vegetation removal within the Stream Conservation Area Setback. Vegetation removal below top of bank may require a Creek Permit from the Department of Public Works ( <a href="http://www.marincounty.org/pw">http://www.marincounty.org/pw</a> ).			
Distance (From Top of Bank)		Management Practice	✓
0-35 feet	1.	Do not remove tree roots or grind stumps.	<input type="checkbox"/>
0-15 feet	2.	Do not remove riparian vegetation.	<input type="checkbox"/>
15-35 feet	3.	Do not remove saplings or riparian shrubs $\geq 125$ square feet in total canopy area.	<input type="checkbox"/>
35 feet to limits of SCA	4.	Do not remove saplings or riparian shrubs $\geq 250$ square feet in total canopy area.	<input type="checkbox"/>
Entire SCA Setback	5.	Replace areas of herbaceous riparian vegetation that have been removed using a native seed mix comprised of San Francisco Bay Area native species. Apply native seed mix at a rate of 40 lbs/acre.	<input type="checkbox"/>
Entire SCA Setback	6.	Do not remove any tree or shrub if the distance from the base of the trunk to the top of stream bank is less than its overall height (a 1:1 ratio).	<input type="checkbox"/>
			
Entire SCA Setback	8.	Do not remove more than two trees (not including saplings).	<input type="checkbox"/>
Entire SCA Setback	9.	Replace trees and shrubs on-site at a 2:1 ratio using native species recommended in the Marin SCA Riparian List (attached).	<input type="checkbox"/>
Area of riparian vegetation	10.	Avoid removal of wood rat nests identified during the Site Assessment, or disassemble nests by hand and move elsewhere within the area of riparian vegetation.	<input type="checkbox"/>
Entire SCA Setback	11.	Do not remove trees during avian breeding season (February 1- August 31), or provide breeding bird survey by qualified biologist within 15 days prior to vegetation removal to verify that no nesting birds are present. Vegetation removal during avian breeding season will not be authorized if nesting birds are present.	<input type="checkbox"/>
Entire SCA Setback	12.	Do not use heavy equipment (i.e., bobcats, tractors, dozers, etc.) for initial clearing of vegetation, leaf litter, and other debris.	<input type="checkbox"/>
Entire SCA Setback	13.	Clearing of leaf litter and debris must be limited to areas of construction, staging and stockpiling identified on the site plan.	<input type="checkbox"/>
Entire SCA Setback	14.	For new outdoor lighting, use light fixtures that incorporate a shield to direct light toward the ground and away from vegetated riparian areas. Do not use lighting, such as globe fixtures, that directs lighting in an upward or uncontrolled direction.	<input type="checkbox"/>

- Vegetation:
  - Limit removal
  - 2:1 replacement
- Stormwater runoff:
  - Disperse or contain
- Construction:
  - Timing of construction
  - Sedimentation & erosion control
  - Pollution prevention



Marin Stream Conservation Area Ordinance

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# **PUBLIC ENGAGEMENT**



# Extensive Public Outreach

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- Public Notice
- Public Open House
- Community Meetings
- Public Hearings
- Individual Questions
- Open Marin
- Robust web page





# Public Outreach



## MARIN COUNTY STREAM ORDINANCE Invitation to Open House

The County of Marin is proposing to adopt an expanded Stream Conservation Area (SCA) Ordinance this year. You are receiving this invitation because County records indicate that you own property near or along a stream. The SCA Ordinance may affect what you can build on your property.

### Get Informed

You are invited to attend an Open House on Thursday, March 14, 2013 at 7:00 p.m. in the Planning Commission Chambers of the Marin Civic Center (3501 Civic Center Drive, Suite 328 in San Rafael).

The Open House will provide you with an opportunity to learn more about the proposed expanded SCA Ordinance, and will provide more information about hearing dates before the Planning Commission and Board of Supervisors where you can voice your opinion about the SCA Ordinance.

