



Re: Application of the Stormwater Design Guidelines
Requirements to the Public Right-Of-Way

Date: Revised - September 2013

BACKGROUND

The Stormwater Design Guidelines (SDG) was approved by the Commission on January 12, 2010 and the Stormwater Management Ordinance (SMO) became effective May 22, 2010. The SDG applies to all Development Projects that disturb 5,000 square feet or more of ground surface, and are subject to building, planning and subdivision approvals.

PURPOSE

Staff has consistently applied SDG requirements to the new public right-of-way (ROW) areas developed in conjunction with large, multi-parcel Development Projects¹. Staff has consistently NOT applied SDG requirements to public ROW projects that are not associated with single or multi- parcel Development Projects. However, through project review, staff has identified other Development Project types that include construction in the ROW. The application of the SDG to these Development Projects requires clarification. **This memo clarifies where the SDG does and does not apply to ROW improvements.**

DEFINITIONS

Development Project: Any activity **disturbing** 5,000 square feet or more of the ground surface². A Development Project is a project that triggers the requirements of the Stormwater Design Guidelines.

Disturbance/Disturbed Area: Activities that include, but are not limited to, the construction, modification, conversion, or alteration of any building or structure and associated grading, filling, excavation, change in the existing topography, and the addition or replacement of impervious surface. All sidewalks, parking, driveways, and landscaped and irrigated areas constructed in conjunction with the Development Project are included in the project area. Development Projects do not include interior remodeling projects, maintenance activities such as top-layer grinding, repaving, and re-roofing, or modifications, conversions or alterations of buildings or structures that does not increase the ground surface footprint of the building or structure³.

Right-of-way (ROW): the right to pass through property owned by another.⁴ In the case of the public right of way, the right to pass over the property is the public's. In this memo, the right of way or ROW generally refers to the public street, sidewalk, etc.

¹ This includes: Hunter's Point Shipyard / Candlestick Point, Treasure Island, Parkmerced, Sunnysdale Housing, Hunter's View, Mission Bay, Visitation Valley T.O.D. (Schlage Lock site), and Potrero Terrace Housing)

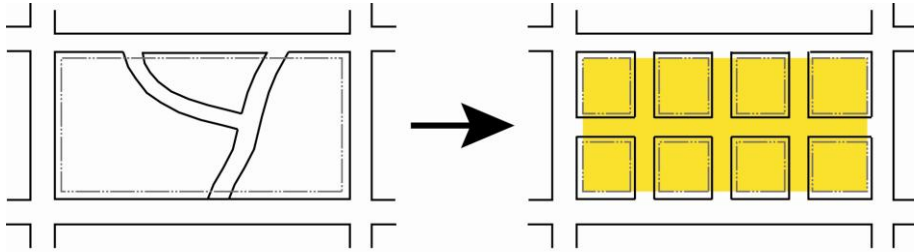
² Stormwater Management Ordinance, San Francisco Public Works Code, Article 4.2 Sections 147-147.6,

³ Ibid

⁴ Black's Law Dictionary, Eighth Edition, ed. Bryan A. Garner (West 1999)

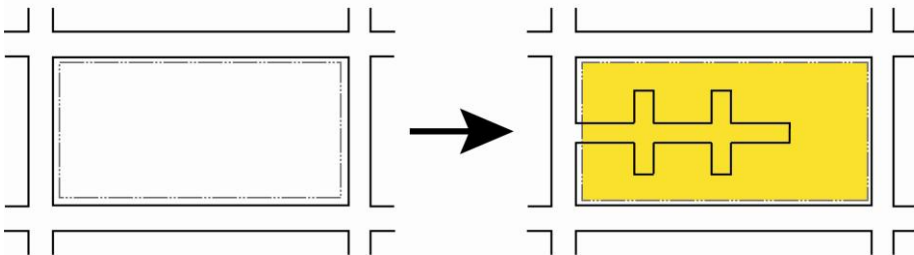
The SDG applies to:

- 1. The Disturbed Areas of a Development Project that will be newly dedicated or accepted public ROWs.**



