



Legislation Details (With Text)

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Type: Ordinance (Ord) **Status:** Passed
In control: City Clerk

On agenda: 1/30/2017
Final Action: 2/2/2017 **Ord. No.** Ord 125248

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.

Sponsors: Rob Johnson

Indexes:

Attachments: 1. Summary and Fiscal Note, 2. Director's Report, 3. Presentation (11/29/16), 4. SDCI Memo (11/29/16), 5. Central Staff Memo (01/19/17), 6. Central Staff Memo (01/19/17) - Attachment A, 7. Central Staff Memo (01/19/17) - Attachment B, 8. Central Staff Memo (01/19/17) - Attachment C, 9. Proposed Changes to Director's Rule 5-2007, 10. Proposed Changes to Director's Rule 29-2015, 11. Signed Ord 125248, 12. Affidavit of Publication

Date	Ver.	Action By	Action	Result
2/2/2017	2	City Clerk	attested by City Clerk	
2/2/2017	2	Mayor	Signed	
2/2/2017	2	Mayor	returned	
2/1/2017	2	City Clerk	submitted for Mayor's signature	
1/30/2017	2	City Council	passed	Pass
1/19/2017	1	Planning, Land Use, and Zoning Committee	pass as amended	Pass
12/6/2016	1	Planning, Land Use, and Zoning Committee	discussed	
11/29/2016	1	Planning, Land Use, and Zoning Committee	discussed	
11/7/2016	1	City Council	referred	
11/1/2016	1	Council President's Office	sent for review	
10/25/2016	1	City Clerk	sent for review	
10/25/2016	1	Mayor	Mayor's leg transmitted to Council	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

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.

WHEREAS, the City is required to update environmentally critical area regulations according to state requirements; and

WHEREAS, the City has considered the best available science in adopting these amendments; NOW,

THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 25.09.010 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

25.09.010 Purpose of the chapter((:))

This ((e))Chapter 25.09 is based on and implements The City of Seattle Comprehensive Plan, as amended from time to time. It is expressly the purpose of this ((e))Chapter 25.09 to provide for and promote the health, safety, and welfare of the general public, and to not create or otherwise establish or designate any particular person, or class, or group of persons who will or should be especially protected or assisted by the terms or provisions of this ((e))Chapter 25.09. This ((e))Chapter 25.09 is intended to promote safe, stable, and compatible development that avoids and mitigates adverse environmental impacts and potential harm on the parcel and to adjacent property, the surrounding neighborhood, and the related drainage basin.

Section 2. Section 25.09.020 of the Seattle Municipal Code, last amended by Ordinance 124750, is

renumbered 25.09.012 and further amended as follows:

25.09.012((020)) Designation and definitions of ((E))environmentally critical areas ((definitions))

The following ((are)) environmentally critical areas are designated by this Chapter 25.09: geologic hazard areas, steep slope erosion hazard areas, flood-prone areas, wetlands, fish and wildlife habitat conservation areas, and abandoned landfills.

A. Geologic ((H))hazard ((A))areas and ((S))steep ((S))slope erosion hazard ((A))areas((:))

1. Geologic hazard areas are liquefaction-prone areas, landslide-prone areas, peat settlement-prone areas, seismic hazards areas, and volcanic hazard areas described in subsections 25.09.012.A.2, 25.09.012.A.3, 25.09.012.A.5, 25.09.012.A.6, and 25.09.012.A.7. Landslide-prone areas include steep slope erosion hazard areas. Steep slope erosion hazard areas that are regulated for additional erosion hazards are described in subsection 25.09.012.A.4.

2. Liquefaction-prone ((A))areas. Liquefaction-prone areas are areas typically underlain by cohesionless soils of low density, usually in association with a shallow groundwater table, that lose substantial strength during earthquakes.

3. Landslide-prone ((A))areas. The following are landslide-prone areas:

a. Known landslide areas identified by documented history, or areas that have shown significant movement during the last ((ten thousand ()))10,000((:)) years or are underlain by mass wastage debris deposited during this period; or

b. Potential landslide areas:

((f))1) Those areas that are described as potential slide areas in "Seattle Landslide Study" (Shannon & Wilson, 2000 and 2003).

((f))2) Areas with indications of past landslide activity, such as landslide headscarps and sidescarps, hummocky terrain, areas with geologic conditions that can promote earth movement, and areas with signs of potential landsliding, such as springs, groundwater seepage, and bowed or

backtilted trees.

((f))3) Areas with topographic expression of runout zones, such as fans and colluvial deposition at the toes of hillsides.

((f))4) Setbacks at the top of very steep slopes or bluffs, depending on soil conditions.

((f))5) Slopes with an incline of ~~((forty))~~ 40 percent or more within a vertical elevation change of at least ~~((ten feet (10')))~~ 10 feet. For the purpose of this definition, a slope is measured by establishing its toe and top and averaging the inclination over at least ~~((ten feet (10')))~~ 10 feet of elevation difference. Also for the purpose of this definition:

((f))a) The "toe" of a slope means a distinct topographic break in slope that separates slopes inclined at less than ~~((forty))~~ 40 percent ~~((40%))~~ from slopes inclined at ~~((forty))~~ 40 percent ~~((40%))~~ or more. Where no distinct break exists, the "toe" of a slope is the lower-most limit of the area where the ground surface drops ~~((ten feet (10')))~~ 10 feet or more vertically within a horizontal distance of ~~((twenty-five feet (25')))~~ 25 feet; and

((f))b) The "top" of a slope is a distinct topographic break in slope that separates slopes inclined at less than ~~((forty))~~ 40 percent ~~((40%))~~ from slopes inclined at ~~((forty))~~ 40 percent ~~((40%))~~ or more. Where no distinct break exists, the "top" of a slope is the upper-most limit of the area where the ground surface drops ~~((ten feet (10')))~~ 10 feet or more vertically within a horizontal distance of ~~((twenty-five feet (25')))~~ 25 feet.

((f))6) Areas that would be ~~((covered))~~ regulated under one of subsections 25.09.012.A.3.b.2 through 25.09.012.A.3.b.5 ~~((2) to (5))~~, but where the topography has been previously modified through the provision of retaining walls or non-engineered cut and fill operations;

((f))7) Any slope area potentially unstable as a result of rapid stream incision or stream bank erosion.

4. Steep ~~((S))~~slope erosion hazard ~~((A))~~areas. Steep slope erosion hazard areas are areas with a slope described in subsection 25.09.012.A.3.b.5 ~~((A3b(5) above; provided that when such a slope is on a parcel in a Downtown zone or highrise zone, the area is designated only as a landslide prone area))~~.

5. Peat ~~((S))~~settlement-prone ~~((A))~~areas. ~~((a.))~~ Peat settlement-prone areas~~((, which))~~ consist of Category I and Category II peat settlement-prone areas ~~((;))~~ that are delineated on Maps A1 through A26, Peat Settlement-prone Area Boundaries Maps, codified at the end of this ~~((e))~~Chapter 25.09. This parcel-specific delineation is based on the location of the relevant bog or bogs identified in City of Seattle Identified Bogs (Troost 2007) plus a buffer of 50 feet for Category I peat settlement-prone areas or a buffer of 25 feet for Category II peat settlement-prone areas. On parcels larger than 50,000 square feet, the ~~((b. The))~~ Director may consider~~((, at the request of the owner of a parcel larger than 50,000 square feet, provide))~~ a parcel-specific delineation, provided by the applicant, of the peat settlement-prone area boundary on ~~((that))~~ a parcel. Where a parcel-specific delineation conflicts with the Peat Settlement-prone Area Boundaries Maps, the parcel-specific delineation shall apply. ~~((The parcel-specific delineation is based on the location of the relevant bog or bogs identified in City of Seattle Identified Bogs (Troost 2007) plus a buffer of 50 feet for Category I peat settlement-prone areas or a buffer of 25 feet for Category II peat settlement-prone areas.))~~

6. Seismic ~~((H))~~hazard ~~((A))~~areas. ~~((In addition to))~~ Seismic hazard areas are the liquefaction-prone areas described in subsection 25.09.012.A.2 ~~((above, seismic hazard areas are the following))~~ and:

a. Areas of the City subject to ground shaking from seismic hazards that are addressed by ~~((the Building Code (SMC Title 22)))~~ Title 22.

b. The Seattle Fault zone as delineated in Troost et al., 2005, *The geologic map of Seattle, a progress report*, U.S. Geological Survey, *Open-file report 2005-1252*, or as the Director determines is more accurately mapped by the U.S. Geological Survey, as set out in a Director's Rule.

c. ~~((For t))~~Tsunamis

1) the waterbody of Lake Washington and for tsunamis and tsunami inundation,

the water body and land area as shown in Walsh, et al., 2003, *Tsunami hazard map of the Elliott Bay area, Seattle, Washington: Modeled tsunami inundation from a Seattle Fault earthquake, Washington State Department of Natural Resources and National Oceanic and Atmospheric Administration, Washington Division of Geology and Earth Resources Open File Report 2003-14*, or as the Director determines are more accurately mapped by the National Oceanic and Atmospheric Administration, the U.S. Geological Survey or the Washington State Department of Natural Resources, as set out in a Director's Rule.

~~((d-))~~ 2) The shoreline and upland areas surrounding Lake Washington are classified as an unknown risk from tsunamis under WAC 365-190-~~((080(4)(b)(iii)))~~ 120(4)(c).

e. ~~((For s))~~ Seiches~~((;))~~

1) the waterbodies of Elliott Bay, Lake Union, and Lake Washington.

~~((f-))~~ 2) The shoreline and upland areas surrounding the waterbodies in this subsection 25.09.012.A.6.e~~((e))~~ are classified as an unknown risk from seiches under WAC 365-190-~~((080(4)(b)(iii)))~~ 120(4)(c).

7. Volcanic ~~((H))~~ hazard ~~((A))~~ areas. Volcanic hazard areas are areas subject to inundation by lahars or related flooding resulting from volcanic activity on Mount Rainier, as delineated by the U.S. Geological Survey in Hoblitt, et al., 1998, *Volcano Hazards from Mount Rainier, Washington, Revised 1998: U.S. Geological Survey Open-File Report 98-428*, or as the Director determines are more accurately mapped by the U.S. Geological Survey, as set out in a Director's Rule.

B. Flood-prone areas. Flood-prone areas are those areas that would likely be covered with or carry water as a result of a 100 year flood event, or that would have a one percent or greater chance of being covered with or of carrying water in any given year based on current circumstances or maximum development permitted under existing zoning. This includes areas defined as areas of special flood hazard in Section 25.06.030 and areas mapped by Seattle Public Utilities.

C. Wetlands. Wetlands are those areas that are inundated or saturated by surface water or ground water

at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

1. Wetlands generally include:

a. ~~((s))~~ Swamps, marshes, bogs, and similar areas~~((-))~~; and

b. Those wetlands intentionally created from nonwetland or former wetland areas to mitigate conversion of wetlands.

2. Wetlands do not include:

a. ~~((t))~~ Those artificial wetlands intentionally created from nonwetland sites and not used for mitigation, including, but not limited to, irrigation and stormwater ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities~~((;))~~; or

b. ~~((t))~~ Those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. ~~((Wetlands include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands.))~~

3. Determination that an area meets the conditions of subsection 25.09.012.C.2.a or 25.09.012.C.2.b shall be made during the evaluation of an application prior to allowing the fill of such areas.

4. Identification of wetlands and delineation of their boundaries pursuant to this Chapter 25.09 shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

D. Fish and wildlife habitat conservation areas. The following are fish and wildlife habitat conservation areas:

1. Areas defined and/or mapped by the Washington ~~((State))~~ Department of Fish and Wildlife (WDFW) as ~~((urban natural open space habitat areas))~~ biodiversity areas and corridors.

2. Areas designated by WDFW as priority habitats and species areas~~((, including native eel grass beds, kelp beds, and recreational shellfish areas))~~ except wetlands, which are defined in subsection 25.09.012.C

3. Corridors of land or water connecting priority habitats and species areas or habitat areas for species of local importance meeting one of the following criteria:

a. WDFW or the Department's species habitat management plan identifies the parcel as part of a corridor connecting habitat areas for priority species or species of local importance;

b. ~~((t))~~The parcel is adjacent to or connects parcels containing priority species or species of local importance and the Director determines that the parcel is part of a wildlife corridor based on information provided by a qualified wildlife biologist; ~~or((;))~~

c. ~~((t))~~The parcel provides fish passage between fish habitat in Type S, F, Np and Ns waters per WAC 222-16-030 and 222-16-031 upstream and downstream of the parcel, whether that passage is in riparian watercourses, pipes, or culverts.

4. Areas that provide habitat for species of local importance.

5. Riparian corridors

a. Riparian corridors, which are the riparian watercourse and the riparian management area. The riparian watercourse is the watercourse of Type F, Np, and Ns waters defined in WAC 222-16-030 and 222-16-031 that have fish or wildlife habitat. ~~((Water in surface water ditches and stormwater conveyances, p))~~Pipes, culverts, flow control facilities, ~~((and))~~ water quality facilities, and stormwater conveyances are not regulated as riparian watercourses. The riparian management area is the area within 100 feet of the riparian watercourse measured horizontally landward from the ~~((top of each bank of the watercourse, or from the))~~ ordinary high water mark of the watercourse as surveyed in the field, ~~((if))~~ or from the top of the bank if the ordinary high water mark cannot be determined. In watercourses with braided channels or alluvial fans, the ordinary high water mark shall be determined so as to include the entire stream feature.

b. When a pipe or culvert connecting Type S, F, Np, and Ns waters per WAC 222-16-030 and 222-16-031 that have fish habitat downstream and upstream from the pipe or culvert is daylighted, the

water((s)) formerly in the pipe or culvert will be regulated as a riparian watercourse, and the area adjacent to that watercourse will be regulated as a riparian management area, as defined in subsection 25.09.((020))012.D.5. This subsection 25.09. ((020))012.D.5.b does not apply when the pipe or culvert is removed to provide a publicly((-) owned facility designed primarily for water quality treatment, flow control, or stormwater conveyance.

6. Priority habitat areas as regulated in Sections 23.60A.156 and 23.60A.160 and setbacks as regulated in Sections 23.60A.156 and 23.60A.167, except that in the UI and UM shoreline environments the portion of the setback that is an environmental critical area, as regulated in Sections 23.60A.156 and 23.60A.167, is the setback measured from the ordinary high water mark landward 15 feet.

7. Areas that state or federally designated endangered, threatened, and sensitive species have a primary association.

E. Abandoned ((L))landfills. Abandoned landfills include those abandoned solid waste landfills identified by the Seattle-King County Health Department in ((their)) its 1986 Abandoned Landfill Toxicity/Hazard Assessment Project, additional sites identified by public or historical research, and areas within ((one thousand feet (1,000')) 1,000 feet of methane-producing landfills.

Section 3. Section 25.09.015 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

25.09.015 Application of chapter

A. This Chapter 25.09 applies to any development, as defined in Section 25.09.520, or platting carried out by any person on publicly or privately owned parcels containing an environmentally critical area or buffer, except that:

1. Parcels that are solely within seismic or volcanic hazards areas, as defined in ((S))subsections 25.09.((020))012.A.6 and 25.09.((020))012.A.7, and that are not liquefaction-prone areas are subject only to Sections 25.09.010, 25.09.030, and subsections ((A, B, C and F of Section)) 25.09.017.A, 25.09.017.B,

25.09.017.C, and 25.09.017.F ~~((and Sections 25.09.020, and 25.09.030))~~; and

2. For parcels, including submerged land, that are in the Seattle Shoreline District, as described in Section 23.60A.010, this Chapter 25.09 as incorporated by reference into Section 23.60A.156 applies to development and shoreline modifications, as defined in Chapter 23.60A, to uses~~((;))~~ and platting, and to actions described in subsection 25.09.015.C.

B. This Chapter 25.09 applies to altering vegetation, trees, or other habitat carried out by any person ~~((in))~~ on publicly or privately owned parcels with landslide-prone ~~((critical))~~ areas, ~~(((including steep slopes)))~~ steep slope erosion hazard areas and buffers, riparian corridors, wetlands, and wetland buffers ~~((on publicly or privately owned parcels))~~, except for parcels, including submerged land, in the Shoreline District as defined in Seattle's Shoreline Master Program, where such actions shall comply with Section 23.60A.190.

C. Subsection 25.09.200.A.((4))5 applies to daylighting pipes and culverts defined in that subsection 25.09.200.A.((4))5.

Section 4. Section 25.09.017 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

25.09.017 Administration

A. The Director shall administer and interpret the provisions of this Chapter 25.09, except as specifically provided.

B. The Director shall determine whether development, platting, or alteration of vegetation, trees, or other habitat is subject to this Chapter 25.09. The Director may ~~((also))~~ consult with other City departments and state and federal agencies as necessary to obtain additional technical and environmental review assistance.

C. The Director shall review and analyze ~~((all))~~ applications for ~~((all))~~ permits or approvals subject to this Chapter 25.09 that are issued by the Seattle Department of Construction and Inspections. ~~(((Such a)))~~A pplications shall be approved only after the Director is satisfied the applications comply with this Chapter 25.09.

D. If no Seattle Department of Construction and Inspections permit or approval is required, ~~((Every other))~~ City departments issuing a permit or other approval for development on parcels containing an environmentally critical area or ~~((its))~~ buffer or for altering vegetation, trees, or other habitat in the areas set out in subsection 25.09.015.B ~~((shall require the use of best management practices to prevent impacts to environmentally critical areas and their buffers and to meet the intent of this Chapter 25.09. Departments))~~ shall ~~((require))~~ apply mitigation standards as set out in Section 25.09.065, to avoid and minimize impacts and to address unavoidable impacts. All such City departments shall maintain records documenting compliance with this subsection 25.09.017.D.

E. The Director shall identify techniques that are best management practices for actions administered by the Director in an environmentally critical area or buffer. The Director may do this by Director's Rule. The directors of other City departments applying these regulations or issuing permits for development in an environmentally critical area~~((s))~~ or ~~((their))~~ buffer~~((s))~~ may identify techniques that are best management practices and may do this by Director's Rule.

