

SUMMARY and FISCAL NOTE*

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* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to environmentally critical area (ECA) regulations and the State Environmental Protection Act (SEPA) as it relates to ECAs; amending Sections 21.33.010, 22.170.050, 22.170.210, 22.801.060, 22.801.240, 22.807.020, 22.900C.010, 23.60A.156, 23.60A.160, 23.60A.190, 23.60A.910, 25.05.305, 25.05.800, 25.05.900, 25.06.020, 25.06.040, 25.06.100, 25.06.110, 25.09.010, 25.09.015, 25.09.017, 25.09.030, 25.09.040, 25.09.045, 25.09.060, 25.09.080, 25.09.100, 25.09.110, 25.09.120, 25.09.160, 25.09.200, 25.09.220, 25.09.240, 25.09.260, 25.09.280, 25.09.300, 25.09.330, 25.09.335, 25.09.360, 25.09.380, 25.09.400, 25.09.410, 25.09.420, 25.09.430, 25.09.450, 25.09.460, 25.09.470, 25.09.480, 25.09.520, 25.09.530, 25.11.030, and 25.11.040 of the Seattle Municipal Code (SMC); renumbering Sections 25.09.020, 25.09.050, 25.09.180, and 25.09.320 of the SMC as 25.09.012, 25.09.042, 25.09.090, and 25.09.070 respectively and amending them; repealing Sections 25.05.747, 25.05.908, and 25.09.055 of the SMC; and adding new Sections 25.09.052, 25.09.065, 25.09.075, and 25.09.290 to the SMC.

Summary and background of the Legislation: Regulations designating and protecting environmental critical areas (ECAs) are required by the Washington State Grown Management Act:

- [RCW 36.70A.170](#) requires critical areas to be protected;
- [RCW 36.70A.060\(2\)](#) requires the adoption and implementation of development regulations to protect critical areas; and
- [RCW 36.70A.172\(1\)](#) requires including best available science in developing policies and regulations to protect functions and values of critical areas.

The requirement to include best available science includes measures to conserve and protect anadromous fisheries (salmon), including the protection of habitat important for all life stages of anadromous fish. The state requires local jurisdictions to review and revise ECA regulations every eight years.

Proposed changes include:

- Increase the buffer of Class III wetlands with moderate to high habitat function from 85 feet to 110 feet.
- Extend protection to areas that meet the definition of Washington Department of Fish and Wildlife (WDFW) biodiversity areas and corridors (currently only limited mapped areas are protected).

- Allow the Director to protect WDFW Priority Habitat in addition to Priority Species with measures contained in a Director’s Rule.
- Include greater protection for great blue heron based on WDFW’s 2012 Priority Habitat and Species guidance for great blue heron.
- Add clear and predictable regulations protecting the environmentally critical areas, including the three previous stated changes and remove a redundant requirement for State Environmental Policy Act (SEPA) review for certain projects that are located in a critical area,
- Allow vegetation management that meets the ECA requirements to be exempt from SEPA when below thresholds for review.
- Apply standards to achieve better fit in existing neighborhoods in subdivision processes. The proposal would require area outside of the ECA to be available for utility connections and apply certain development standards based on the area of the lot outside the ECA. New houses would be required to meet the single-family lot coverage, maximum height, and yard standards based on the non-ECA area.
- Require mitigation sequencing as set out in the 2007 Department of Community, Trade and Economic Development’s *Critical Areas Assistance Handbook: Protecting Critical Areas within the Framework of the Washington Growth Management Act*.

Additional changes to the regulations provide clarity in implementing the regulations are also included in this update.

By including updated best available science in developing our ECA regulations and updating our ECA regulations to improve their effectiveness, we can better protect our critical areas and manage development in these areas. We can also enhance the urban environment by protecting wetlands, fish and wildlife habitat, riparian corridors, and other ecological resources. The health of these areas is an important indicator of the overall health and well-being of the city and region.

. CAPITAL IMPROVEMENT PROGRAM

 This legislation creates, funds, or amends a CIP Project.

3. SUMMARY OF FINANCIAL IMPLICATIONS

 X **This legislation does not have direct financial implications.**

4. OTHER IMPLICATIONS

a) Does the legislation have indirect or long-term financial impacts to the City of Seattle that are not reflected in the above?

The review for vegetation management will be changed and the review of these projects will be charged the hourly review rate; therefore, SDCI will be able to recover the costs of the time spent on review of these projects. Currently SDCI does not charge for review

of these projects.

Removing 25.05.908 will save unreimbursed staff time related to confusion the public and applicants have about the current need for SEPA even when certain ECA exemptions are granted.

Removing 25.05.908 will reduce the need for about 65 Master Use Permits for ECA-only SEPA per year. Many MUPs that have ECA-only SEPA will not be affected very much due to other MUP components still being reviewed. However, a segment of mostly small multifamily projects (at least two units but up to about 4 to 8 units) that currently need MUPs will no longer need MUPs with this change – this will reduce some housing permitting costs and timelines and will reduce Permit Volumes slightly and reduce our LU billable hours and demand for LU Planners time by approximately 400 hours per year.

New aspects of the ECA code, including standards about maintenance limits on impervious surface in ECA could increase demand on staff to explain the rules and may increase complaints to the enforcement unit. SDCI will evaluate this potential impact overtime and seek additional resources if needed.

The review time for permit applications for projects that have *biodiversity area and corridor* critical areas present may increase. However, this review time will be charged the hourly review rate; therefore, there is no expected financial impacts.

The IT changes required are minor and include changing the names of two environmentally critical areas; therefore, there are no expected financial impacts.

b) Is there financial cost or other impacts of not implementing the legislation?

The Environmentally Critical Area update is mandated by the State Legislature and there are penalties in the way of withholding State grant money to City Departments if the ECA update is not completed.

c) Does this legislation affect any departments besides the originating department?

City Departments that own property within an ECA are required to comply with the ECA regulations. No fiscal impact is anticipated as a result of the amendments.

d) Is a public hearing required for this legislation?

Yes, a public hearing is required and is expected to take place before City Council in November or December of 2016.

e) Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?

N/A

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

Yes, publication of notice is required in The Daily Journal of Commerce for both the SEPA determination, which was published in June 2016 and for the upcoming public hearing before City Council. Notice for the public hearing must be provided thirty days before the hearing.

g) Does this legislation affect a piece of property?

No, environmentally critical areas are located on varying parcels of land throughout the City.

h) Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?

Because this legislation affects varying parcels of property throughout the City and the impact is dependent on whether there is an environmentally critical area located on a property the regulations would provide for a more healthful urban environment, which may be especially beneficial to poorer populations that may have limited options for where to live and work.

i) If this legislation includes a new initiative or a major programmatic expansion: What are the long-term and measurable goals of the program? Please describe how this legislation would help achieve the program's desired goals.

N/A

j) Other Issues: None.

List attachments/exhibits below: None.