In advance of the Open House, visit the County's website at [www.co.marin.ca.us/sca](http://www.co.marin.ca.us/sca) to learn more.

### What is Proposed?

The SCA is established in the Marin Countywide Plan to protect the active channel, water quality and flood control functions, and associated fish and wildlife habitat values along streams. The proposed SCA Ordinance will:

- Apply to properties in unincorporated areas of Marin County, outside the Coastal Zone, which are near a stream;
- Protect stream corridors and habitat by establishing a Stream Conservation Area setback that varies from 25 feet to 100 feet depending on the size of the property and its location; and
- Establish requirements for improvements proposed within the Stream Conservation Area when no other location is feasible. While some types of improvements would be exempt from the ordinance, others may require a Stream Conservation Area permit.

### Be Involved

As an affected property owner, you will receive separate notice for future public hearings before the Marin County Planning Commission and Board of Supervisors who will consider the proposed SCA Ordinance. Those hearings are your opportunity to provide written and/or verbal feedback on the proposed ordinance.

### Stay Informed

Check out the following website links for information and updates regarding the proposed SCA Ordinance:

- [www.co.marin.ca.us/sca](http://www.co.marin.ca.us/sca) The official website of the proposed SCA Ordinance
- [www.marinmap.org](http://www.marinmap.org) Interactive map depicting your property, neighborhood, and streams
- [www.future.marin.org](http://www.future.marin.org) The official website of the 2007 Marin Countywide Plan

### Contact:

Suzanne Thorson, Planner  
Marin Community Development Agency  
[sthorson@marincounty.org](mailto:sthorson@marincounty.org)  
(415) 473-4333

For accessibility accommodation, requests may be made (TDD/TTY) or by e-mail at [disabilityaccess@marincounty.org](mailto:disabilityaccess@marincounty.org).

## Stream Conservation Area:



## Ask us your questions!

## COUNTY OF MARIN

NO OTHERS IN BUSINESS OFFICE

[Home](#)
[Search Maps](#)

**COUNTY HOME**

- Board of Supervisors
- County Clerk
- County Engineer
- County Auditor
- County Treasurer
- County Assessor
- County Sheriff
- County Jail
- County Fire
- County Police
- County Health
- County Social Services
- County Parks and Recreation
- County Library
- County Museum
- County Archives
- County Records
- County Information Technology
- County Planning and Development
- County Transportation
- County Public Works
- County Housing
- County Community Development
- County Environmental Services
- County Agricultural Services
- County Forestry
- County Parks and Recreation
- County Library
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- County Archives
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- County Transportation
- County Public Works
- County Housing
- County Community Development
- County Environmental Services
- County Agricultural Services
- County Forestry

### Community Development Agency - Stream Conservation Area Ordinance

Stream Contact: The Services Department - Forest Management - 415-473-4333  
Affordable Housing - Building and Safety - Community Planning - Countywide Plan Update  
Cultural Planning - Health, Aging Administration - Environmental Health  
Infrastructure - Public Safety - Planning - Planning Commission - Site Map

**Subscribe to this page**

### Stream Conservation Area Ordinance

The Marin County Community Development Agency (CDA) has prepared an expanded Stream Conservation Area (SCA) Ordinance that would apply to unincorporated areas of the County located outside of the Coastal Zone. The Ordinance is based on the stream conservation policies of the Marin Countywide Plan and is intended to protect the hydrologic function, habitat value, and water quality of streams. The proposed SCA Ordinance will:

- Protect stream corridors and habitat by establishing a Stream Conservation Area setback that varies from 25 feet to 100 feet or more depending on the size of the property and its location;
- Establish Stream Conservation Area permit procedures and standards. The SCA setback is a permitting area in which any structure and its activities that are not otherwise exempt from a Stream Conservation Area permit in order to ensure that adverse impacts to riparian habitat, water quality and stream channels are avoided or mitigated.