F. The provisions of Section 23.88.020 apply to a decision by the Director as to the meaning, application, or intent of any provision of this Chapter 25.09. The provisions of Section 23.88.020 are the exclusive administrative remedy for any determination by the Director under Chapter 25.09, except as otherwise specifically provided. Other administrative appeal provisions set out in Title 23 do not apply to decisions under this Chapter 25.09, except as specifically provided.

Section 5. Section 25.09.030 of the Seattle Municipal Code, last amended by Ordinance 124447, is amended as follows:

25.09.030 Location of environmentally critical areas and buffers

A. Environmentally critical areas are defined in Section 25.09.~~((020))~~012, and buffers are described in Sections 25.09.090 and 25.09.160 ~~((and 25.09.180))~~. Environmentally critical areas are mapped whenever possible. These maps are advisory except as follows:

1. ~~((for t))~~ The maps adopted as designations for geologically hazardous areas in subsections 25.09.~~((020))012.A.5~~, 25.09.~~((020))012.A.6~~, and 25.09.~~((020))012.A.7~~~~((;))~~ ;
2. ~~((t))~~ The FEMA maps showing areas of special flood hazard defined in subsection 25.06.030.B ~~((, and))~~ ;
3. ~~((a))~~ Areas mapped or designated by the Washington ~~((State))~~ Department of Fish and Wildlife (WDFW) in subsections 25.09.~~((020))012.D.1~~ and 25.09.~~((020))012.D.2~~~~((;))~~ ; and
4. The delineations in the maps for peat settlement-prone areas in subsection 25.09.012.A.5 for parcels 50,000 square feet or less.

The Director may update or amend the maps by Director's Rule.

B. Determination of environmentally critical area or buffer location

1. The Director shall determine whether a parcel contains an environmentally critical area or buffer before other provisions of this Chapter 25.09 are applied to a development proposal.
2. If ~~((an application))~~ approval for development ~~((is))~~ , an exemption under Section 25.09.045, or activities subject to 25.09.070 are proposed on a ((site)) parcel that the Director believes contains ~~((a))~~ an environmentally critical area or ((critical area)) buffer, as part of the proposal an applicant may request a determination that ~~((a specific))~~ the parcel ((of property)) does not contain ~~((a))~~ an environmentally critical area or ((critical area)) buffer or that ~~((the critical area or buffer))~~ it is located differently, including whether ((a)) an environmentally critical area map should be ((changed, by applying for an exemption pursuant to subsection 25.09.045.D.1)) amended. In making the ~~((exemption))~~ determination, the Director may consider the factors set out in subsection 25.09.030.B.4. The applicant may appeal this determination by applying for an interpretation pursuant to the provisions of Section 23.88.020.
3. If no ~~((application))~~ approval for development, exemption under Section 25.09.045, or activities subject to 25.09.070 ((is)) are proposed, a request for a formal determination whether a ~~((specific))~~ parcel contains ~~((a))~~ an environmentally critical area or ((critical area)) buffer or of ~~((the))~~ its location ((of a

~~critical area or critical area buffer~~), including whether ((a)) an environmentally critical area map should be amended, shall be made by applying for an interpretation pursuant to the provisions of Section 23.88.020. Interpretation decisions are ((not)) binding on subsequent applications for development ((if)) , exemption under Section 25.09.045, or activities subject to 25.09.070 unless the facts supporting the interpretation or the designation criteria for ((a)) an environmentally critical area or ((critical area)) buffer have changed. In making the interpretation, the Director ((may)) shall consider the factors set out in subsection 25.09.030.B.4.

4. Factors considered. In determining whether a parcel contains an environmentally critical area or buffer, the Director may consider the environmentally critical areas maps, site surveys, topographic maps, technical environmental analysis, and any other information the Director determines necessary. In determining whether ((development)) a parcel larger than 50,000 square feet is subject to regulation under Section 25.09.110, the Director ((may)) shall consider only whether the development, exemption under Section 25.09.045, or activities subject to 25.09.070 will occur within an area delineated pursuant to subsection ((~~25.09.020. A.5~~)) 25.09.012.A.5.

Section 6. Section 25.09.040 of the Seattle Municipal Code, last amended by Ordinance 124447, is amended as follows:

25.09.040 Permits and approvals required

A. Prior to undertaking development or platting on a parcel containing an environmentally critical area or buffer, the applicant shall:

((f))1.((g)) submit an application:

a. for a permit that complies((ying)) with the provisions of Section 25.09.330((s)) ; or

b. ((unless the applicant applies for)) requesting modification of Section 25.09.330

submittal requirements or an approval under ((the provisions of)) Sections 25.09.045 ((, 25.09.055,)) or 25.09.((320))070, or subsections 25.09.090.D or 25.09.160.G, demonstrating compliance with the applicable provisions; and

~~((e))2.((j))~~ obtain a permit or the Director's approval of the application. ~~((An application that includes a request for an exemption under subsection 25.09.045.D, or Sections 25.09.055 or 25.09.320, shall include a request for modification to the submittal requirements of Section 25.09.330.~~

~~B. Prior to undertaking actions under Section 25.09.045, 25.09.055, or subsection 25.09.200.A.4, the applicant shall obtain the Director's approval of the application under the applicable section. The applicant shall also obtain approval of a modification to the submittal requirements of Section 25.09.330 as part of compliance with subsection 25.09.045.D or Sections 25.09.055 or 25.09.320.~~

~~€))B.~~ Prior to altering vegetation, trees, or other habitat protected by this Chapter 25.09 the person responsible shall comply with the provisions of Section 25.09.~~((320))070~~~~((, unless that person complies with Section 25.09.045 or 25.09.055)).~~

Section 7. Section 25.09.045 of the Seattle Municipal Code, last amended by Ordinance 124447, is amended as follows:

25.09.045 Exemptions

A. General criteria and applications

1. When the Director determines that criteria in subsections 25.09.045.E~~((D))~~ to ~~((J below))~~ 25.09.045.J are met, those activities are exempt from the provisions of this ~~((e))~~Chapter 25.09, except subsections 25.09.045.B and 25.09.045.C and Sections 25.09.017 ~~((and -030 B))~~ 25.09.030.B, 25.09.065, and 25.09.070, and as otherwise provided in this ~~((s))~~Section 25.09.045.

2. An application for an exemption may be made only as a component of a specific proposed development. The application shall include all portions of the proposed development, including utilities.

3. Applications

a. The applicant for an exemption shall provide all information requested by the Director and demonstrate that the work qualifies for the exemption. The Director shall determine whether work is exempt, apply tree and vegetation standards pursuant to subsections 25.09.070.G and 25.09.070.H, and ~~((may))~~

impose conditions on the work to protect environmentally critical areas and buffers or other property, including application of Section 25.09.065.

b. City agencies taking the action under any subsection of this ~~((s))~~ Section 25.09.045 and ~~((the))~~ a public agency taking the action under subsection 25.09.045.J do not need to make an application to the Director, provided that, if no application is made, they shall comply with all provisions of this Section 25.09.045, make all determinations required to be made by the Director, including required conditions, and ~~((shall))~~ maintain records documenting compliance with all provisions.

B. All exempt activities shall be undertaken using best management practices ~~((; the))~~. The applicant shall maintain records documenting compliance with this subsection 25.09.045.B.

C. The enforcement provisions of this ~~((e))~~ Chapter 25.09 apply to all activities exempted under this ~~((s))~~ Section 25.09.045. The Director's determination that a violation exists is not limited by determinations made by other City agencies or public agencies under subsection ~~((A3b, above))~~ 25.09.045.A.3.b.

D. For in-water and wetland work, exemptions from the City environmentally critical area requirements does not exempt the work from other required state and federal approvals.

~~((D))~~ E. ((Development not within an environmentally critical area))

~~((1. Development on property the Director determines is not within an environmentally critical area or buffer is exempt from the provisions of this Chapter 25.09))~~ Distance from environmentally critical area or buffer. If the Director determines based on the distance between the proposed development and the environmentally critical area that the proposed action will occur far enough away from any environmentally critical area or buffer on the parcel that it will not temporarily or permanently encroach within, alter, or increase the impact to the environmentally critical area or buffer then the proposed action is exempt.

~~((2. Development that does not temporarily or permanently encroach within, alter, or increase the impact to the environmentally critical area or buffer on the parcel where the development occurs is exempt from the provisions of this Chapter 25.09; if existing development that encroaches within or impacts the~~

~~environmentally critical area or buffer is removed, then new development that encroaches within, alters or impacts the environmentally critical area or buffer is not exempt.))~~

~~((E.))~~ F. Maintenance and repair, or interior renovation and interior structural alteration or window, siding, or roof replacement of existing development if:

1. It does not increase the size of the development as determined by the plan view of the project;
2. It does not increase the impact to, including construction impacts, encroach further within, or further alter an environmentally critical area or buffer; and
3. In any five-year period starting from the effective date of the ordinance introduced as Council Bill 118853, the exterior structural alteration to the existing structure is less than 50 percent, not including window, siding, or roof replacement.

G. Emergency work

1. Work that directly relates~~((d))~~ to ending a condition that:
 - ~~((1))~~ a. ((is)) Is an immediate threat to the public health, safety, and welfare~~((s))~~ or creates an immediate risk of damage to public or private property; and
 - ~~((2))~~ b. ((requires)) Requires remedial or preventive action in a timeframe too short to allow compliance with the application, submittal, and approval provisions of this ~~((e))~~ Chapter 25.09 ~~((is exempt from those provisions))~~, provided that the work is the minimum work necessary to end the condition and the work is consistent with the development standards of this ~~((e))~~ Chapter 25.09 to the extent practicable.
2. Once the Director determines that the condition no longer meets these criteria, all work is subject to the provisions of this ~~((e))~~ Chapter 25.09, including but not limited to its application and permitting requirements, its development standards, mitigation for work performed as part of the emergency, and any requirements for technical reports and reviews for work that was exempt at the time it was performed.

~~((F. Maintenance, repair, renovation, or structural alteration of an existing structure that does not increase the impact to, or encroach further within, or further alter an environmentally critical area or buffer is~~

~~exempt from the provisions of this chapter.~~

~~G. Rebuilding or replacing structures that are destroyed by an act of nature is exempt from the provisions of this Chapter 25.09, provided that action toward the rebuilding or replacement is commenced within one year of the act of nature, that the rebuilding or replacement is diligently pursued, and that the new construction or related activity does not further encroach into, or increase the impact to, or further alter an environmentally critical area or buffer and complies with applicable requirements of Chapter 25.06, Floodplain Development.)~~

H. Utilities, rights-of-way, public and private enhancement projects, and public trails

~~1. ((The activities)) Activities identified in subsection 25.09.045.H.3, ((below are exempt from the provisions of this Chapter 25.09)) if the applicant demonstrates:~~

~~a. The work is not a prerequisite to other development in an environmentally critical area or buffer;~~

~~b. No practicable alternative to the work with less impact on the environmentally critical area or buffer exists pursuant to subsection 25.09.065.B.1.a; and~~

~~c. The work does not pose an unreasonable threat to the public health, safety, or welfare((;)) or to the environment, on or off the property.~~

~~2. The Director's decision shall:~~

~~a. ((i))Include the approved location and limits of the work; ((and))~~

~~b. ((f))Require the application of mitigation standards as set out in Section 25.09.065 and include specific mitigation measures for all impacts to ((all)) environmentally critical areas and ((their)) buffers before, during, and after construction; and~~

~~c. ((f))Require special inspection at the Director's discretion.~~

~~3. The provisions of this subsection 25.09.045.H apply to the following activities:~~

~~a. Relocation of electric facilities, lines, equipment, or appurtenances, not including~~

substations, with an associated voltage of 55,000 volts or less only when required by a governmental agency;

b. Relocation of natural gas, cable communications, gas, telephone facilities, and public utility lines, pipes, mains, equipment, or appurtenances only when required by a governmental agency;

c. Installation or construction in improved public road rights-of-way, and replacement, operation, or alteration, of all electric facilities, lines, equipment, or appurtenances, not including substations, with an associated voltage of 55,000 volts or less;

d. Installation or construction in improved public road rights-of-way, and replacement, operation, repair, or alteration of all natural gas, cable communications, telephone facilities, and public utility lines, pipes, mains, equipment, or appurtenances;

e. Public or private projects designed exclusively to enhance ecological function in the Shoreline District or to enhance ~~((riparian corridors, and))~~ fish and wildlife habitat conservation areas, wetlands, and ~~((their))~~ wetland buffers, including stormwater-related functions, that require either a Hydraulic Project Approval from the Washington Department of Fish and Wildlife, Section 401 Certification or a Section 404 permit under the federal Clean Water Act from the Washington State Department of Ecology or United States Army Corps of Engineers, respectively, or any project funded by the Aquatic Habitat Matching Grant program, established by City Council Resolution 30719 ~~((s))~~ ; and

f. Public projects if the purpose for the intrusion into the environmentally critical area or buffer is to benefit~~((s))~~ the public's passive enjoyment of the environmentally critical area, such as, but not limited to, walking trails providing access to a creek or wetland area, when located and designed to ~~((keep))~~ minimize environmental disturbance ~~((to a minimum))~~ and adverse impacts to the environmentally critical area and buffer. The applicant shall protect vegetation and trees pursuant to a tree and vegetation plan consistent with best management practices. The plan shall be prepared by a qualified environmental professional ~~((expert))~~ with experience related to the type of environmentally critical area or buffer where work will occur. In landslide-prone areas the plan shall also be approved by a geotechnical engineer ~~((or geologist))~~ licensed in the

State of Washington with experience in analyzing geological hazards related to slope stability and tree and vegetation removal on steep slope((s)) erosion hazard areas. Trail projects shall be:

1) Limited to pervious surface or raised boardwalk, using non-treated wood or other non-toxic material;

2) No more than 5 feet wide;

3) For pedestrian use only;

4) Located in the outer 25 percent of the wetland buffer area; and

5) Located to avoid removal of trees.

I. Structure maintenance of existing public facilities and utilities. ~~((Normal and routine))~~ Operation, maintenance, remodeling, repair, and removal of existing public facilities and utilities, if these activities are normal and routine ~~((is exempt from the provisions of this chapter when))~~ and if these activities do not result in substantial disturbance or adverse impacts of environmentally critical areas or buffers.

J. Tree and vegetation maintenance in publically owned areas by public agencies. Normal and routine ~~((a))~~ pruning, ~~((b))~~ tree and vegetation maintenance ~~((and management))~~, forest thinning for forest health, and ~~((c))~~ revegetation using native trees and vegetation ~~((are exempt from the provisions of this chapter when))~~ if these activities are normal and routine and they do not result in substantial disturbance or adverse impacts of environmentally critical areas or buffers, and ~~((when))~~ they are carried out in parks, public utility ~~((right of ways))~~ rights-of-way, and publicly owned open spaces by the public agencies ~~((, including City agencies,))~~ that are responsible for them.

K. Site investigative work. Minor site investigative work, such as surveys, soil logs, percolation tests, and other related activities, if ~~((such activities do))~~ it does not exceed grading that is exempt under ~~((the Grading Code,))~~ Chapter 22.170 ~~((-In every case,))~~ and impacts to the environmentally critical area and buffer ~~((shall be))~~ are minimized, and disturbed areas ~~((shall be))~~ are immediately restored.

Section 8. Section 25.09.050 of the Seattle Municipal Code, enacted by Ordinance 122050, is

renumbered 25.09.042 and further amended to read as follows:

25.09.0((50))42 City projects((:))

~~(("City project" means all work described in Section 25.09.015 that is undertaken by a City agency.))~~ A City project shall comply with all provisions of this ((e))Chapter 25.09 unless the project is exempt under Section 25.09.045.

Section 9. A new Section 25.09.052 of the Seattle Municipal Code is added as follows:

25.09.052 Replacing structures in environmentally critical areas and buffers

A. Replacing structures destroyed by acts of nature and other acts beyond the control of the owner excluding normal deterioration

1. Replacing any structure destroyed by acts of nature is allowed if it complies with the following provisions:

- a. The replacement is located within the same footprint as and does not exceed the height of the destroyed structure;
- b. The replacement does not increase the impact to or further alter an environmentally critical area or buffer;
- c. Action toward the replacement is commenced within one year of the destruction of the structure;
- d. A permit application for the replacement is submitted within two years; and
- e. The replacement is diligently pursued.

2. A structure that is replaced and activities related to replacing the structure shall:
 - a. Comply with restrictions on flood hazard areas reconstruction, if the structure is located in a flood-prone area; and
 - b. Comply with the development standards for the environmentally critical area and buffer in which it is located to the maximum extent feasible, including requirements for access and shall

comply with the standards in Sections 25.09.060, 25.09.065, and 25.09.070.

B. Replacing a single-family residence voluntarily in wetlands, wetland buffers, and fish and wildlife habitat conservation areas

1. Replacing a single-family residence and its access is allowed in wetlands, wetland buffers, and fish and wildlife habitat conservation areas if the replacement complies with the following:

a. The area of the footprint of the replaced residence and existing garage does not exceed that of the current residence and current garage;

b. The proposed access does not exceed the width and length of necessary access; and

c. Lot size

1) Riparian watercourse and wetlands. For a single family residence located over a riparian watercourse or built in a wetland, the replaced residence and necessary access meets wetland buffer or riparian management area requirements to the maximum extent feasible; or

2) For all other property, the lot does not have sufficient area to site a residence with the same area of footprint as existed on the effective date of the ordinance introduced as Council Bill 118853, plus necessary access, consistent with the regulations for the applicable environmentally critical area and buffer, including reducing the yard and setback requirements for front and rear yards in Title 23 under Section 25.09.280, except subsection 25.09.280.B.2, to the minimum necessary to accommodate the residence and necessary access.

d. The site for the residence, necessary access, and utilities has the least impact on the functions and values of the environmentally critical area.

2. Replacing a single-family residence and necessary access and activities related to replacing the residence and necessary access shall:

a. Comply with restrictions on flood hazard areas reconstruction, if the structure is located in a flood-prone area;

b. Comply with the development standards for the environmentally critical area and buffer in which it is located to the maximum extent feasible; and

c. Mitigate impacts to the functions and values of the environmentally critical area and buffers, in compliance with Section 25.09.065, including any impacts caused by removing the residence from its original location, runoff from impervious surfaces and/or replacing any portion of the residence within the environmentally critical area or buffer.

