

Frequently Asked Questions for Land Use Near Streams



Handout 1 of 7

Who, What, Where, When & Why

The cities of Santa Clara County, the county, and the Santa Clara Valley Water District are adopting new guidelines and standards (Guidelines and Standards) to assist with review of construction projects proposed near streams. Adoption of these guidelines vary from jurisdiction to jurisdiction, as they are integrated into and complement existing planning and permitting procedures. For most cities and the county, the guidelines and standards will be incorporated into the cities' and the county's development and building permit review process on or about March 1, 2007. Contact your local planning and permitting department for the effective date in your area.

What are the "guidelines and standards for land use near streams"?

The guidelines and standards for land use near streams include requirements and recommendations for land-use activities in and around Santa Clara County streams that are designed to protect stream resources. They will be administered as part of your local land use agency planning and permitting department's standard permitting process. To learn more, ask to see a copy of the "User Manual: Guidelines and Standards for Land Use Near Streams" at your local city or county planning or building department or on line at www.valleywater.org.

What are the benefits of the guidelines and standards?

The guidelines and standards provide uniform guidance to property owners and developers about how to design and construct streamside development in a way that protects both the property and the resource. Some efficiencies in the permit process are accomplished by clarifying requirements and recommendations up front. In most instances, permitting is more streamlined than before, because a permit from the Santa Clara Valley Water District is needed only if an activity is located on a district easement or facility.

Within the larger context, the use of the guidelines and standards helps protect not only an individual property but also other property owners along the stream from flooding, slope failures, erosion, and the deposition of eroded material. Local communities also benefit from healthy streams, safe streamside structures, improved flood protection and water quality, and potentially increased property values if streamside habitat is left intact. The guidelines and standards also help ensure the stability of both structures proposed near streams and the stream bank.

How is the permitting process different from before?

Previously, applicants had to get permits from both the Santa Clara Valley Water District and a local jurisdiction (either a city or the county, if unincorporated) for construction and activities near streams in addition to permits required by resource agencies. Under the new arrangement, each city and the county has permitting authority for streamside activities, unless the activity is on land either owned by, or under easement to, the district, in which case an encroachment permit must be obtained.

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How does the new permitting process work?

When a property owner applies for a building or land development permit, the permitting agency determines if the parcel is within the "streamside review area."

This area includes all properties abutting or in proximity to a stream, including all properties located within 50 feet from the top of bank. If a parcel falls within the "streamside review area," the permitting agency reviews the permit application using the guidelines and standards to protect stream resources.

Does the new process lengthen the permit review process?

No. It streamlines the permitting process by making permit requirements more clear, certain and predictable.

Does the new process make getting a permit more expensive?

Major developments must already adhere to regulatory and resource agency permit requirements, so the permitting process should not be any more expensive.

For projects proposed near the top of bank, there might be some extra cost if a geotechnical analysis is needed to determine the stability of a streamside slope and potential hazard from the stream flow. However, in many cases, this analysis is already required.

What other permits do I need to develop a streamside site?

For any projects located within or near a stream, permits are required from other state and federal agencies, such as the California Department of Fish and Game, the Regional Water Quality Control Board, and the U.S. Army Corps of Engineers. Your local agency staff can inform you about their permit processes.

Are there new regulations for streamside properties?

The answer depends on the jurisdiction. Some cities already have specific regulations for streamside properties. Each city and the county are in the process of incorporating the guidelines and standards into their development and building permit review process. An example of a change in regulation is that for developments requiring landscaping plans, specific guidance will be provided about protection of the riparian corridor, the use of native plants, and avoidance of invasive plant species. New regulations may also include guidance and a process for determining how close a structure can be to a stream to help ensure stability.

Finally, there may be new requirements specific to permit application, some of which may be new to some cities. The applicant may be asked to describe:

- a. The size and type of the stream on the parcel
- b. The type and location of any expected land-use activities proposed in relation to the location of the stream
- c. Pre-existing streamside conditions (i.e., bank erosion and flooding)
- d. Potential streamside impacts related to development and construction (i.e., removal of riparian vegetation, grading and drainage over the streambank) and
- e. How these potential impacts and/or pre-existing conditions will be addressed.

What steps do I take to apply for a permit to develop a streamside parcel?

Each city and the county has its own process for permit application, so you need to consult with your local building and planning staff. If the activity is on Santa Clara Valley Water District property or easement, your project will be referred to the district and you will need a separate permit. The planning and building staff in your jurisdiction will be able to tell you if whether your activity is on district property or easement.