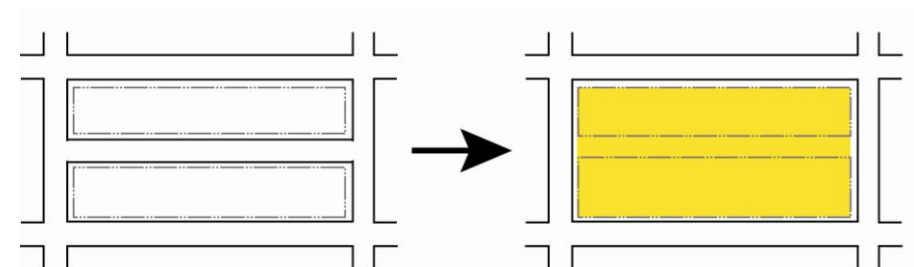
Discussion: This scenario occurs when large parcels are redeveloped and subdivided, creating new public ROWs that are eventually dedicated to and accepted by the City. Paper streets, or streets that have been dedicated but not accepted by the City, are also covered by this scenario.

- 2. The Disturbed Areas of a Development Project that are or will be private streets, roads, or pedestrian walks.**



Discussion: This scenario occurs when private parcels are redeveloped and create private ROWs that are not dedicated to or accepted by the City.

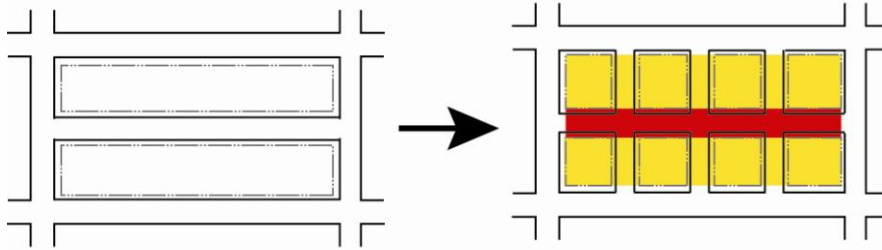
- 3. The Disturbed Areas of a Development Project that are located in existing public ROWs and that will be permanently closed to vehicular traffic or vacated.**



Discussion: This scenario occurs when a Development Project includes a permanent street closure or vacation. Street vacations occur when what was formerly a public ROW becomes a private parcel (this is the opposite of creating a new street). A permanent street closure occurs when a street is permanently closed to vehicular traffic.

The SDG does NOT apply to:

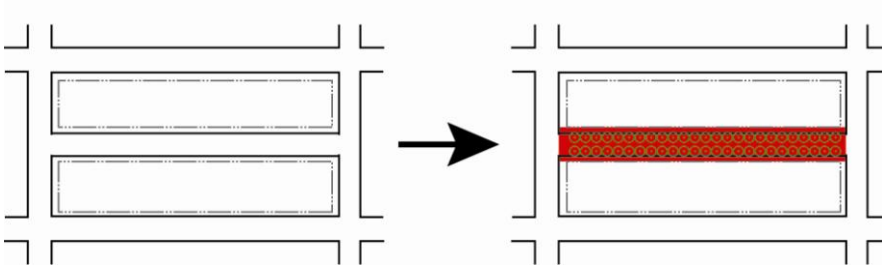
4. Existing public ROWs (either adjacent to or bisecting the Development Project) that are being disturbed in conjunction with a Development Project.



Discussion: This scenario occurs when an existing public ROW is adjacent to or bisects Development Project(s) subject to the SDG. Even if improvements to the existing public ROWs are required, those ROWs are not subject to the SDG as long as the public ROW was previously dedicated to and accepted by the City.

[Note: This policy is directed toward disturbance of the entire adjacent or bisecting ROW, including the roadway. At this time, the Stormwater Management Ordinance very clearly includes the sidewalk in the definition of Disturbed Area.]

5. Improvements to existing public ROWs NOT associated with a Development Project.



Discussion: This scenario occurs when there is an improvement project for an existing dedicated and accepted public ROW but there is no associated Development Project(s).

Graphics Legend:

Yellow areas in the diagrams above show areas where the SDG does apply.

Red areas in the diagrams above show areas where the SDG does not apply.