Section 10. Section 25.09.055 of the Seattle Municipal Code, last amended by Ordinance 124447, is repealed:

~~((25.09.055 Small project waiver~~

~~A. The Director may approve new accessory structures or additions to existing structures in the environmentally critical areas and buffers listed in subsection 25.09.055.A.2, if no construction occurs over or in a water course, water body, or wetland, and if the applicant demonstrates the proposal meets the following criteria:~~

~~1. The new accessory structure or addition to an existing structure is on a lot that has been in existence as a legal building site prior to October 31, 1992.~~

~~2. The development does not exceed 150 square feet in riparian management areas or in wetland buffers, 300 square feet in steep slope areas or buffers, or 750 square feet in landslide-prone (except steep slope) areas, all calculated cumulatively from October 31, 1992. When the new accessory structure or addition to an existing structure is on a lot that is or has been held in common ownership with a contiguous lot and the lots are or have been used for a single principal use or for a principal use and accessory use, the limitation applies to the entire site.~~

~~3. It is not possible to build the accessory structure or addition to an existing structure for the intended purpose out of the environmentally critical area or buffer.~~

~~4. The location of the accessory structure or addition to an existing structure keeps impact on the~~

~~environmentally critical area and buffer to a minimum.~~

~~5. In landslide-prone areas the Director may require a soils report prepared by a qualified geotechnical engineer or geologist licensed by the State of Washington demonstrates that it is safe to construct the new accessory structure or the addition to an existing structure.~~

~~6. In steep slope areas or buffers, and in all other landslide-prone areas, the new accessory structure or addition to an existing structure subject to waiver under this Section 25.09.055 shall not include retaining walls or drainage features.~~

~~B. Director's decision~~

~~1. The Director shall require the use of fencing with a highly durable protective barrier during the construction to protect the remainder of the environmentally critical area and/or buffer.~~

~~2. The Director shall require planting native vegetation in an area equal in size to the area of any native vegetation in a riparian corridor, wetland buffer, steep slope, or steep slope buffer that is removed or adversely impacted by the development. Any invasive species shall be removed from the planting area. The planting area shall be on site and, whenever possible, in the same environmentally critical area or buffer. When this is not possible, the Director shall authorize all or a portion of the planting to be outside the environmentally critical area or buffer or on another parcel, when the Director determines this will mitigate the impact.~~

~~3. The Director shall require additional measures to protect the remainder of the environmentally critical area and/or buffer.))~~

Section 11. Section 25.09.060 of the Seattle Municipal Code, last amended by Ordinance 124447, is amended as follows:

25.09.060 General development standards

The following general development standards apply to development on parcels containing environmentally critical areas or ((~~their~~)) buffers, except as specifically provided in this Chapter 25.09:

A. Any required non-disturbance area shall be legibly shown and described on the site plan, and a

covenant shall be required as set out in Section 25.09.335.

B. The project shall avoid adverse impacts from development on environmentally critical areas and buffers~~((, and the))~~ . The Director shall restrict developmental coverage and construction activity areas to the most environmentally suitable, naturally stable, and least sensitive portion of the site in order to protect the ecological functions and values of wetlands and fish and wildlife habitat conservation areas, prevent erosion from development on steep slope erosion hazard areas, and protect the public health, safety, and welfare in landslide-prone~~((, liquefaction-prone,))~~ and flood-prone areas. Grading activities and impervious surfaces that may impact environmentally critical areas or buffers shall be kept to a minimum and ~~((limited to))~~ occur only in areas approved by the Director. Mitigation pursuant to Section 25.09.065 is required for wetlands, fish and wildlife habitat conservation areas, and steep slope erosion hazard areas.

C. Driveways and utility corridors that may impact environmentally critical areas or buffers shall be kept to a minimum through the use of common access drives and corridors where feasible. Roads, walkways, and parking areas should be designed parallel to topographic contours with consideration given to maintaining consolidated areas of natural topography and trees and vegetation. Access shall be located in a way that keeps impacts to environmentally critical areas and buffers to a minimum.

D. All buffers and designated non-disturbance areas shall be fenced with a highly visible and durable protective barrier during construction to prevent access and to protect environmentally critical areas.

E. All site clearing on the lot that may impact environmentally critical areas or buffers shall be carried out in stages just prior to construction, and cleared areas shall be kept to the minimum for construction. Revegetation shall occur after the particular phase of construction is completed and shall comply with Sections 25.09.065 and 25.09.070 as appropriate. ~~((When))~~ If required by the Director, a tree and ~~((re))~~vegetation plan shall establish a staged vegetation removal and replacement program that keeps the amount of exposed soil during and after construction to a minimum, amends the soils if necessary to improve plant survival in the areas to be replanted, and complies with Sections 25.09.065 and 25.09.070. In drier months, temporary surface

irrigation or temporary installation of intermediate plantings may be required until weather or seasonal conditions permit installation of the permanent plantings.

F. Construction activity on the lot that may impact environmentally critical areas or buffers shall adhere to a prepared schedule and mitigation plan approved by the Director prior to the start of construction. This schedule and mitigation plan shall include, but not be limited to, a schedule for compliance with project conditions, limits of construction and work activities, equipment to be used, start and duration of each phase, work sequencing, and shall include the design, implementation, maintenance, and monitoring of mitigation requirements to prevent erosion, siltation, and destruction of trees and vegetation.

G. All grading in environmentally critical areas shall be completed or stabilized by October 31~~((st))~~ of each year unless the applicant demonstrates to the satisfaction of the Director based on approved technical analysis that no environmental harm or safety problems would result from grading between October 31~~((st))~~ and April 1~~((st))~~. This provision does not apply to grading in liquefaction-prone areas, peat settlement prone areas, and abandoned landfills (~~((environmentally critical areas))~~) unless the parcel contains another environmentally critical area.

H. Best management practices shall be used for all construction activity on parcels with ~~((or adjacent to environmentally critical areas or buffers))~~ landslide prone areas, steep slope erosion hazard areas, fish and wildlife habitat conservation areas, wetlands, or wetland buffers to prevent sediment and other pollutants from entering ~~((the riparian corridor watercourses or other fish and wildlife habitat conservation areas))~~ any of the environmentally critical areas or buffers in this subsection 25.09.060.H on or off the property. Best management practices include, but are not limited to, installation of siltation barriers, diversion measures, slope drains, and structural, vegetative stabilization techniques and other methods prescribed in Chapters 22.800 through 22.808~~((, the Stormwater Code))~~.

I. The Director may require an erosion control plan ~~((and a tree and revegetation plan when erosion potential is severe))~~ when ground disturbance has the potential to cause erosion. The erosion control plan shall

be consistent with best management practices, and best management practices shall be followed in implementing it. ~~((The tree and revegetation plan shall be prepared by a qualified professional with landscaping, plant ecology and botany education and experience. All revegetation shall consist of native vegetation.))~~

J. The site, including developmental coverage and construction activity areas, shall be managed in a manner sufficient to control stormwater and prevent erosion during construction, ~~((and shall be revegetated to promote stormwater control and prevent erosion after construction,))~~ consistent with Chapters 22.800 through 22.808~~((, the Stormwater Code))~~ and associated Director's Rules.

K. When calculating detention requirements, all disturbed areas on the site shall be calculated as developmental coverage, including revegetated areas, excluding enhanced or restored areas ~~((as))~~ approved by the Director.

L. ~~((Pesticides and fertilizers shall not be applied within (50) feet of a riparian corridor watercourse, wetland or shoreline except as allowed by the Director for the following circumstances and when allowed pesticide applications will be done by a licensed applicator:~~

- ~~1. The state or local Health Department recommends or directs their use to address a threat to public health, or~~
- ~~2. A county, state, or federal agency with jurisdiction directs their use for control of a state listed noxious weed or plant pests covered by the Washington State Department of Agriculture plant pest program, and when non-chemical alternatives have been evaluated, or~~
- ~~3. When the Director determines the applicant has demonstrated that the use will have no adverse impact to fish and wildlife. Such a determination may be in the form of concurring that the applicant has developed best management practices or an integrated pest management plan consistent with standards developed by the Director, or~~
- ~~4. When the Director has determined that use of a pesticide to control invasive plants would~~

~~have less overall environmental impact than other control strategies, or~~

~~5. When the Director determines there is a serious threat to public safety, health, or the environment.~~

M.) The Director may require a development (~~(proposal's design)~~) to meet the Seattle Building Code's "design earthquake ground motion" or to account for ~~((a one hundred (100) year seismic and))~~ the ((one hundred (100) year flood event, unless a design for a greater event is required by other applicable codes.

~~((N))~~M. The Director may require additional construction practices and methods and requirements, including~~((s))~~ but not limited to best management practices as outlined in federal, state, and Seattle manuals, and limitations on construction equipment permitted on the site, to protect environmentally critical areas and buffers on and off the property.

~~((O))~~N. No provision of this ~~((e))~~Chapter 25.09 shall be construed to require putting new or existing power lines underground.

Section 12. A new Section 25.09.065 is added to the Seattle Municipal Code as follows:

25.09.065 Mitigation standards

A. Regulations set out in this Chapter 25.09 are minimum requirements that shall be supplemented by mitigation sequencing in this Section 25.09.065 when needed to protect the ecological functions of steep slope erosion hazard areas and their buffers, wetlands, wetland buffers, fish and wildlife habitat conservation areas, and flood prone areas.

B. Mitigation sequencing

1. Mitigation below shall be undertaken in the following priority:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action;
- b. Minimizing impacts by limiting the degree or magnitude of the action and its

implementation by using appropriate technology, best management practices, and/or by taking affirmative steps to avoid or reduce impacts;

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

d. Reducing or eliminating the impact over time by preservation and maintenance operations;

e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

f. Monitoring the impact and the compensation projects undertaken under subsection 25.09.065.B.1.e and taking appropriate corrective measures.

2. Priority requirements. Lower priority measures shall be applied only if the higher priority measure is infeasible or inapplicable.

3. Priority for the location of ecological mitigation in relation to compensation required under subsection 25.09.065.B.1.e shall be in the following order and the lower priority restoration location shall be allowed only if the higher priority location is infeasible or the applicant demonstrates that there will be a greater ecological benefit if a lower priority site is used:

- a. At the site;
- b. Within the same creek watershed;
- c. Within Seattle city limits;
- d. Within the same Watershed Resource Inventory Area.

4. If the required mitigation undertaken under subsection 25.09.065.B.1.e is infeasible, the applicant shall apply for an exception pursuant to Section 25.09.300 to allow the development.

5. As part of any application for approval of development that requires mitigation, the applicant shall submit a mitigation plan that meets the standards of subsection 25.09.065.C and a maintenance and monitoring plan that meets the standards of subsection 25.09.065.D unless the applicant demonstrates based on competent scientific evidence that no impact to the ecological functions of the environmentally critical area or

areas will occur as the result of the development or its use, construction, or management. The mitigation plan and the maintenance and monitoring plan must be approved by the Director.

6. Mitigation timing. Mitigation shall be completed prior to issuance of the certificate of occupancy. If that has not occurred or if no certificate of occupancy is needed, the applicant shall submit plans establishing a specific schedule for completing mitigation, which must be approved by the Director, and shall provide a bond of at least 150 percent of the cost of installation, in addition to the monitoring plan and bond required under subsection 25.09.065.D if the mitigation exceeds \$5,000. No additional bond is required for public agencies.

C. Mitigation plan

1. Mitigation plans for tree and vegetation management, and impervious surface management shall include the information required in subsections 25.09.070.G, including and not limited to native plant species, planting location, demonstration of replacement of ecological function, and timing of vegetation removal.

2. Mitigation for other impacts

a. The Director shall determine the level of detail required in the mitigation plan after considering the location, size, and type of the proposed development and/or the use and type of mitigation proposed, unless a specific timeframe is stated.

b. The mitigation plan shall include the following information:

- 1) An inventory of the existing ecological functions where the impact will occur;
- 2) An analysis of the project's impacts on the existing ecological functions necessary to support existing environmentally critical areas and buffers;
- 3) Management recommendations or requirements received from federal, state, or local agencies that have been developed for to protect the ecological functions of environmentally

critical areas including protection of avian, terrestrial, wetlands, or aquatic species and habitat on the site and their applicability to the proposal;

4) Proposed management practices to protect the ecological functions of environmentally critical areas both during construction and during the management of the site;

5) Measures to avoid and minimize impacts to preserve existing habitats and the ecological functions of environmentally critical areas and buffers;

6) Proposed measures to compensate for the remaining project impacts after applying avoidance and minimization measures, to ensure protection of the ecological functions of environmentally critical areas; and

7) Any additional information that the Director requires to determine the impacts of a proposal and required mitigation to offset the impacts.

D. Maintenance and monitoring plan

1. Maintenance and monitoring plans shall include:

a. Criteria for determining the success of mitigation and for evaluating the effectiveness of mitigation to ensure protection of the ecological functions of the environmentally critical areas;

b. Contingency actions to be taken if the mitigation fails to meet the established success criteria in subsection 25.09.065.D.1.a; contingency actions shall include additional monitoring if the mitigation fails;

c. Performance bonds for wetlands, wetland buffers, fish and wildlife habitat conservation areas, and flood prone areas not to exceed a term of five years are required to ensure compliance with the conditions for mitigation if the cost of the mitigation is greater than \$5,000, except for public agencies. The bond shall be in an amount of at least 150 percent of the cost to retain a qualified environmental professional in the appropriate field to assess the mitigation and submit a report to the City at least twice yearly, prior to and near the end of each growing season and shall also provide a bond in an amount sufficient to

implement additional restoration measures if the mitigation does not meet the success criteria identified in subsection 25.09.065.D.1.a at the end of five growing seasons; and

d. Any additional information that the Director requires to help ensure the success of the mitigation.

2. Mitigation that includes planting trees and vegetation shall include:

a. Tree and vegetation species, planting location, and soil amendment criteria meeting the standards in subsection 25.09.070.G.2;

b. Not less than five years of maintenance that ensures 80 percent survival of new trees and vegetation planted at the end of five years;

c. Annual inspections of the plants;

d. Replacement of failed plants;

e. Removal of exotic invasive species that have become established; and

f. Photographic documentation of planting success retained for the five year period.

E. Additional requirements for steep slope erosion hazard areas. The Director shall require mitigation of all impacts to the natural erosion capacity of the disturbed steep slope erosion hazard area in the following order of preference:

1. Removing ivy on site in the remaining steep slope erosion hazard areas and their buffers.

2. Removing other invasive vegetation and planting native trees and vegetation in the remaining steep slope erosion hazard areas and their buffers.

3. Removing ivy on adjacent parcels.

4. Removing other invasive vegetation and planting native trees and vegetation on site in areas outside the steep slope erosion hazard areas and their buffers.

F. Additional requirements for wetland and wetland buffers

1. Mitigation for grading, filling, or draining wetlands shall achieve the equivalent or better

biologic functions of the existing wetland, except as provided in this subsection 25.09.065.F.1. Mitigation plans shall be consistent with Washington State Department of Ecology Publication #06-06-011b, Wetland Mitigation in Washington State - Part 2: Developing Mitigation Plans (Version 1), or the most current Department of Ecology publication addressing wetland mitigation.

2. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:

a. Restoring wetlands on sites that were formerly wetlands.

b. Creating wetlands on disturbed sites, such as those with vegetative cover consisting primarily of exotic introduced species.

c. Enhancing wetlands and/or wetland buffers with significantly degraded functions and values. The amount of required enhancement is dependent on the wetland classification in subsection 25.09.065.F.3.

3. Wetland restoration, creation, and enhancement ratios

a. The ratios set out in Table A for 25.09.065 are required for the restoration, creation, or enhancement of wetlands for authorized alterations, except as provided in subsections 25.09.065.F.3.b, 25.09.065.F.3.c, and 25.09.065.F.3.

	Table A for 25.09.065 Wetland restoration, creation, rehabilitation, and enhancement ratios Note: The first number specifies the area of creation, rehabilitation, or enhancement of wetlands, and the second number specifies the area of wetlands altered.		
	Restoration or creation ratios	Rehabilitation	Enhancement ratios
Category I: Bog, Natural heritage site	Not considered possible	Case by case	Case by case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on Function	4:1	8:1	16:1

Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

b. Restoration, creation, and enhancement ratios may be increased under the following circumstances to achieve the equivalent wetland function of the wetland that is altered:

- 1) Uncertainty exists as to the probable success of the proposed restoration or creation; or
- 2) A significant period of time will elapse between impact and establishment of wetland functions at the mitigation site; or
- 3) Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted.

c. Restoration, creation, and enhancement ratios may be decreased when the proposed mitigation actions are conducted in advance of the impact and result in no net loss in wetland functions.

4. Except for wetlands where no net loss of wetlands is a federal requirement, if the applicant demonstrates by clear and convincing evidence that the avoidance and mitigation standards required in subsections 25.09.065.B and 25.09.065.F will deprive the applicant of reasonable use of the applicant's property, the Director may waive or modify the standards in subsection 25.09.065.F to the extent necessary to allow reasonable use as part of the exception under Section 25.09.300. Notwithstanding such demonstration, the Director may deny the waiver if the Director determines that not applying these standards would cause significant injury to occupiers of the land, to other properties, to public resources, or to the environment.

5. Other agency regulations. Review of projects subject to the wetland provisions of this Chapter 25.09 shall be coordinated by the applicant with the appropriate state and federal agencies. The applicant should make early contact with these agencies to ensure compliance with local, state, and federal regulations.