To find out if your property is included within the Stream Conservation Area, visit [Marin Stream Conservation Area Lookup](http://www.co.marin.ca.us/sca).

Please review the current draft of the SCA Ordinance and additional information by selecting the links below:

- [New Planning Commission Resolution on Proposed SCA Ordinance](#)
- [Current Planning Commission on the SCA Ordinance](#)
- [Community Board Questions \(10/2012\)](#)
- [Application of Stream Conservation Area to Community Development Agency District](#)


### Latest News

**June 14 Board of Supervisors Public Hearing:** The Board of Supervisors will consider the proposed Stream Conservation Area Ordinance during a public hearing on Tuesday, June 18, 2013 at 1:30 p.m. in the Board of Supervisors Chambers (Room #330 - Administration Building) at the Marin Civic Center.

## Open Marin

Stream - Stream Open House

Sign Up | Help



**Subscribe to Open Marin**

Open Marin is an online forum for public engagement. Meet other citizens who are working about important Marin County topics. Share your own opinions. County officials will read the comments and incorporate them into their decision process.

When you post your first comment, you will be asked for your name and home address. This confidential information is only used to identify commenters from residents in what our Marin County - so that users know what.

[Sign Up](#)

### Open Topic

What do you think about the updated draft Stream Conservation Area Ordinance?

**Participants**

**Who is Responding?**  
101 people have read Open Marin topic in Open County

**Subscribe to this**

On May 15, 2013, the Planning Commission recommended approval of the draft SCA Ordinance. Please review the draft.



# Common Comments & Suggestions

## Minimum SCA Setback

Comments (summary)	Countywide Plan	Proposed Ordinance
<p>Setbacks should:</p> <ul style="list-style-type: none"><li>• not be based on lot size.</li><li>• not be 100 feet in developed areas.</li><li>• be larger than 20 feet</li><li>• Be proportional to usable lot area.</li><li>• be 35 feet in the San Geronimo Valley.</li><li>• not allow for any new development.</li><li>• not preclude projects that are currently exempt from permits.</li></ul>	<p>City-Centered Corridor:</p> <ul style="list-style-type: none"><li>• 2+ acres: 100 feet</li><li>• 0.5-2 acres: 50 feet</li><li>• <math>\leq 0.5</math> acres: 20 feet</li></ul> <p>Coastal, Inland Rural, Baylands Corridors, setback is the greater of either</p> <ul style="list-style-type: none"><li>• 50 feet landward from outer edge of woody riparian vegetation; or</li><li>• 100 feet landward from top of bank</li></ul>	<p>Same as Countywide Plan</p>



# Common Comments & Suggestions

## Site Assessments

Comments (summary)	Countywide Plan	Proposed Ordinance
<ul style="list-style-type: none"><li>• Applicants should be able to hire their own professional.</li><li>• Site assessments should identify substantial, measurable impacts.</li><li>• Use Site Assessment to ID reasonable mitigation, not deny permit.</li></ul>	<p>Site assessment required to be prepared by qualified professional, unless waived.</p> <p>Site assessment shall identify measure necessary to mitigate significant impacts.</p>	<p>A site assessment required to be prepared by qualified professional to:</p> <p>(1) Confirm SCA boundary; and</p> <p>(2) Identify impacts and mitigations for Tier 2 Permits</p>



# Common Comments & Suggestions

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## Additional SCA Setback

Public Comment	Countywide Plan	Proposed Ordinance
<ul style="list-style-type: none"><li>• Triggers for additional SCA setback are unclear.</li><li>• SCA setback can only be increased, not decreased.</li><li>• Homeowner should not have to defend against challenges for additional setbacks.</li></ul>	<p>An additional buffer may be required based on the results of a site assessment.</p>	<p>An additional SCA setback may be required based on the results of a Site Assessment, <b>if the additional SCA setback is necessary to protect riparian resources, such as woody riparian vegetation that extends beyond the SCA setback.</b></p>