Section 13. Section 25.09.320 of the Seattle Municipal Code, last amended by Ordinance 124447, is moved to a new Section 25.09.070 and amended as follows:

25.09.070(~~(320 Trees and vegetation)~~) Standards for tree and vegetation and impervious surface management

~~((A.~~

~~1. Any action detrimental to habitat, vegetation or trees, including but not limited to clearing or removal, is prohibited, except as provided below, within the following areas: landslide-prone critical areas, (including steep slopes), steep slope buffers, riparian corridors, wetlands, and wetland buffers.~~

~~2. Tree topping is prohibited.~~

~~3. The vegetation and tree removal and revegetation activities listed in subsections 3.a–d are allowed. The application submittal requirements and general development standards in Sections 25.09.330 and 25.09.060 do not apply to actions under subsections 3a, b(1), c(2)(a) or d, provided that no other development is carried out for which a permit is required.~~

~~a. Normal and routine pruning and maintenance of:~~

~~(1) up to seven hundred fifty (750) square feet of trees and vegetative cover lawfully maintained prior to the effective date of Ordinance 122050;~~

~~(2) trees and vegetation approved by permit prior to the effective date of Ordinance 122050, provided the conditions of the permit are complied with;~~

~~(3) lawns, paths and landscaping lawfully maintained prior to the effective date of Ordinance 122050 that were not in a environmentally critical area or buffer listed in subsection A1 above prior to the effective date of Ordinance 122050, but are in a listed area or buffer under this ordinance [chapter];~~

~~(4) steep slope areas described in subsection 25.09.180 B2a–e;~~

~~(5) other trees and vegetative cover, provided that when the area of work is over seven hundred fifty (750) square feet in area, a plan is filed with the Department that complies with subsections B2 and 3.~~

~~b. Removing trees or vegetation as part of an issued building or grading permit consistent~~

with a tree and revegetation plan, provided that

(1) when the area of work is under one thousand five hundred (1,500) square feet in area, a plan is filed with the Department that complies with subsections B1 and 2; or

(2) when the area of work is one thousand five hundred (1,500) square feet or more in area, a plan that complies with subsections B2 and 3 is filed with the Department, the plan keeps significant environmental impact to a minimum, the Director approves the plan before any disturbance occurs, and the work is performed by or under the direction of a qualified professional.

c. Restoring or improving vegetation and trees, including removing non-native vegetation or invasive plants and noxious weeds by hand, to promote maintenance or creation of a naturally functioning condition that prevents erosion, protects water quality, or provides diverse habitat when

(1) the restoration or improvement is a condition to obtaining a permit or approval from the Director; or

(2) the restoration or improvement is not already a condition to obtaining a permit or approval from the Director, and

(a) when the area of work is under one thousand five hundred (1,500) square feet in area calculated cumulatively over three (3) years, a plan is filed with the Department that complies with subsections B1 and 2; or

(b) when the area of work is one thousand five hundred (1,500) square feet or more in area calculated cumulatively over three (3) years, or if the removal of invasive plants or noxious weeds is by machine or chemicals, a plan that complies with subsections B2 and 3 is filed with the Department, the plan keeps significant environmental impact to a minimum, the Director approves the plan before any disturbance occurs, and the work is performed by or under the direction of a qualified professional.

d. Removing trees or vegetation when the Director determines the tree or vegetation is a threat to health or safety based on a report prepared by a qualified professional and the removal is performed by

~~or under the direction of a qualified professional.~~

~~B. Standards for Plans.~~

~~1. Plans prepared under this subsection shall be consistent with the Department's standard tree and vegetation plans.~~

~~2. When the area of work exceeds seven hundred fifty (750) square feet in a landslide-prone area, the plan shall be approved by a geotechnical engineer or geologist licensed in the State of Washington with experience in analyzing geological hazards related to slope stability and vegetation removal on landslide prone areas. These plans shall be consistent with best management practices.~~

~~3. Plans prepared under this subsection shall be prepared by a qualified professional with experience related to the type of environmentally critical area or buffer where work will occur. These plans shall be consistent with best management practices.))~~

A. The following activities in landslide-prone critical areas, steep slope erosion hazard areas and their buffers, fish and wildlife habitat conservation areas, wetlands, and wetland buffers shall comply with the provisions of this Chapter 25.09 including this Section 25.09.070:

1. Planting, disturbing, or removing trees or vegetation;

2. Adding, altering, or removing impervious surface; or

3. Other land disturbing activity.

B. Tree topping is prohibited.

C. If the activities in subsection 25.09.070.A are authorized in compliance with the provisions of this Chapter 25.09 by a permit or the Director's approval that does not require a permit, the following apply, except as provided in subsection 25.09.070.D:

1. A tree and vegetation, and/or impervious surface plan is required for all authorized activities in subsection 25.09.070.A. The plan shall identify:

a. The location and size of the area where the authorized activities will occur;

b. The type and area of the existing ground coverage, including the size, species, and location of existing trees and vegetation in the proposed work areas; and

c. The type and area of final proposed ground coverage, including the species and location of trees and vegetation.

2. Any area cleared of trees and vegetation or disturbed and not to be used for development shall be planted with native trees and vegetation; and

3. Mitigation pursuant to subsection 25.09.070.G and Section 25.09.065 is required.

D. Tree and vegetation management, and impervious surface management activities are allowed without complying with subsection 25.09.070.C, if the following best management practices are used:

1. Normal and routine pruning and maintenance of trees and vegetation and normal and routine maintenance of existing impervious surface in the following areas:

a. Trees, lawns, landscaping and similar vegetative cover, and paths, lawfully maintained prior to the effective date of the ordinance introduced as Council Bill 118853; and

b. Steep slope erosion hazard areas described in subsections 25.09.090.B.2.a, 25.09.090.B.2.b, and 25.09.090.B.2.c, if no adverse impact on the steep slope erosion hazard area will result.

2. Actions taken under approvals as part of an issued building or grading permit with a landscaping plan prior to the effective date of the ordinance introduced as Council Bill 118853, or otherwise approved by a tree and vegetation plan prior to the effective date of the ordinance introduced as Council Bill 118853 shall comply with the conditions on such permit or plans.

E. Voluntary restoration and improvements

1. Voluntarily restoring or improving trees and vegetation, including removing non-native vegetation or invasive plants and noxious weeds by hand, to promote maintenance or creation of a naturally functioning condition that prevents erosion, protects water quality, and/or provides diverse habitat is allowed if:

a. The work is under 1,500 square feet in area calculated cumulatively over three years,

the work complies with subsections 25.09.070.E.2.a and 25.09.070.E.2.b, and a plan detailing the proposed work is reviewed and authorized by the Director before the work begins; or

b. The work is 1,500 square feet or more in area calculated cumulatively over three years, or if the removal of invasive plants or noxious weeds is by machine or chemicals, the work complies with subsections 25.09.070.E.2.b and 25.09.070.E.2.c, the proposal keeps adverse environmental impacts to a minimum, the work is performed by or under the direction of a qualified environmental professional, and a plan detailing the proposed work is reviewed and authorized by the Director before the work begins.

2. Standards for plans. In addition to complying with the requirements in subsection 25.09.070.C.1, plans shall comply with the following standards as applicable under subsections 25.09.070.E.1:

a. Plans shall be consistent with the Department's standard tree and vegetation plan and best management practices.

b. If the area of work exceeds 750 square feet in a landslide-prone area, the plan shall be approved by a geotechnical engineer licensed in the State of Washington with experience in analyzing geological hazards related to slope stability and tree and vegetation removal on landslide prone areas.

c. Plans shall be prepared by a qualified environmental professional with experience related to the type of environmentally critical area or buffer where work will occur.

F. Hazard trees. Removing a tree that is a hazard tree under Chapter 25.11 must meet the standards of subsections 25.09.070.G and 25.09.070.H.

G. Mitigation for tree and vegetation alteration and increase in impervious surface

1. If trees and vegetation are lawfully altered or removed, other than as allowed in subsection 25.09.070.D, or if work authorized pursuant to this Chapter 25.09 requires increased impervious surface, the applicant shall mitigate adverse impacts to ecological functions through the mitigation standards pursuant to Section 25.09.065. Adverse impacts on ecological functions to be mitigated include but are not limited to:

a. loss of shading to the aquatic environment;

b. loss of organic inputs critical for aquatic life;

c. loss of the contribution of large, medium and small wood material into the aquatic environment;

d. loss of habitat for amphibian, avian, and terrestrial species;

e. loss of woody debris inputs to the aquatic environment;

f. loss of soil stabilization functions; and

g. loss of stormwater filtering, detention, and infiltration.

2. Mitigation to offset the impacts of tree and vegetation management, and impervious surface management shall meet the following criteria, unless the applicant demonstrates that doing so is inapplicable or that an alternative approach will be more effective in mitigating impacts as demonstrated by a report by a qualified environmental professional detailing the mitigation achieved through the proposed alternative approach:

a. Trees and vegetation shall not be removed or otherwise disturbed until a tree and vegetation plan has been approved or authorized.

b. If tree and vegetation management, and impervious surface management results in the removal of mature trees and vegetation, the mitigation proposed shall include an analysis detailing how the specific existing ecological functions impacted will be mitigated.

c. Mitigation plantings shall be native species suited to specific site conditions.

d. Plantings provided for mitigation purposes shall be sited as close as practicable to other treed and vegetated areas and to any water body.

e. Areas that have been cleared, graded, or compacted shall be amended with organic matter prior to planting.

f. If tree and vegetation management, and impervious surface management, results in a loss of pervious surfaces, mitigation shall create new pervious surfaces that infiltrate water or create areas that

replicate the functions of pervious surfaces using Volume 3 of the City of Seattle Stormwater Manual as guidance regarding required the size and design of such areas.

g. Tree and vegetation, and impervious surface management actions requiring soil disturbance shall use appropriate best management practices to prevent sediment runoff.

H. A tree and vegetation monitoring and maintenance plan approved by the Director that complies with subsection 25.09.065.D is required for trees and vegetation planted pursuant to this Section 25.09.070.

Section 14. A new Section 25.09.075 of the Seattle Municipal Code is added as follows:

25.09.075 Standards for pesticide, herbicide, and fertilizer use

A. Application of pesticides, herbicides, and fertilizers. Application of pesticides, herbicides, and synthetic fertilizer is prohibited in a riparian corridor, wetland, or wetland buffer except as allowed by the Director for one of the following circumstances:

1. The state or local Health Department recommends or directs their use to address a threat to public health;
2. A county, state, or federal agency with jurisdiction directs their use for control of a state listed noxious weed or plant pests covered by the Washington State Department of Agriculture plant pest program, and non-chemical alternatives have been evaluated;
3. If the Director determines the applicant has demonstrated the use will have no adverse impact to fish and wildlife. Such a determination may be in the form of concurring in writing that the applicant has developed best management practices or an integrated pest management plan consistent with standards developed by the Director;
4. If the Director determines that use of a pesticide to control invasive plants would have less overall adverse environmental impact than other control strategies; or
5. If the Director determines there is a serious threat to public safety, health, or the environment.

B. If allowed, pesticide, herbicide, and synthetic fertilizer applications will be done by a Washington

State licensed Commercial Applicator or Private Commercial Applicator.

C. Application of organic fertilizers shall follow best management practices for use of fertilizers within a riparian corridor, wetland, or wetland buffer, including limiting the use of the fertilizers, hand mixing the fertilizer with ingredients that do not dissolve quickly, and using ingredients such as compost, composted dry grass clippings, leaves, and sawdust as fertilizer.

Section 15. Section 25.09.080 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

25.09.080 Landslide-prone ~~((critical))~~ areas~~((:))~~

A. This ~~((s))~~Section 25.09.080 applies to all parcels in or containing a landslide-prone ~~((critical))~~ area.

B. Site~~((:))~~

1. Complete stabilization of all portions of a site that are disturbed or affected by the proposed development, including all developmental coverage and construction activity areas, is required. Complete stabilization of all portions of a site refers to the process and actions necessary to stabilize proposed site improvements, ~~((and))~~ as well as all on-site areas and adjacent properties, including adjacent public and private rights-of-way, that are disturbed or affected.

2. The proposed development shall be limited and controlled to avoid adverse impacts ~~((and))~~ to the landslide-prone area, prevent potential harm, and ~~((to))~~ provide safe~~((:))~~ and stable~~((: and compatible))~~ development appropriate to site conditions. ~~((Other))~~ The Director may require other reasonable and appropriate solutions to provide site stability ~~((may be required by the Director. This may include))~~ , including imposing conditions ~~((concerning))~~ on the type and method of construction that reflect the specific constraints of the site.

3. Removal of, clearing of, or any action detrimental to trees or vegetation in landslide-prone ~~((critical))~~ areas is prohibited, except as ~~((provided in this section and))~~ necessary to provide complete stabilization or achieve the purposes of subsection 25.09.080.B. or as allowed under Section 25.09.~~((320))070.~~

C. Third-~~(P)~~party ~~(R)~~review. In addition to ~~(requiring)~~ the information provided pursuant to Section 25.09.330 and to Director's Rules, the Director may require third-party review ~~(when)~~ if the professional opinions of the applicant's representative and the Department's reviewers cannot be reconciled. Third-party review requires the applicant's geotechnical and/or additional technical studies to be reviewed by an independent third party, selected by the Director and paid for by the applicant ~~(but hired by the Director)~~. The ~~(F)~~third-party review shall be conducted by a qualified engineering consultant.

D. Bonds and ~~(F)~~insurance. The Director may require adequate bonds and/or insurance to cover potential claims for property damage that may arise from or be related to excavation or fill within a landslide-prone area ~~(when)~~ if the depth of the proposed excavation exceeds ~~(four feet (4'))~~ 4 feet and the bottom of the proposed excavation is below the ~~(one hundred)~~ 100 percent ~~(100%)~~ slope line ~~(forty-five (°))~~45(°) degrees from a horizontal line~~(°)~~ from the property line. The Director may require such bonds and insurance in other circumstances where the Director determines that there is a potential for significant harm to an environmentally critical area or buffer during the construction process.

E. Permit ~~(R)~~renewals. In addition to complying with the permit renewal standards in Chapter 23.76, applications for permit renewal shall comply with the following standards~~(-)~~:

1. The Director may renew a permit for development that is in conformance with applicable regulations in effect at the time the renewal is sought.
2. An applicant seeking to renew a permit for new development in a landslide-prone area must submit a letter of certification from the current project geotechnical engineer of record as described in subsection 25.09.080.G.2. If ~~(such)~~ the applicant does not submit a letter of certification ~~(is not submitted)~~, the permit shall not be renewed.
3. The Director may renew a permit for development in a landslide-prone area if, after considering the information submitted in conformance with subsection~~(s)~~ 25.09.080.G, ~~(he or she)~~ the Director determines that there is no increased risk of damage to the proposed development, to neighboring

properties, or to the drainage basin. ~~((In making such a determination t))~~ The Director may impose new conditions or require the submittal of revised plans as part of the determination.

4. An applicant for renewal ~~((also))~~ must demonstrate that any required bond or insurance will be in effect during the renewal period~~((;))~~ and that the amount of ~~((such))~~ the bond or insurance still is appropriate. The Director may require a bond or insurance as a condition of renewal even if ~~((such))~~ a bond or insurance was not required previously.

F. Issued permits in landslide-prone areas. If the Director has reasonable grounds to believe that an emergency exists because significant changes in conditions at a project site or in the surrounding area may have occurred since a permit was issued, increasing the risk of damage to the proposed development, to neighboring properties, or to the drainage basin, the Director may ~~((by letter or other reasonable means of notification))~~ suspend the permit by letter or other reasonable means of notification until the applicant has submitted a letter of certification as described in subsection 25.09.080.G.2 and ~~((has))~~ satisfied the standards of ~~((that))~~ sub section 25.09.080.G.2.

G. Letter of ~~((C))~~certification~~((;))~~

1. The Director may require a letter of certification based on such factors as the presence of known slides, indications of changed conditions at the site or in the surrounding area, or other indications of unstable soils.

2. The letter of certification shall be from the current project geotechnical engineer of record stating that a geotechnical engineer has inspected the site and area surrounding the proposed development within the ~~((sixty-))~~60~~((;))~~ days preceding submittal of the letter~~((; and))~~. The letter of certification shall state that:

a. In the project geotechnical engineer's professional opinion no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to the

Department as part of the application for the permit; or that

b. In the project geotechnical engineer's professional opinion changes in conditions at the site or surrounding area have occurred that require revision to project criteria, and that in the project geotechnical engineer's professional opinion all technical reports and any necessary revised drawings that account for the changed conditions have been prepared and submitted.

Section 16. Section 25.09.180 of the Seattle Municipal Code, last amended by Ordinance 124447, is renumbered 25.09.090 and further amended as follows:

25.09.090((180)) Development standards for steep slope erosion hazard areas

A. This Section 25.09.090((180)) and Section 25.09.080 apply to parcels containing a steep slope erosion hazard area or steep slope erosion hazard area buffer.

B. Impacts on steep slope erosion hazard areas

1. Development is prohibited on steep slope erosion hazard areas, unless the applicant demonstrates that the provisions of subsections 25.09.070.C, 25.09.070, 25.09.090((180)).B.2, 25.09.090.D, ((or)) 25.09.090((180)).E, or 25.09.090.F apply.

2. ((Provided)) Development is allowed on steep slope erosion hazard areas if the applicant demonstrates that all ((the)) other provisions of this Chapter 25.09 and all applicable provisions of Title 23 and Chapters 22.800 through 22.808 are met, ((subsection 25.09.180.B.1 does not apply when the applicant demonstrates)) that no adverse impact on the stability or erosion potential of the steep slope erosion hazard areas will result, and that the development meets one of the following criteria and the criteria in subsection 25.09.090.B.3. In ((determining whether these criteria are met,)) making this determination, the Director may require a geotechnical report to verify site conditions and to evaluate the impacts of the development in the steep slope erosion hazard area and shall require such a report for criteria in subsections 25.09.090((180)).B.2.c and 25.09.090((180)).B.2.d. The geotechnical report is subject to the provisions for third party review in subsection 25.09.080.C.

a. Development is located ~~((where))~~ within the footprint of existing ~~((development is located, if the impact on the steep slope area is not altered or increased; or))~~ , lawfully constructed, structures or paved areas, not including landscaped areas or areas that have been graded;

b. Development is located on a steep slope erosion hazard area~~((s))~~ that ~~((have))~~ has been created through previous legal grading activities, including but not limited to rockeries or retaining walls resulting from ~~((rights-of-way))~~ right-of-way improvements;~~((, if no adverse impact on the steep slope area will result; or))~~

c. Development is located on a steep slope erosion hazard area~~((s))~~ that is ~~((are))~~ less than 20 feet in vertical rise and that is ~~((are))~~ 30 feet or more from other steep slope erosion hazard areas~~((, if no adverse impact on the steep slope area will result))~~; or

d. Development is ~~((located on steep slope areas where the Director determines that application of subsection 25.09.180.B.1 would prevent necessary stabilization of a landslide-prone area.))~~ a necessary stabilization measure to mitigate an active landslide hazard on the applicant's lot or from an abutting lot, and such development meets the following requirements:

1) The applicant demonstrates that the stabilization is the minimum necessary to mitigate the landslide hazard; and

2) The applicant uses the least intrusive option available to mitigate the landslide hazard.

3. The following activities do not constitute "development" or "disturbance" for the purposes of applying subsection 25.09.090.B.2:

a. Clearing trees and vegetation or any type of tree and vegetation, and site restoration management authorized under this Chapter 25.09 ~~((is not "development" for purposes of applying any of the provisions of subsection 25.09.180.B.2)).~~

b. For the purposes of applying subsections 25.09.090.B.2.a, 25.09.090.B.2.b and

25.09.090.B.2.c, stabilization measures to mitigate a landslide hazard authorized under subsection 25.09.090.B.2.d.

C. Buffers((-))

1. Steep slope((s)) erosion hazard areas have ~~((fifteen-foot (15')))~~ 15-foot buffers from the top and toe of a slope unless the Director determines that a greater or lesser buffer is required based on the following considerations:

- a. Proposed construction method and its effect on the stability of the slope and erosion potential;
- b. Techniques used to keep the disruption of existing topography, and tree and vegetation, to a minimum; and
- c. Preparation of technical reports and plans to address and propose remedies regarding soils and hydrology site constraints.

2. Development is prohibited ~~((on))~~ in steep slope ~~((area))~~ erosion hazard buffers, except as authorized in subsection 25.09.090.B.2, or to provide the minimum necessary access to ~~((such an))~~ the steep slope erosion hazard area, ~~((which shall be kept to a minimum, and except))~~ or as provided in subsection 25.09.090.D((E)).

D. Small project waiver

1. The Director may approve new accessory structures or additions to existing principal structures in a steep slope erosion hazard area or buffer if no construction occurs over or in a water course, water body, or wetland and if the applicant demonstrates that the proposal meets the following criteria:

- a. The new accessory structure or addition to an existing principal structure is on a lot that has been in existence as a legal building site prior to October 31, 1992;
- b. The development does not exceed 750 square feet with no more than 300 square feet located in the steep slope erosion hazard area, calculated cumulatively from October 31, 1992. If the new

accessory structure or addition to an existing principal structure is on a lot that is or has been held in common ownership with a contiguous lot and the lots are or have been used for a single principal use or for a principal use and accessory use, the limitation applies to the entire site;

c. It is not practicable to build the accessory structure or addition to an existing principal structure for the intended purpose outside of the steep slope erosion hazard area or buffer; and

d. The location of the accessory structure or addition to an existing principal structure minimizes the impact on the steep slope erosion hazard area and/or buffer;

e. In landslide-prone areas the Director may require a soils report prepared by a qualified geotechnical engineer or geologist licensed by the State of Washington demonstrates that it is safe to construct the new accessory structure or the addition to an existing structure.

2. Director's decision

a. The Director shall require the use of fencing with a durable and visible protective barrier during the construction to protect the remainder of the steep slope erosion hazard area and buffer.

b. The Director shall require additional measures to protect the remainder of the steep slope erosion hazard area and buffer from the impacts of approving new accessory structures or additions to existing principal structures.

E. A variance may be allowed from the standards of subsection 25.09.090.B.1 if the proposal meets the standards of Section 25.09.290.

F. Tree and ~~((V))~~vegetation ~~((R))~~removal and ~~((R))~~replanting. Tree and vegetation alteration is prohibited except as allowed under Section 25.09.070. ~~((H))~~ Any removal of trees or vegetation in a steep slope erosion hazard area ~~((and its))~~ or buffer that is authorized as part of approved development~~((, it))~~ shall be kept to a minimum~~((, and shall be carried out pursuant to a tree and revegetation plan described in section 25.09.320. Other removal of, clearing, or any action detrimental to trees or vegetation in a steep slope area or buffer is prohibited, except as provided in Section 25.09.320.))~~ In addition to complying with Section 25.09.070~~((320))~~,

any replanting ((that occurs)) shall ((consist of native vegetation)) have no permanent irrigation.

G. Avoidance and mitigation standards. Avoidance and mitigation is required pursuant to Section 25.09.065.

~~((E.~~

~~1. Steep Slope Area Variance. The Director may reduce the steep slope area buffer and may authorize limited intrusion into the steep slope area and steep slope buffer to the extent allowed in subsection E2 only when the applicant qualifies for a variance by demonstrating that:~~

~~a. the lot where the steep slope or steep slope buffer is located was in existence before October 31, 1992; and~~

~~b. the proposed development otherwise meets the criteria for granting a variance under Section 25.09.280B, except that reducing the front or rear yard or setbacks will not both mitigate the hardship and maintain the full steep slope area buffer.~~

~~2. If any buffer reduction or development in the critical area is authorized by a variance under subsection E1, it shall be the minimum to afford relief from the hardship and shall be in the following sequence of priority:~~

~~a. reduce the yards and setbacks, to the extent reducing the yards or setbacks is not injurious to safety;~~

~~b. reduce the steep slope area buffer;~~

~~c. allow an intrusion into not more than thirty percent (30%) of the steep slope area.~~

~~3. The Director may impose additional conditions on the location and other features of the proposed development as necessary to carry out the purpose of this chapter and mitigate the reduction or loss of the yard, setback, or steep slope area or buffer.~~

~~4. The process and procedures for a variance under this subsection E shall be as prescribed for Type II land use decisions in Chapter 23.76.)~~

Section 17. Section 25.09.100 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

25.09.100 Development standards for liquefaction-prone areas((-))

A. The general development standards set out in ((SMC)) Section 25.09.060 do not apply to liquefaction-prone areas.

B. Soils engineering studies may be required for development in liquefaction-prone areas to determine the physical properties of the surficial soils, especially the thickness of unconsolidated deposits, and their liquefaction potential, ((as set out in)) pursuant to Title 22, Subtitle I.

C. If it is determined that the site is ((subject)) prone to liquefaction, the Director may impose mitigation measures ((may be imposed)) pursuant to Title 22, Subtitle I, in addition to other applicable codes or regulations pertaining to development in liquefaction-prone areas.

Section 18. Section 25.09.110 of the Seattle Municipal Code, enacted by Ordinance 122738, is amended as follows:

25.09.110 Development standards for peat settlement-prone areas((-))

A. The general development standards set out in Section 25.09.060 do not apply to peat settlement-prone areas.

B. A geotechnical study detailing the location of the annual high static groundwater level is required for development in peat settlement-prone areas that involves excavation more than ((thirty(-))30((-))) inches below the existing grade.

C. No development shall occur within a peat settlement-prone area below the annual high static groundwater level except to the minimum extent the Director deems necessary to allow the following:

1. Structural components required under Title 22, Subtitles I and IA((, the Building Code and Residential Code));

2. Utility lines, including but not limited to drainage and sanitary side sewers and stormwater

conveyance facilities, but excluding groundwater collection systems;

3. Geotechnical testing;

4. Maintenance~~((;))~~ and repair, and interior renovation~~((;ø#))~~ and interior structural alteration of an existing structure if that activity, even though it might involve construction activity below the annual high static groundwater level, does not increase the extent of the structure below the annual high static groundwater level;

5. Aquatic habitat restoration;

6. Infiltration facilities or other development designed primarily to encourage recharge or infiltration of water to the groundwater;

7. Replacement of contaminated soils with other soils or fills when the applicant demonstrates to the satisfaction of the Director that the removal will not increase the likelihood of settlement on off-site parcels;

8. Public utility facilities designed to provide drinking water, control flooding, or protect against sanitary or combined sewer overflow when the applicant demonstrates to the satisfaction of the Director that the facilities have been designed to avoid or minimize to the maximum extent practicable impacts to the groundwater regime; or

9. Elevator pits necessary to meet accessibility standards required by City law.

D. Groundwater collection systems are prohibited in peat settlement-prone areas unless otherwise required by law.

E. Development in a Category I peat settlement-prone area shall not increase the total impervious surface on the site unless the Director approves using an infiltration facility or soil amendments that offset the lost infiltration function. The Director may waive this requirement to the extent offsetting the lost infiltration function would adversely affect a landslide-prone area or steep slope erosion hazard area. Removal of peat below the annual high static groundwater level is prohibited in a Category I peat settlement-prone area except as allowed in subsection 25.09.110.C.

F. For construction activity in a peat settlement-prone area, the Director may require additional construction practices, methods, and restrictions that limit temporary groundwater de-watering.

G. In a peat settlement-prone area, land-disturbing activities with the potential to modify the groundwater regime are limited to the minimum reasonably necessary for development. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems and adverse impacts to off-site parcels.

H. In addition to ~~((requiring))~~ the information provided pursuant to Section 25.09.330 and to Director's Rules, the Director may require third-party review ~~((when))~~ if the professional opinions of the applicant's representative and the Department's reviewers cannot be reconciled. Third-party review requires the applicant's geotechnical and/or additional technical studies to be reviewed by an independent third party, hired by the Director and paid for by the applicant ~~((but hired by the Director))~~. The ~~((F))~~ third-party review shall be conducted by a qualified engineering consultant.

I. The Director may waive compliance with some or all of the requirements of subsections ~~((B—G))~~ 25.09.110.B through 25.09.110.G for a project in a Category II peat settlement-prone area to the extent the applicant demonstrates to the satisfaction of the Director that the project has been designed to avoid adverse impacts to off-site parcels from peat settlement. Such impacts include but are not limited to any adverse, off-site effect resulting from temporary dewatering during construction, groundwater inflow due to normal operation and maintenance of underground structures, groundwater inflow due to potential future leaks that could occur in underground structures, and reduced impervious surface. Projects qualifying for a waiver under this subsection 25.09.110.I may include but are not limited to the following:

1. Projects involving concurrent removal of all peat contained in an entire peat settlement-prone area;
2. Concurrent development or redevelopment of the entire peat settlement-prone area that is designed to minimize modification of the groundwater table and avoid impacts of future settlement through

design of new structures; or

3. Projects that are designed to minimize modification of the groundwater regime and that avoid potential adverse, off-site settlement impacts by retrofitting existing structures on off-site parcels within the entire peat settlement-prone area.

J. Standards for height and floor area ratio may be modified on lots containing a peat settlement-prone environmentally critical area as provided in Sections 23.47A.012 and 23.47A.013.

K. Nothing in this ~~((s))~~Section 25.09.110, ~~((f))~~including but not limited to subsection 25.09.110.I,~~((g))~~ limits the authority of the Director ~~((pursuant to other applicable codes or regulations (including but not limited to Title 22, Subtitles I and IA, the Building Code and Residential Code)))~~ to require additional studies or impose additional conditions to address project-related risks arising in peat settlement-prone areas pursuant to other applicable codes or regulations, including but not limited to Title 22, Subtitles I and IA.

Section 19. Section 25.09.120 of the Seattle Municipal Code, last amended by Ordinance 124447, is amended as follows:

25.09.120 Development standards for flood-prone areas

All development shall meet the applicable requirements of Chapter 25.06, ~~((Seattle Floodplain Development Ordinance;))~~ Chapter 22.100, ~~((Seattle Building Code;))~~ Chapter 22.150, ~~((Seattle Residential Code;))~~ Chapter 22.170, ~~((Seattle Grading Code;))~~ and Chapter 22.800~~((, Seattle Stormwater Code))~~.

Section 20. Section 25.09.160 of the Seattle Municipal Code, last amended by Ordinance 124447, is amended as follows:

25.09.160 Development standards for wetlands and wetland buffers

A. Wetlands are rated and the habitat function of a wetland is determined according to the Washington State Wetland Rating System for Western Washington, (Ecology Publication #~~((04-06-25))~~14-06-029). Illegal grading, filling, draining, or other actions or development will not result in a change to that wetland's rating. Wetlands constructed for mitigation or replacement purposes are subject to the provisions of this Chapter 25.09.

B. Wetland buffer location

1. The wetland buffer is measured horizontally and perpendicular to the edges of the wetland.

2. The size of wetland buffers is set out in Table A for 25.09.160 and is based on the size, category, and habitat function of the wetland.

3. Wetland habitat function is as follows:

a. High level equals a habitat function score of 8 or 9;

b. Moderate level equals a habitat function score of 5, 6 or 7; and

c. Low level equals a habitat function score of 3 or 4.

Table A for 25.09.160	
Wetland	Wetland buffer requirements for non-degraded buffers
<u>Category I Bogs and Wetlands of High Conservation Value over 100 square feet in total size or of any size that abut any Type S, F, Np, or Ns water per WAC 222-16-030 and 222-16-031</u>	200 feet for all levels of habitat functions
<u>Category I and II wetlands over 100 square feet in total size or of any size that abut any Type S, F, Np, or Ns water per WAC 222-16-030 and 222-16-031</u>	200 feet for wetlands with high level of habitat function 110 feet for wetlands with moderate level habitat function 100 feet for wetlands with low level habitat function
<u>Category III wetlands over 100 square feet in total size or of any size that abut any Type S, F, Np, or Ns water per WAC 222-16-030 and 222-16-031</u>	200 feet for wetlands with high level of habitat function 110 feet for wetlands with moderate or greater level habitat function 100 feet for wetlands with low level habitat function
<u>Category IV wetlands 1,000 square feet or more in total size or of any size that abut any Type S, F, Np, or Ns water per WAC 222-16-030 and 222-16-031</u>	50 feet for all wetlands
<u>Category IV wetlands under 1,000 square feet in total size that do not abut any Type S, F, Np, or Ns water per WAC 222-16-030 and 222-16-031</u>	No buffer. Use mitigation under Sections 25.09.160 and 25.09.065

3. Degraded buffers. If a buffer is degraded due to the lack of trees and vegetation, the presence of invasive or non-native species and/or the presence of impervious surface or other development, the Director shall require that:

a. The degraded portion of the buffer be restored by removing existing impervious surface and existing nonnative and invasive plant species, and replanting with native trees and vegetation, and providing a five-year monitoring and maintenance plan consistent with the requirements of subsection 25.09.065.D; or

b. The standard buffer width listed in Table A for 25.09.160 be increased or other conditions be placed on the development on a case-by-case basis when necessary to protect wetland functions and values based on best available science and local conditions if it is determined that:

1) A larger buffer is necessary to maintain viable populations or critical habitat of State or federally listed threatened or endangered species living within the subject wetland(s) boundaries;

2) The adjacent land is susceptible to severe erosion, and erosion control measures otherwise required in Section 25.09.080 will not effectively prevent adverse wetland impacts; or

3) A larger buffer maintains connections between other nearby wetlands, flood prone areas, and/or fish and wildlife habitat conservation areas.

C. Impacts to wetlands and wetland buffers

1. Development, including but not limited to grading, filling, (~~or~~) draining, or any alteration to the functions and values of the wetland, including but not limited to negative impacts on trees and vegetation, habitat, flood control, and water quality, is prohibited, except as provided in subsection 25.09.160.C.3, within or over:

a. Category I, II, (~~or~~) III wetlands greater than 100 square feet;

b. Category IV wetlands 1,000 square feet or greater;

c. A wetland of any category or size that is part of a larger wetland system or abuts any

Type S, F, Np₂ (~~and~~) or Ns water per WAC 222-16-030 and 222-16-031;

d. Wetland buffers as established in subsection 25.09.160.B, except as provided in subsection 25.09.160.G.

~~2. ((Development within or over Category IV wetlands less than 1,000 square feet, other than those wetlands described in subsection 25.09.160.B.1.c, in accordance with subsection 25.09.160.C.3.~~

~~3.)) When development is authorized on a parcel containing a wetland and/or wetland buffer it ((~~a. Development~~)) shall comply with subsection 22.805.020.G and all other applicable sections of the ((~~Storm Water~~)) Stormwater Code, in addition to the provisions of this Chapter 25.09. (~~;) and b. Direct lighting shall be directed away from the wetland and its buffer.~~))~~

3. The Director may authorize development in a Category IV wetland under 1,000 square feet that does not abut any Type S, F, Np, or Ns water per WAC 222-16-030 and 222-16-031 if mitigation pursuant to subsections 25.09.065.B.1.b through 25.09.065.B.1.f are met and mitigation is provided according to Table A for 25.09.065.

4. In a wetland of any category or size, and wetland buffer, any action detrimental to habitat, or trees (~~(ø)~~) and vegetation, including but not limited to clearing or removal, is prohibited, except as provided in Sections 23.60A.190 (~~(;)~~) and 25.09.070.

5. Altering existing wetlands or wetland buffers or increasing the ecological function of the wetland or wetland buffer is allowed pursuant to subsection 25.09.160.F.

D. If a development includes features or activities listed in Column I of Table B for 25.09.160, then best management practices are required. Column II of Table B for 25.09.160 lists common best management practices.

Table B for 25.09.160 Best management practices to minimize development impacts on wetlands and wetland buffers	
Column I	Column II
Disturbance type:	Measures to mitigate impacts include but ar

<u>Lights</u>	<u>Direct lights away from wetland</u>
<u>Noise</u>	<u>Locate activity that generates noise away from</u>
<u>Toxic runoff</u>	<u>Route all new, untreated runoff away from wetland ensuring wetland is not dewatered Establish controls on use of pesticides within 150 feet of wetland Apply integrated pest management</u>
<u>Stormwater runoff</u>	<u>Retrofit stormwater detention and treatment for existing adjacent development Prevent channel lawns that directly enters the buffer</u>
<u>Change in water regime and presence of impervious surface</u>	<u>Infiltrate or treat, detain, and disperse into buffer from impervious surfaces and new lawns</u>
<u>Pets and human disturbance</u>	<u>Use privacy fencing; plant dense trees and vegetation along buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place buffer in a separate tract</u>
<u>Dust</u>	<u>Use best management practices to control dust</u>

((C. Wetland buffers and mitigation

1. Establishment of buffers.

a. The wetland buffer is measured horizontally from the edge of the wetland.

b. Wetlands have the following buffers:

Category I and II wetlands over 100 square feet in total size or of any size with the characteristics described in subsection 25.09.160.B.1.c above	100 feet 110 feet for moderate level habitat function 200 feet for high level of habitat function
Category III wetlands over 100 square feet in total size or of any size with the characteristics described in subsection 25.09.160.B.1.c above	60 feet 85 feet for moderate or greater level habitat function
Category IV wetlands 1,000 square feet or more in total size or of any size with the characteristics described in subsection 25.09.160.B.1.c above	50 feet
Category IV wetlands under 1,000 square feet in total size that do not have the characteristics described in subsection 25.09.160.B.1.c above	No buffer. Use mitigation under subsection 25.09.160.C.3.