# Common Comments & Suggestions

## Ephemeral Streams

Comments (summary)	Countywide Plan	Proposed Ordinance
<p>Ephemeral streams:</p> <ul style="list-style-type: none"><li>• are important to watershed ecology and salmonid habitat.</li><li>• unlikely to support riparian vegetation.</li><li>• ditches.</li><li>• should not require a setback</li><li>• should require a reduced setback.</li><li>• are inadequately mapped.</li></ul>	<p>An ephemeral stream is subject to the SCA policies if it:</p> <ul style="list-style-type: none"><li>• supports riparian vegetation for a length of 100 feet or more, and/or</li><li>• (b) supports special-status species and/or a sensitive natural community type</li></ul>	<p>SCA setback applies if:</p> <ul style="list-style-type: none"><li>• stream mapped;</li><li>• riparian vegetation for 100 feet or more.</li></ul> <p>Tier 2 (Discretionary):</p> <ul style="list-style-type: none"><li>• Special-status species/sensitive communities.</li><li>• Avoid/mitigate</li></ul>



# Common Comments & Suggestions

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## Unpermitted Structures

Public Comment	Countywide Plan	Proposed Ordinance
<ul style="list-style-type: none"><li>• Many older structures lack permits.</li><li>• All existing homes and structures should be grandfathered as of ordinance adoption.</li><li>• Existing structures should adhere to BMPs.</li><li>• Tier 1 additions should be contingent on legalizing or removing illegal structures.</li></ul>	<p>Does not grandfather in structures built without permits.</p> <p>Allows permitted and legal nonconforming structures or improvements, their repair and their retrofit within the existing footprint.</p>	<p>Applies to permitted and legal non-conforming structures and provides option for non-permitted structures to be legalized.</p> <p>Exempts maintenance, retrofit, repair, 2<sup>nd</sup> story to permitted and legal non-conforming structures; legalization requires Tier 1 or 2 Permit.</p>



# Common Comments & Suggestions

## Phased Development of SCA Regulations

Public Comment	Countywide Plan	Proposed Ordinance
<ul style="list-style-type: none"><li>• SCA ordinance should be prioritized in the San Geronimo Valley.</li><li>• SCA ordinance should be developed on a watershed basis.</li><li>• The SCA ordinance is not necessary for streams that don't support fish.</li></ul>	Program BIO-4.a calls for adopting an expanded SCA ordinance countywide for anadromous fish streams and tributaries (Time Frame: 1 – 4 years)	Applies to mapped streams countywide, including anadromous fish streams and tributaries



# Common Comments & Suggestions

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## SCA Costs

### Public Comment

- Tier 1 permit fees should not exceed \$150
- Site Assessments should not exceed \$200.
- SCA permit fees should be waived.
- Fund habitat improvement.
- Fund landowner assistance.

### Proposed SCA Ordinance

- Fees (Board letter);
- Tier 1: \$750 permit
  - Tier 2:  
\$2,835 permit  
\$5,000 Initial Study deposit (refundable)



# Planning Commission Action

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May 13: Resolution recommending that the Board of Supervisors adopt amendments to Marin County Code Title 22 (Development Code) Stream Conservation Area, as corrected.

(Approved, 6-0)



Marin Stream Conservation Area Ordinance

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## **NEXT STEPS**



# Homeowner Information

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Marin Watersheds Library (existing)  
MCSTOPPP Info Resources (existing)



Standard Management Practices  
Riparian Vegetation Guides



Informational Handouts (Common  
Residential Improvements Table, FAQ's)



Homeowner Outreach & Assistance  
Expanded SCA web page





# Implementation Will Be Key

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**Coming together is a beginning; keeping together is a process; working together is success.**

**- Henry Ford**

- Homeowner education
- SCA Toolkit
- Updated maps
- Agency coordination



**RECOMMENDATION**