~~A wetland with a moderate level of function is one that scores 20 to 28 points for habitat function when rated according to Washington State Ecology publication #04-06-025. A wetland with a high level of function for habitat is one that scores of 29 to 36 points for habitat function when rated according to Washington State Ecology publication #04-06-025.~~

~~e. Wetlands constructed in upland areas or non-wetland areas by any person for stormwater control, biofiltration or aesthetic purposes are not subject to the wetland buffer requirements of this chapter. Maintenance activities are not restricted in these types of wetlands.~~

~~2. Development is prohibited in wetland buffers, except as approved by the Director under subsection 25.09.160.D.~~

~~3. The Director may authorize development in a Category IV wetland under 1,000 square feet that does not have the characteristics described in subsection 25.09.160.B.1.c above, if the Director finds that one of the following measures, which must occur on site, will mitigate wetland function lost by development:~~

~~a. Construct a wetland of equal function to the lost wetland function.~~

~~b. Plant an area of native vegetation equal or greater in size to the area of the developed wetland, and remove invasive species in the area to be planted.~~

~~c. Construct a bioengineered/infiltration facility, such as a bioretention cell or bioretention plant, that replicates the hydrologic and/or water quality benefit of the developed wetland. This facility shall be designed according to the requirements of Chapters 22.800 through 22.808, Stormwater Code and associated Director's Rules.~~

~~d. Construct a green roof or roof garden that replicates the hydrologic and/or water quality benefit of the developed wetland. These facilities shall be designed according to the requirements of Chapters 22.800 through 22.808, Stormwater Code and associated Director's Rules.~~

~~4. Buffer vegetation~~

~~a. In the wetland buffer, any action detrimental to habitat, trees or vegetation, including but not~~

limited to clearing or removal, is prohibited, except as provided in subsection 25.09.160.D and in Sections 23.60A.190, 25.09.055, 25.09.300, and 25.09.320.

b. Invasive plants and noxious weeds may be removed by hand. No machines or chemical removal shall be permitted without the Director's approval.

D.) E. Buffers: ((A))averaging, ((and Buffer R))reductions((:)), existing developed streets, and variances

1. Buffer ((W))width ((A))averaging. The Director may modify the ((standard)) wetland buffer width required in subsection 25.09.160.B by averaging buffer widths when a qualified ((wetland)) environmental professional for wetlands, demonstrates to the Director's satisfaction that:

- a. It will not reduce wetland functions or values;
- b. The total area contained in the buffer area after averaging is no less than the total area

that ((which)) would be contained within the buffer required in Table A for 25.09.160 ((subsection C above)); and

c. ((The buffer width is not reduced to less than the following:)) The buffer at its

narrowest point is never less than 75 percent of the buffer width required in Table A for 25.09.160.

((Category IV wetlands))	((35 feet))
((Category III wetlands with a high level of function for habitat))	((60 feet))
((All other Category III wetlands))	((40 feet))
((Category I and II wetlands with a high level of function for habitat))	((140 feet))
((All other Category I and II wetlands))	((75 feet))

((A high level of function for habitat shall be determined as set out in Subsection C1 above.))

2. Buffer width ((R))reductions. In Category I, II, and III wetlands the Director may reduce a wetland buffer width by 20 percent if a vegetated corridor at least 100 feet wide is protected between the wetland buffer and any other priority habitats as defined by the Washington Department of Fish and Wildlife. In all circumstances where the remaining buffer is degraded as described in subsection 25.09.160.B.3, removal of

non-native vegetation and planting native trees and vegetation in the degraded portions of the remaining buffer area is required and shall include a five-year monitoring and maintenance plan consistent with the requirements of Section 25.09.065. The corridor must be:

a. Legally protected by a conservation easement or equivalent; and

b. Undisturbed except for passive recreational walking trails not exceeding five percent of the area of the corridor and made of pervious material.

3. For sites where the buffer is separated from a wetland by a developed street and the site is 50 percent or greater impervious surface, development in the buffer may occur if:

a. The area of development is equal to or less than the area of the existing development;

b. Restoration in an area at least equal to the area being developed is provided.

Restoration shall occur first on site and in the existing wetland and/or buffer area to the extent practicable and second as close to the development site as possible and within the same drainage basin. Restoration shall include the following, as appropriate:

1) Removal of nonnative vegetation;

2) Removal of impervious surface;

3) Planting native trees and vegetation; and

4) Wetland enhancement.

c. The applicant demonstrates that the development and restoration will not be materially detrimental to public health, safety or welfare, or injurious to other properties or improvements located outside of the subject property.

4. Buffer reduction variances

a. The Director may reduce a Category IV wetland buffer ~~((when))~~ if the applicant ~~((qualifies for a variance by demonstrating))~~ demonstrates that:

~~((f))~~1) the lot where the buffer is located was in existence before October 31,

1992;

((f))2) the proposed development otherwise meets the criteria for granting a variance under ((S))subsection 25.09.280.B, except that reducing the ((front or rear)) yards or setbacks will not both mitigate the hardship and maintain the full buffer; and

((f))3) either the site does not meet the criteria for buffer averaging under subsection ((D1)) 25.09.160.E or ((such)) buffer averaging does not relieve the hardship that was found under subsection 25.09.280.B.2.

b. If any buffer reduction is authorized by a variance under subsection ((D2a)) 25.09.160.E.4.a, the Director shall:

((f))1) determine the amount of wetland buffer to reduce by applying the buffer averaging to the extent possible under subsection 25.09.160.E and reducing the yards and setbacks before reducing the wetland buffer, unless reducing the yards or setbacks is injurious to safety. The wetland buffer shall be reduced by the minimum amount to mitigate the hardship, but never to less than 35 feet;

2) require that the Category IV wetland ((tø)) be restored on site in a manner that improves water quality, hydrology, and habitat functions. Restoration must comply with subsections ((F)) 25.09.065.B.6 and ((G below)) 25.09.065.D and with the Washington State Department of Ecology Guidelines for ((Developing Freshwater Wetlands Mitigation Plans and Proposals, 1994 (#94-29)) Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans, 2006 (#06-06-011b); and

~~((2) determine the amount of wetland buffer to reduce by applying the buffer averaging to the extent possible under subsection D1 and reducing the yards and setbacks before reducing the wetland buffer, unless reducing the yards or setbacks is injurious to safety. The wetland buffer shall be reduced by the minimum amount to mitigate the hardship, but never to less than ((thirty five)) feet (35'); and)~~

((f))3) impose additional conditions on the location and other features of a proposed development as necessary to carry out the purpose of this ((e))Chapter 25.09 and to mitigate the loss

or reduction of the yard, setback, or buffer.

c. The process and procedure for a variance under this subsection ((D2)) 25.09.160.E.4 shall be as prescribed for Type II land use decisions in Chapter 23.76.

F. Wetland and wetland buffer improvements. The Director may approve land disturbing activities, and tree and vegetation alteration that results in increased size and/or ecological function of a wetland and/or wetland buffer if the project uses the methods described in the Department of Ecology's Interagency Wetland Mitigation Guidance (Ecology Publication #06-06-011a and Publication #06-06-011b).

G. Small project waiver

1. The Director may approve additions to existing structures or temporary disturbance for installation of utility lines in a wetland buffer if no construction occurs over or in a riparian watercourse, water body, or wetland and if the applicant demonstrates that the proposal meets the following criteria:

a. The new addition to an existing principal structure is on a lot that has been in existence as a legal building site prior to October 31, 1992;

b. The development does not exceed 150 square feet calculated cumulatively from October 31, 1992. If the addition to an existing principal structure is on a lot that is or has been held in common ownership with a contiguous lot and the lots are or have been used for a single principal use or for a principal use and accessory use, the limitation applies to both lots;

c. It is not practicable to build the addition to an existing principal structure for the intended purpose outside of the wetland buffer; and

d. The location of the addition to an existing principal structure minimizes the impact on the wetland and wetland buffer.

2. The Director's decision shall require:

a. The use of fencing with a highly durable protective barrier during the construction to protect the wetland and remainder of the wetland buffer.

b. Mitigation pursuant to Section 25.09.065 to offset the area of both temporary and permanent development.

c. Additional measures to protect the remainder of the wetland and wetland buffer.

H. Mitigation is required pursuant to Section 25.09.065.

~~((1. If an exception to the standards of this Section 25.09.160 is approved under Section 25.09.300, the Director shall require application of the following standards for wetland mitigation in following order of priority:~~

~~a. avoid the impact to the extent practicable by not taking all or part of an action;~~

~~b. keep the impact to a minimum by limiting the degree or magnitude of the action and its implementation, and by taking affirmative actions to mitigate the impact over time; and~~

~~c. mitigate unavoidable impacts to the designated uses of a wetland by replacement, enhancement, or other approved compensation methods.~~

~~2. Mitigation for grading, filling, or draining wetlands shall achieve the equivalent or better biologic functions of the existing wetland. Mitigation plans shall be consistent with Washington State Department of Ecology Publication #06-06-011b, Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1), or the most current Department of Ecology publication addressing wetland mitigation.~~

~~3. Wetland mitigation actions shall not result in a net loss of wetland area unless the following criteria are met as determined by a site-specific function assessment:~~

~~a. The lost wetland area provides only minimal functions and the mitigation action(s) results in a net gain in wetland functions; or~~

~~b. The lost wetland area provides only minimal functions and other replacement areas provide greater benefits to the functioning of the watershed, such as riparian habitat restoration and enhancement.~~

4. ~~Mitigation actions that require compensation by replacing, enhancing, or substitution, shall occur in the following order of preference:~~

- ~~a. Restoring wetlands on sites that were formerly wetlands.~~
- ~~b. Creating wetlands on disturbed sites, such as those with vegetative cover consisting primarily of exotic introduced species.~~
- ~~c. Enhancing wetlands and/or wetland buffers with significantly degraded functions and values. The amount of required enhancement is dependent on the wetland classification in subsection 5.~~

5.

a. ~~The following ratios are required for the restoration, creation or enhancement of wetlands for authorized alterations. As determined by the Director, wetland mitigation may include the preservation and enhancement of habitat if it provides greater ecological function than the existing wetland. The first number specifies the area of replacement wetlands, and second specifies the area of wetlands altered:~~

	Restoration or Creation Ratios	Enhancement Ratios
Category I	6:1	16:1
Category II	3:1	16:1
Category III	2:1	8:1
Category IV	1.5:1	6:1

b. ~~Replacement ratios may be increased under the following circumstances to achieve the equivalent wetland function of the wetland that is altered:~~

- ~~(1) Uncertainty exists as to the probable success of the proposed restoration or creation; or~~
- ~~(2) A significant period of time will elapse between impact and establishment of wetland functions at the mitigation site; or~~
- ~~(3) Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted.~~

~~c. Replacement ratios may be decreased when the proposed mitigation actions are conducted in advance of the impact and result in no net loss in wetland functions.~~

~~6. If the applicant demonstrates by clear and convincing evidence that the avoidance and mitigation standards required in subsection 25.09.160.E.5.a will deprive the applicant of reasonable use of the applicant's property, the Director may waive or modify the standards to the extent necessary to allow reasonable use as part of the exception under Section 25.09.300. Notwithstanding such demonstration, the Director may deny the waiver if the Director determines that not applying these standards would cause significant injury to occupiers of the land, to other properties, to public resources, or to the environment.~~

~~F. Mitigation Timing. Any restoration, creation or enhancement of wetlands that is required as mitigation shall be completed prior to issuance of the certificate of occupancy for the displacing use. If that has not occurred or if no certificate of occupancy is needed, the applicant shall submit plans that establish a specific schedule for completion, which must be approved by the Director, and shall provide a bond of at least one hundred and fifty percent (150%) of the cost of installation, in addition to the monitoring plan and bond required under subsection G. If the required mitigation can be completed for less than five thousand dollars (\$5,000), no bond is required under subsection F or G.~~

~~G. A monitoring plan shall be prepared to monitor successful re-establishment of the wetland for a period of five growing seasons or the period required to achieve the performance standards of the plan, whichever is earlier. The applicant shall provide a bond in an amount of at least one hundred fifty percent (150%) of the cost to retain a qualified wetlands scientist to assess the wetland and submit a report to the City at least twice yearly, prior to and near the end of each growing season and shall also provide a bond in an amount sufficient to implement additional restoration measures if the replacement wetland does not equal the functions of the wetland displaced at the end of five growing seasons.~~

~~H. Other Agency Regulations. Review of projects subject to the wetland provisions of this chapter shall be coordinated by the applicant with the appropriate state and federal agencies. The applicant should make~~

~~early contact with these agencies to ensure compliance with local, state, and federal regulations.))~~

I. In addition to the information provided pursuant to Section 25.09.330 and to Director's Rules, the Director may require third-party review ~~((when))~~ if the professional opinions of the applicant's representative and the Department's reviewers cannot be reconciled. Third-party review requires the applicant's technical studies to be reviewed by an independent third party, hired by the Director and paid for by the applicant. The third party review ~~((will))~~ shall be conducted by a qualified environmental professional for wetlands ~~((consultant hired by the Director and paid for by the applicant))~~.

Section 21. Section 25.09.200 of the Seattle Municipal Code, last amended by Ordinance 124447, is amended as follows:

25.09.200 Development standards for fish and wildlife habitat conservation areas

A. Development standards for parcels with riparian corridors

1. Application of standards and regulatory intent

a. The provisions of this subsection 25.09.200.A apply to all development on parcels containing riparian corridors as defined in subsection 25.09.~~((020))~~012.D.5. ~~((In addition, the provisions of subsection 25.09.200.C apply to these parcels, except subsection 25.09.200.C.2 with respect to fish.))~~ In the event of an irreconcilable conflict between the provisions of subsection 25.09.200.~~((C))~~B.3 and this subsection 25.09.200.A, the ~~((most restrictive))~~ provision more protective of fish and wildlife habitat functions and values applies.

b. It is the long term goal of the City to restore the City's riparian corridors and to protect salmon passage ~~((in such corridors))~~ where scientifically justified. The City has determined that best available science supports protecting these riparian corridors as described in this Chapter 25.09. ~~((Where past development has encroached into riparian corridors, redevelopment shall be regulated subject to the provisions in Section 25.09.045.))~~

2. Riparian watercourse

a. Development is prohibited within or over the riparian watercourse, except as provided in this subsection 25.09.200.A.2.a or subsection 25.09.~~((020))~~200.A.2.b. ~~((If no other access is available to the property, t))~~The Director may approve access over the riparian watercourse, ~~((provided))~~ if the applicant demonstrates that ((t)) :

1) no other access is available;

2) the access is provided by a freestanding structure that maintains the natural channel and floodway of the riparian watercourse ((and that)) ;

3) the coverage of the riparian watercourse and disturbance of the riparian ((management area is)) corridor and any other adjacent environmentally critical area or buffer are kept to a minimum ((-)) ; and

4) the material used to construct the access is durable and non-toxic to the maximum extent feasible. If using untreated wood is infeasible, wood treated with pentachlorophenol, creosote, chromate copper arsenate, or comparably toxic compounds is prohibited. Treated wood and other material shall be the least toxic and shall be applied and used according to National Oceanic and Atmospheric Administration Fisheries guidelines for using treated wood in or over aquatic environments.

b. On Haller and Bitter Lakes, piers are regulated pursuant to the development standards ~~((for similar structures))~~ in the Seattle Shoreline ((District)) Master Program for similar structures, Chapter 23.60A, Subchapter XV((, The Urban Residential Environment,)) and Sections 23.60A.152 ((-)) and 23.60A.187. If a pier is allowed, access to it through the riparian management area is also allowed((, provided the impact on the naturally functioning condition of the riparian management area from the pier's location, method of construction, and construction materials is kept to a minimum.)) consistent with Section 25.09.060.

c. In the riparian watercourse any action detrimental to habitat~~((-))~~ or actions affecting trees ((or))and vegetation, including but not limited to clearing or removal, is prohibited, except as provided in subsections 25.09.200.A.2.a and 25.09.200.A.2.b and Section 25.09.~~((320))~~070.

3. Riparian management area

a. The riparian management area is defined in subsection 25.09.~~((020))~~012.D.5. Existing paved areas of public or private streets are excluded from the regulations for the riparian management area unless the provisions of Chapters 22.800 through 22.808(~~(, the Stormwater Code)~~) apply, in which case the Director shall require adequate stormwater detention and treatment to prevent harm from the street to habitat on the parcel and downstream and to keep degradation of water quality for habitat to a minimum.

b. ~~((Activities in the riparian management area~~

~~4)))~~ Development is prohibited in the riparian management area, except as

follows:

1) ~~((1))~~To provide the minimum necessary access if no other access is available to development approved under subsections 25.09.200.A.2 or 25.09.200.A.3.b.3.a; ~~((and except))~~

2) Development allowed under subsections ~~((22.09.200.A.3.b.2,))~~ 25.09.200.A.3.c ~~((7))~~ and 25.09.200.A.3.~~((8))~~e.

3) On lots existing prior to May 9, 2006, if the applicant demonstrates that:

a) The development is in the limited riparian development area, which is the area in the riparian management area and more than 75 feet from the top of the riparian watercourse bank for Type F waters with anadromous fish present for any part of the year, more than 50 feet from the top of the riparian watercourse bank for Type F waters where anadromous fish are not present for any part of the year and more than 50 feet from the top of the riparian watercourse bank for Type Np and Ns waters;

b) The development complies with Section 22.805.080 and 22.805.090, regardless of the area of land disturbing activity or the size of the addition or replacement of impervious surface, except as provided in subsection 25.09.200.A.3.b.3.d; and

c) Any development, including but not limited to coverage by impervious surface, does not exceed 35 percent of the total area of the limited riparian development area, and provided

further that the maximum lot coverage does not exceed that allowed under Title 23, and except as provided in subsection 25.09.200.A.3.b.3.d.

d) When compliance with Sections 22.805.080 and 22.805.090 is required solely based on subsection 25.09.200.A.3.b.3.b, the Director may approve a restoration plan in lieu of requiring compliance with subsections 25.09.200.A.3.b.3.b and 25.09.200.A.3.b.3.c if the applicant demonstrates that the plan meets the following criteria:

i. The riparian watercourse and/or riparian management area ecological function will be restored so that it prevents erosion, protects water quality, and provides diverse habitat; and

ii. The restoration results in greater protection of the riparian watercourse and riparian management area than compliance with subsections 25.09.200.A.3.b.3.b and 25.09.200.A.3.b.3.c.

~~((2) In the riparian management area any action detrimental to habitat, trees or vegetation, including but not limited to clearing or removal, is prohibited, except as provided in subsection 25.09.200.A.3.e and Section 25.09.320.))~~

~~c. ((Riparian Management Area Vegetation.))~~ In the riparian management area any action detrimental to habitat and any action affecting trees and vegetation, including but not limited to clearing or removal, are prohibited, except as provided in subsection 25.09.200.A.3.b, 25.09.200.A.4, and Section 25.09.070. ~~((1) If the vegetation in the riparian management area protects the fish habitat and wildlife habitat as they exist on the site at the time development is proposed, including))~~

d. The ecological functions of the riparian management corridor include tree and vegetation cover, preventing erosion and protecting water quality~~((, the existing vegetation shall remain undisturbed, except as allowed under Section 25.09.320)).~~

e. If the riparian management area is degraded due to the lack of trees and vegetation, the

presence of invasive or non-native species, and/or the presence of impervious surface or other development, the applicant shall prepare and carry out a restoration plan that restores the ecological function of the riparian management area to the extent commensurate with the impact of the development on the riparian management area and according to mitigation standards pursuant to Section 25.09.065.

f. If the development is authorized pursuant to Section 25.09.052 the Director shall require that the degraded portion of the riparian management area be restored by removing existing nonnative and invasive plant species, and replanting with native trees and vegetation, and providing a five-year monitoring and maintenance plan consistent with the requirements of subsection 25.09.065.

~~((2) If the riparian management area is not functioning in the manner set out in subsection 25.09.200.A.3.c.1 above, the applicant shall prepare and carry out a tree and vegetation plan that augments the existing vegetation with native vegetation to the extent commensurate with the impact of the development on the riparian management area. The plan shall be prepared and executed consistent with Section 25.09.320. Vegetation in the riparian management area shall not be removed or otherwise disturbed until the applicant is ready to immediately replant according to the approved plan. A monitoring plan shall be prepared to monitor the establishment of the vegetation. The plan shall cover five growing seasons or the period needed to successfully carry out the plan, whichever is earlier.~~

~~d. In addition to subsections 25.09.200.A.3.b.2 and 25.09.200.A.3.c, development is allowed in the riparian management area on lots existing prior to May 9, 2006 if the applicant demonstrates that:~~

~~1) the development is in the limited riparian development area, which is the area in the riparian corridor but outside of the watercourse and more than 75 feet from the top of the watercourse bank for Type F waters with anadromous fish present for any part of the year, more than 50 feet from the top of the watercourse bank for Type F waters where anadromous fish are not present for any part of the year and more than 50 feet from the top of the watercourse bank for Type Np and Ns waters;~~

~~2) the development complies with Section 22.805.080 and 22.805.090, regardless of the area of land disturbing activity or the size of the addition or replacement of impervious surface, except as provided in subsection 25.09.200.3.e; and~~

~~3) any development, including but not limited to coverage by impervious surface, does not exceed 35 percent of the total area of the limited riparian development area, provided that the maximum lot coverage does not exceed that allowed under Title 23, and except as provided in subsection 25.09.200.3.e.~~

~~e. When compliance with Sections 22.805.080 and 22.805.090 is required solely based on subsection 25.09.200.3.d.2 above, the Director may approve a restoration plan in lieu of requiring compliance with subsections 25.09.200.3.d.2 and 25.09.200.3.d.3 if the applicant demonstrates that the plan meets the following criteria:~~

~~1) The watercourse or riparian management area function will be restored so that it prevents erosion, protects water quality, and provides diverse habitat; and~~

~~2) The restoration results in greater protection of the watercourse and riparian management area than compliance with subsections 25.09.200.3.d.2 and 25.09.200.3.d.3.))~~

4. Small project waiver

a. The Director may approve fences, rockeries, or similar features or temporary disturbance for installation of utility lines in a riparian management area if no construction occurs over, in, or within 15 feet of a riparian watercourse or water body, and if the applicant demonstrates that the proposal meets the following criteria:

1) The feature is constructed on a lot that has been in existence as a legal building site prior to October 31, 1992;

2) The feature does not exceed 150 square feet calculated cumulatively from October 31, 1992. If the feature is on a lot that is or has been held in common ownership with a contiguous lot

and the lots are or have been used for a single principal use or for a principal use and accessory use, the limitation applies to both lots; and

3) The feature:

- a) Does not contain floor area;
- b) Does not remove trees or native vegetation;
- c) Does not block wildlife movement through the riparian management area; and
- d) Mitigates impacts to ecological functions.

b. The Director's decision shall require:

- 1) The use of fencing with a highly durable protective barrier during the construction to protect the wetland and remainder of the wetland buffer.
- 2) Mitigation pursuant to Section 25.09.065 to offset the area of both temporary and permanent development.
- 3) Additional measures, as appropriate, to protect the remainder of the riparian corridor.

((4))5. Daylighting water in pipes and culverts

a. Pursuant to ((S))subsection 25.09.200.((D))C, the Director may require daylighting pipes and culverts that meet the definition of ((fish and wildlife)) corridors in ((S))subsection 25.09.((020))012 .D.3.c.

b. The City encourages daylighting pipes and culverts connecting Type S, F, Np₁ and Ns waters that have fish habitat downstream and/or upstream from the pipe or culvert, and the Director is authorized to modify development standards as set out in subsection 25.09.200.A.((4))5.c ((below)) when the applicant submits a plan for daylighting such a pipe or culvert that meets the following criteria:

- ((f))1 ((t))The plan is prepared by a qualified environmental professional;

~~((f))2 ((t))~~The ecological functions of the daylighted waters and adjacent area are improved so the new riparian corridor area is compatible with and protects the ecological functions of the existing riparian corridor upstream and downstream and does not contribute to flooding ~~((;))~~ (ecological functions include preventing erosion, protecting water quality, and providing diverse habitat); and

~~((f))3 ((i))~~If the plan proposes daylighting the pipe or culvert in a different location on the parcel from its current location or off the parcel, the ecological functions required in subsection ~~((2) above)~~ 25.09.200.A.5.b.2 are provided as effectively as they would be without the relocation.

c. If the Director finds the conditions in subsection 25.09.200.A.~~((4))~~5.b are met, the Director may modify the following development standards. The modification shall be the minimum to provide sufficient area to meet the standards in subsection 25.09.200.A. ~~((4))~~5.b and shall be in the following order of priority:

~~((f))1~~ Yard and/or setback requirements on the property may be reduced, unless reducing them is injurious to safety.

~~((f))2~~ The riparian ~~((corridor))~~ watercourse and adjacent area maintained as a riparian management area under the approved plan may count toward open space requirements for all multifamily or commercial zone requirements.

~~((f))3~~ Required parking may be reduced up to ~~((twenty five))~~ 25 percent ~~((25%))~~)).

~~((f))4~~ The riparian management area may be reduced.

d. Nothing in this subsection 25.09.200.A.5 alters the rights of the owner of the pipe or culvert, if that person is not an applicant for a permit.

~~((5))6.~~ Other ~~((A))~~agency ~~((R))~~regulations. Review of projects subject to the riparian corridor provisions of this ~~((e))~~Chapter 25.09 shall be coordinated with the Washington ~~((State))~~ Department of Fish and Wildlife (WDFW) when a H~~((h))~~draulic P~~((p))~~roject A~~((a))~~pproval is required, and with the U.S. Army Corps

of Engineers and the Washington State Department of Ecology when they have jurisdiction under Section 404 and 401, respectively, of the ((F))federal Clean Water Act. The applicant is encouraged to make early contact with these agencies to ensure compliance with local, state, and federal riparian corridor regulations.

B. Development standards for parcels with fish and wildlife habitat conservation areas

1. The provisions of this subsection 25.09.200.B apply to all development on parcels containing fish and wildlife habitat conservation areas as defined in subsection 25.09.012.D except as provided in subsection 25.09.200.B.3.

2. Development on parcels containing fish and wildlife habitat conservation areas shall comply with any species habitat management plan set out in a Director's Rule. The Director may establish by rule a ((species)) habitat management plan to protect any species listed as endangered or threatened under the federal Endangered Species Act, any priority habitat or species identified by ((the Washington State Department of Fish and Wildlife)) WDFW or ((to protect)) any species of local importance.

((2))3. Any person proposing development on a parcel containing fish and wildlife habitat conservation areas, except for riparian corridors where development standards set out in subsection 25.09.200.A apply, shall consult with ((the Washington State Department of Fish and Wildlife)) WDFW and comply with any requirements of that agency and the following standards to protect fish and wildlife habitat conservation areas:((, except as limited in subsections 25.09.200.A and 25.09.200.B.

C. ~~Based on information provided by a qualified wildlife biologist, the Director may condition development on parcels containing wildlife habitat or corridors defined in subsection 25.09.020.D.3 to protect fish or wildlife habitat corridors. Conditions may include, but are not limited to:))~~

a. Minimize development;

b. Locate development in areas that maximize the retention of trees and vegetation;

c((1)). Establish((ment of)) a buffer zone((s)) to protect habitat and treed and vegetated

areas;

~~d((2)).~~ Preserve~~((action of))~~ important tree and vegetation and other habitat features;

~~e((3)).~~ Limit~~((action of))~~ access to habitat areas;

~~d((4)).~~ Impose ((S))seasonal restriction of construction activities, and non-disturbance areas as appropriate to protect fish or wildlife species present on the site;

~~f((5)).~~ Preserve~~((action of))~~ the ability for fish to pass between fish habitat in Type S, F, Np₂ and Ns waters upstream and downstream of the parcel. The application requirements and general conditions of this Chapter 25.09~~((;))~~ and Sections 25.09.330 and 25.09.060~~((;))~~ do not apply if the person responsible for development of the parcel has either a Hydraulic Project Approval from ~~((the Washington State Department of Fish and Wildlife))~~ WDFW or a Section 404 permit under the federal Clean Water Act from the United States Army Corps of Engineers. Nothing in this subsection 25.09.200~~((C))~~B alters the rights of the owner of the pipe or culvert, if that person is not an applicant for a permit.

~~g((6)).~~ Require~~((ing))~~ the developer to daylight a pipe or culvert defined in subsection 25.09~~((020))~~012.D.3.c, when the conditions in subsection 25.09.200~~((C.6.a))~~B.3.g.1 ~~((below))~~ are met. When requiring daylighting, the Director is authorized to modify the conditions set out in subsection 25.09.200~~((C.6.b))~~B.3.g.2. Nothing in this subsection 25.09.200. ~~((C.6))~~B.3.g alters the rights of the owner of the pipe or culvert, if that person is not an applicant for a permit.

~~((a.))~~ 1) The Director may require daylighting under the following conditions:

~~((1))~~ a) ~~((When t))~~The existing pipe or culvert cannot remain in its current location and provide an effective passage for anadromous fish due to the development.

~~((2))~~ b) Other methods for preserving fish passage such as pipe or culvert placement or site engineering are not feasible.

~~((b.))~~ 2) If daylighting is required, ~~((then))~~ the applicant ~~((must))~~ shall prepare a plan that demonstrates the following:

~~((1))~~a) The ecological functions of the daylighted waters and resulting

new riparian management area are compatible with and protect the functions of pipes and culverts upstream and downstream and the ecological functions of the existing riparian corridor upstream and downstream. ~~((and))~~

b) The daylighted waters do not contribute to flooding.

~~((2))~~ c) The ecological functions of the daylighted waters and resulting new riparian management area include preventing erosion, protecting water quality, and providing diverse habitat.

~~((e-))~~ 3) The Director shall determine~~((s that))~~ whether daylighting the pipe or culvert and the impacts from the development to fish passage on the parcel are roughly proportionate.

~~((d-))~~ 4) When requiring daylighting, the Director is authorized to modify the following conditions:

~~((1))~~a) Yard and/or setback requirements on the property may be reduced to provide sufficient area for daylighting and creating a riparian management area, unless reducing them is injurious to safety.

~~((2))~~b) The riparian ~~((corridor))~~ watercourse and riparian management area may count toward open space requirements for all multifamily or commercial zone requirements.

~~((3))~~c) Required parking may be reduced up to 25 percent.

~~((4))~~d) The riparian management area may be reduced to the extent needed to provide sufficient area for the plan described in subsection 25.09.200. ~~((C.6.a.2))~~B.3.g.2.

~~((D))~~C. Designating species of local importance and their habitat

1. The Director on an annual basis shall accept and consider nominations for species of fish and wildlife and their habitat to be designated as locally important. The designation of a species of local importance and its habitat shall require an amendment to this Chapter 25.09.

2. Species or habitat to be designated shall exhibit the following characteristics:

a. Local populations of native species are in danger of extinction based on existing

trends:

1) Local populations of native species that are likely to become endangered; or

2) Local populations of native species that are vulnerable or declining;

b. The species has recreational, commercial, game, tribal, or other special value;

c. Long-term persistence of a species is dependent on the protection, maintenance, and/or

restoration of the nominated habitat;

d. Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in Seattle; and

e. Areas nominated to protect a particular habitat or species have either high-quality habitat or habitat with a high potential to recover to a suitable quality, and the habitat is limited in quantity, highly vulnerable to alteration, or connects habitats.

3. Species and habitats may be nominated for designation by any person. Nominations shall be in writing, address the characteristics listed in subsection 25.09.200.~~((D))~~C.2, and state whether specific habitat features are being nominated (for example, ~~((next))~~ nest sites, breeding areas, and nurseries) ~~((;))~~ or whether the habitat or ecosystem is being nominated in its entirety. Where restoration of habitat is proposed, a specific plan for restoration shall be provided with the application, or the nomination shall include management strategies for the species or habitats. Restoration plans and management strategies shall be supported by the best available science.

4. The Director shall determine whether the nomination proposal is complete, and if complete, shall evaluate it under the criteria in subsection 25.09.200.~~((D))~~C.2 and make a recommendation to the Mayor and Council based on that information. If the nomination is adopted, the Director may establish habitat restoration plans and habitat and species management strategies by Director's ~~((f))~~Rule.

5. Great Blue Heron is a designated species of local importance.

D. Mitigation is required pursuant to Section 25.09.065.

Section 22. Section 25.09.220 of the Seattle Municipal Code, last amended by Ordinance 123106, is amended as follows:

25.09.220 Development standards for abandoned landfills

A. Regulation of ~~((D))~~development on ~~((A))~~abandoned ~~((L))~~landfills. Development on abandoned landfills is subject to Seattle-King County Health Department requirements for the applicant to submit an excavation and development work plan, prepared by a licensed engineer with experience in landfill construction and/or management, and comply with other applicable requirements to prevent damage from methane gas buildup, subsidence, and earthquake-induced ground shaking, as contained in Chapter 22.170(~~(, Grading Code)~~), Title 22, Subtitle I, ~~((Building Code,))~~ and regulations pertaining to development on abandoned landfill sites. Technical studies shall be required to indicate whether these areas pose a threat to development on an abandoned landfill site.

B. Areas within 1,000 feet of ~~((M))~~methane-producing ~~((L))~~landfills. Areas within 1,000 feet of methane-producing landfills may be susceptible to accumulations of hazardous levels of methane gas in enclosed spaces. Methane barriers or appropriate ventilation may be required in these areas as specified in Title 22, Subtitle I, ~~((Building Code,))~~ and Seattle-King County Health Department regulations.

C. All utility lines leaving an abandoned landfill shall be sealed to prevent the trench bedding from becoming a preferential pathway for gas migration.

Section 23. Section 25.09.240 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

25.09.240 Short subdivisions and subdivisions

A. This Section 25.09.240 applies to all applications for short subdivisions and subdivisions, excluding unit lot subdivisions, on parcels containing any part of a biodiversity area or corridor, riparian corridor, priority habitat, priority area setback, wetlands, wetland buffers, or steep slope erosion hazard areas, in addition to the standards in Title 23.

B. Requirements. Parcels shall be divided so that each lot contains an area outside all environmentally critical areas and buffers identified in subsection 25.09.240.A for all areas of site disturbance including, but not limited to, the principal structure, temporary site disturbance for shoring and grading, overhangs, all accessory structures, ~~((and))~~ utilities, necessary walkways (referred to as the “required area”) and ~~((for))~~ necessary access to ~~((this))~~ the required area, ~~((that are outside all environmentally critical areas and buffers identified in subsection 25.09.240.A))~~ except as follows:

1. The required area and necessary access may be located in the footprint of an existing lawful principal structure used for residential use that encroaches into an environmentally critical area or buffer identified in subsection 25.09.240.A, provided ~~((#))~~ the required area and/or any necessary access does not further alter or increase the impact to the environmentally critical area or buffer and mitigation is provided pursuant to Section 25.09.065, as appropriate.

2. Access may be provided ~~((by a bridge))~~ over a riparian corridor when the Director determines ~~((no other access is available and (a) access is provided by a freestanding structure that maintains the natural channel and floodway of the watercourse and (b) the disturbance of the riparian corridor and any other adjacent environmentally critical area or buffer is kept to a minimum))~~ that the applicant meets the standards of subsection 25.09.200.A.2.a and mitigation is provided pursuant to Section 25.09.065.

3. Development may encroach into that portion of a steep slope erosion hazard area or ~~((its))~~ buffer for which the Director has determined that criteria in subsection 25.09.090~~((180))~~.B.2.a, 25.09.090.B.2.b, or 25.09.090.B.2.c are met for the particular short subdivision~~((,))~~ or subdivision under consideration.

4. The requirements of subsections 25.09.240.B.1, 25.09.240.B.2, and 25.09.240.B.3, as applicable, shall be recorded on the final plat and/or environmentally critical area covenant.

C. Application submittal requirements. All short subdivision and subdivision applications, in addition to the application submittal requirements included in Title 23 and this Chapter 25.09, shall include on the surveyed site plan the information required by this Section 25.09.240 and Section 25.09.260, as applicable.

D. Development standards for new lots in Single-Family zones. If new lots are created in Single-Family zones by short subdivision or subdivision, the following development standards apply based on the area of each new lot that is outside the environmentally critical areas listed in subsection 25.09.240.A, plus environmentally critical areas in which development is allowed pursuant to subsections 25.09.240.B.1, 25.09.240.B.2, and 25.09.240.B.3:

1. Lot coverage and lot coverage exceptions according to subsections 23.44.010.C and 23.44.010.D.

2. Height limits according to Section 23.44.012, including the requirements of subsection 23.44.012.A.3 if the area of the largest rectangle or other quadrilateral that can be drawn within the lot lines of the new lot outside the environmentally critical areas is less than 3,200 square feet.

~~((C))~~E. Lots shall be configured to preserve the environmentally critical areas and ~~((their))~~ buffers identified in subsection 25.09.240.A by:

1. Establishing a separate buffer tract or lot with each owner having an undivided interest; or
2. Establishing non-disturbance areas on individual lots.

~~((D))~~F. The environmentally critical areas and buffers identified in subsection 25.09.240.A ~~((above))~~, except for areas qualifying for development under subsections 25.09.240.B.1 ~~((-4))~~, 25.09.240.B.2, and 25.09.240.B.3, shall be designated non-disturbance areas on the final plat. A ~~((notice))~~ statement that these non-disturbance areas are located on the lots ~~((, including))~~ and the definition of "non-disturbance area ~~((;))~~" shall be recorded in the King County ~~((Office of Records and Elections))~~ Recorder's Office along with the final plat in a form approved by the Director. At the same time, a covenant protecting non-disturbance areas shall be recorded as set out in Section 25.09.335.

~~((E))~~G. In computing the number of lots a parcel in a ~~((s))~~Single-~~((f))~~Family zone may contain, the Director shall exclude the following areas:

1. ~~((Easements and/or fee simple property used for shared vehicular access to proposed lots that~~

are required under ~~Section 23.53.005.~~

2.) The ~~((area of the))~~ environmentally critical areas and buffers identified in subsection 25.09.240.A, unless ~~((they are on a lot that meets one of the following standards))~~:

a. The environmentally critical areas and buffers are on a lot that meets the provisions of subsection 25.09.240.B; or

b. The applicant obtains an ~~((A))~~administrative ~~((C))~~conditional ~~((U))~~use ~~((is obtained))~~ under Section 25.09.260, if it is not practicable to meet the requirements of subsection 25.09.240.B considering the parcel as a whole.

~~((F. Application Submittal Requirements. All short subdivision and subdivision applications, in addition to the application submission requirements included in Title 23 shall meet the applicable application submittal requirements of this chapter, Section 25.09.330, and shall include the information contained in this subsection and Section 25.09.260, as applicable, on the surveyed site plan.))~~

Section 24. Section 25.09.260 of the Seattle Municipal Code, last amended by Ordinance 124447, is amended as follows:

25.09.260 Environmentally critical areas administrative conditional use

A. ~~((Application procedure))~~ Administrative conditional use

1. ~~((An application for))~~ In Single-Family zones the Director is authorized to approve an environmentally critical areas administrative conditional use ~~((may be submitted under either))~~ pursuant to Section 23.42.042 and this Section 25.09.260 for one or both of the following ~~((circumstances))~~ purposes:

a. ~~((If an applicant demonstrates it is not practicable to comply with the requirements of subsection 25.09.240.B considering the parcel as a whole, the applicant may apply for an administrative conditional use permit, authorized under Section 23.42.042, under this Section 25.09.260 to allow))~~ In calculating the maximum number of lots and units allowed on the entire parcel under subsection 25.09.240.G, the Director ~~((to))~~ may count environmentally critical areas and/or ~~((their))~~ buffers, except the open water area

of a wetland or riparian corridor, that would otherwise be excluded (~~(in calculating the maximum number of lots and units allowed on the parcel under subsection 25.09.240.E)~~), if an applicant is unable to demonstrate compliance with the requirements of subsection 25.09.240.B for the entire parcel proposed to be subdivided.

b. (~~(An applicant may also apply for an administrative conditional use permit to allow)~~)

For the entire parcel proposed to be subdivided, the Director ((to)) may approve ((smaller than required lot sizes and yards, and/or more than one dwelling unit per lot)) development of single family residences that meet the development standards of subsection 25.09.260.B.3 and the platting conditions in subsections 25.09.260.B.1 and 25.09.260.C.2.b. Except as specifically superseded by the development standards of subsection 25.09.260.B.3 and the platting conditions of subsection 25.09.260.C.2.b, all applicable regulations of Title 23 shall also apply to the entire parcel. The entire parcel is designated as the site.

2. Process. If an administrative conditional use application includes an application to authorize development in a (~~(critical))~~ steep slope erosion hazard area or buffer, (~~(then)~~) the application is not required to include an application for the variances allowed under (~~(subsections 25.09.180.E or)~~) Sections 25.09.280 or 25.09.290, but the application must address the criteria listed in subsection 25.09.260.B.1.c.

B. (~~(Standards))~~ Criteria. (~~(The applicant))~~ An application under this Section 25.09.260 shall provide information sufficient to demonstrate that the proposal meets the following criteria:

1. Environmental impacts on environmentally critical areas and buffers

a. No development is in a biodiversity area or corridor, riparian corridor, wetland, or wetland buffer.

b. No riparian management area or wetland buffer is reduced.

c. No development is on a steep slope erosion hazard area or its buffer (~~(unless the property being divided or, if no property is being divided, the property that is the subject of the administrative conditional use permit is predominantly characterized by steep slope areas, or)~~) unless either the proposed development meets the criteria of ((approved by the Director under)) subsections 25.09.090((180)).B.2.a, 25.09.

090((180)).B.2.b, or 25.09.090((180)).B.2.c((-)) or the property is a lot in existence as a legal building site prior to October 31, 1992, is predominantly characterized by steep slope erosion hazard areas, and the following criteria are met:

1) The ~~((preference is to cluster units))~~ proposed development shall be located away from steep slope erosion hazard areas and buffers to the extent practicable.

2) The Director shall require clear and convincing evidence that the provisions of this subsection 25.09.260.B are met if ~~((units are clustered))~~ development is located on steep slope erosion hazard areas and ~~((steep slope area))~~ buffers with these characteristics:

a) ~~((a))~~ A wetland over 1,500 square feet in size or a watercourse designated part of a riparian corridor; ~~((or))~~

b) ~~((an))~~ An undeveloped area over 5 acres characterized by steep slope ~~((s))~~ erosion hazard areas; or

c) ~~((areas))~~ Areas designated by the Washington Department of Fish and Wildlife (WDFW) as ~~((urban natural open space habitat areas))~~ biodiversity areas and corridors, or areas identified by the Director with significant tree and vegetation cover providing ~~((valuable))~~ wildlife habitat.

3) If the application includes a proposal to develop in a steep slope erosion hazard area or buffer, the development in the steep slope erosion hazard area or buffer shall be the minimum necessary to achieve the number of single family dwelling units that would be allowed on the original entire parcel according to the calculation for subdivision required under subsection 25.09.240.G in the following order of priority:

a) The proposal reduces the front and/or rear yards pursuant to subsection 25.09.260.B.3.b.1 and complies with the building separation standards of subsections 25.09.260.B.3.b.2 and 25.09.260.B.3.b.3;

b) The proposal reduces the steep slope erosion hazard area buffer; and

c) The proposal intrudes into not more than 30 percent of the steep slope erosion hazard area.

d. The proposal protects ~~((Washington State Department of Fish and Wildlife))~~ WDFW priority species and maintains wildlife habitat.

e. ~~((The open water area of a shoreline habitat, wetland or riparian corridor shall not be counted in determining the permitted number of lots.~~

f.) The proposal does not result in unmitigated negative environmental impacts pursuant to Section 25.09.065, including drainage and water quality, erosion, loss of trees and vegetation, and slope stability on the identified environmentally critical area and ~~((its))~~ buffer.

~~((g))~~f. The proposal promotes expansion, restoration, or enhancement of the identified environmentally critical area and buffer.

2. General environmental impacts and site characteristics ~~((:))~~

a. The proposal ~~((keeps))~~ minimizes potential negative effects of the development on the undeveloped portion of the site ~~((to a minimum))~~ and preserves topographic features.

b. The proposal retains and protects trees and vegetation on designated non-disturbance areas, protects stands of mature trees, ~~((keeps))~~ minimizes tree removal ~~((to a minimum))~~, removes noxious weeds and non-native vegetation and replaces this vegetation with native trees and vegetation, and protects the visual continuity of treed and vegetated areas and tree canopy.

3. ~~((Neighborhood compatibility.))~~ Development standards

a. The total number of ~~((lots permitted on site shall not be increased beyond that permitted by))~~ single-family dwelling units permitted through the environmentally critical areas conditional use regulations shall not exceed the number that would be allowed based on compliance with the use regulations of Section 23.44.008, and the minimum lot area standards of the underlying ((single-family)) Single-Family zone, and shall be established only on the site comprised of the original entire parcel, with subdivision of the original

entire parcel allowed only as unit lots approved through the unit lot subdivision process in Section 25.09.260.C.2.b.2.

b. ~~((Where dwelling units are proposed to be attached, they do not exceed the height, bulk and other applicable development standards of the Lowrise 1 (LR1) zone.~~

e. ~~The development is reasonably compatible with and keeps the negative impact on the surrounding neighborhood to a minimum. This includes, but is not limited to, concerns such as neighborhood character, land use, design, height, bulk, scale, yards, pedestrian environment, and preservation of the tree canopy and other vegetation.)~~ Single-family dwelling units shall be the sole type of principal use permitted through the environmentally critical areas conditional use regulations and shall meet the development standards of Chapter 23.44, except that the following standards apply instead of the standards in Chapter 23.44, as applicable:

1) Front and rear yards required by subsections 23.44.014.A and 23.44.014.B may be reduced to no less than 10 feet each and 30 feet for the sum of both yards if the reduction would minimize or eliminate any intrusion into the steep slope erosion hazard area or required buffer;

2) Front and rear building separations between proposed single family residences shall be a minimum of 25 feet;

3) Side building separations shall be a minimum of 10 feet;

4) The maximum lot coverage shall be calculated by deducting required non-disturbance areas from total lot size; and

5) Front, rear, and side separations shall be determined by the Director, based on location of the building in relation to other buildings and the front lot line.

C. Conditions

1. In authorizing an administrative conditional use, ~~((the Director shall mitigate adverse negative impacts by imposing requirements and conditions necessary))~~ mitigation pursuant to Section 25.09.065 shall

apply to protect and mitigate negative impacts to biodiversity areas and corridors, priority habitat and setbacks, riparian corridors, wetlands, ~~((and their))~~ wetland buffers, and steep slope erosion hazard areas and ~~((their))~~ buffers, and the Director may impose additional conditions to protect other properties that could be adversely affected in the zone or vicinity in which the property is located.

2. In addition to any conditions imposed under subsection 25.09.260.C.1, the following conditions apply to all administrative conditional uses approved under this Section 25.09.260:

a. Replacement and establishment of native trees and vegetation shall be required where it is not possible to save trees ~~((or))~~ and vegetation and shall comply with Section 25.09.070.

b. ~~((Where new lots are created))~~ If a subdivision or short-subdivision is proposed, the following standards apply:

1) The development as a whole shall meet development standards under Title 23 and this Chapter 25.09 applicable at the time the application is vested.

2) ~~((If new))~~ A unit lot short subdivision or unit lot subdivision proposal shall be required to ensure that the development standards of subsection 25.09.260.B.3 are implemented for development. New unit lots ~~((are))~~ created under this Section~~((s 25.09.240 and))~~ 25.09.260~~((;))~~ shall be approved through the unit lot subdivision regulations of Sections 23.22.062 and 23.24.045 and by compliance with this Section 25.09.260. ~~((d))~~Development on individual unit lots, except as otherwise set forth in this Section 25.09.260, may be nonconforming as to some or all of the development standards~~((, except that private usable open space or private amenity areas for each dwelling unit shall be provided on the same lot as the dwelling unit it serves))~~.

3) Subsequent platting actions or additions or modifications to structures may not create or increase any nonconformity of the development as a whole to this Chapter 25.09, and this shall be noted on the document creating the new unit lots that is recorded with the ~~((Director of the))~~ King County ~~((Department of Records and Elections))~~ Recorder's Office.

4) Access easements and joint use and maintenance agreements shall be executed for use of common garage or parking areas, common open space, and other similar features and be recorded with the ~~((Director of the))~~ King County ~~((Department of Records and Elections))~~ Recorder's Office.

~~((5) The plat documents, as recorded with the Director of the King County Department of Records and Elections, shall include a notation that each lot approved by an environmentally critical areas conditional use permit is not a separate buildable lot, and that additional development of the each individual lot may be limited as a result of the application of development standards to the original lot.))~~

D. The Director shall issue written findings of fact and conclusions to support the Director's decision. The process and procedures for notice of decision and appeal of this administrative conditional use shall be as prescribed for Type II land use decisions in Chapter 23.76.

Section 25. Section 25.09.280 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

25.09.280 Yard and setback reduction and variance to preserve environmentally critical area buffers and riparian corridor management areas~~((:))~~

A. The Director may authorize a ~~((twenty five))~~ 25 percent ~~((25%))~~ reduction, up to a maximum of ~~((five feet (5'))~~ 5 feet, in yard or setback requirements for front or rear yards on a lot in existence as a legal building site prior to October 31, 1992, in order to maintain the full width of ~~((the))~~ a riparian management area ~~((and of))~~, wetland buffer, or steep~~((-))~~ slope erosion hazard area buffer~~((s))~~.

B. The Director may approve a yard or setback reduction greater than ~~((five feet (5'))~~ 5 feet in order to maintain the full width of ~~((the))~~ a riparian management area, wetland buffer, or steep~~((-))~~ slope erosion hazard area buffer through an environmentally critical areas yard or setback reduction variance when the following facts and conditions exist:

1. The lot has been in existence as a legal building site prior to October 31, 1992;~~((:))~~
2. Because of the location of the ~~((subject property))~~ lot in or abutting an environmentally

critical area or areas and the size and extent of any required environmentally critical areas buffer, the strict application of the applicable yard or setback requirements of Title 23 would cause ~~((unnecessary))~~ undue hardship; ~~((and))~~

3. The requested variance does not go beyond the minimum to stay out of the full width of the riparian management area, wetland buffer, or ~~((required))~~ steep slope erosion hazard area buffer, and to afford relief; ~~((and))~~

4. The granting of the variance will not be injurious to safety or to the property or improvements in the ~~((zone or))~~ immediate vicinity in which the property is located when all City codes are implemented; ~~((and))~~

5. The yard or setback reduction will not result in a development that is materially detrimental to the character, design, and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, yards, pedestrian environment, and the amount of trees and vegetation remaining; and

6. The requested variance would be consistent with the spirit and purpose of the environmentally critical areas policies and regulations.

C. When an environmentally critical areas variance is authorized, the Director may attach conditions ~~((regarding the location, character and other features of a proposed development))~~ to the development to address the factors identified in subsection 25.09.280.B.5 and to carry out the spirit and purpose of this ~~((e))~~ Chapter 25.09.

D. The process and procedures of an environmentally critical areas yard or setback reduction variance shall be as prescribed for Type II land use decisions in Chapter 23.76.

Section 26. A new Section 25.09.290 of the Seattle Municipal Code is added as follows:

25.09.290 Steep slope erosion hazard area variance

The Director may approve or conditionally approve an application for a variance to allow limited intrusion into the steep slope erosion hazard area and buffer if the Director finds all the facts and conditions below exist:

A. The lot where the steep slope erosion hazard area or buffer is located was in existence before October 31, 1992;

B. Because of the location of the lot in or abutting a steep slope erosion hazard area and/or the size and extent of any required steep slope erosion hazard buffer, the strict application of the development standard of subsection 25.09.090.B.1 would cause undue hardship;

C. Granting the variance will not be injurious to safety or to the property or improvements in the immediate vicinity in which the property is located; and

D. If buffer reduction or development in the steep slope erosion hazard area is authorized by a variance under this Section 25.09.290, it shall be the minimum to afford relief from the hardship and shall be in the following order of priority:

1. Reduce the yards or setbacks, to the extent reducing the yards or setbacks is not injurious to safety;
2. Reduce the steep slope erosion hazard buffer;
3. Allow intrusion into the steep slope erosion hazard buffer; and
4. Allow intrusion into not more than 30 percent of the steep slope erosion hazard area.

E. The requested variance would be consistent with the spirit and purpose of the environmentally critical policies and regulations and mitigation for impacts to environmentally critical areas and their buffers is provided.

F. The Director may impose additional conditions on the location and other features of the proposed development as necessary to carry out the purpose of this Chapter 25.09 and mitigate the reduction or loss of the yard, setback, or steep slope erosion hazard area or buffer.

G. The process and procedures for a variance under subsection 25.09.290.D shall be as prescribed for Type II land use decisions in Chapter 23.76.

Section 27. Section 25.09.300 of the Seattle Municipal Code, last amended by Ordinance 124447, is

amended as follows:

25.09.300 Environmentally critical area exception

A. Types of exceptions

1. General. An applicant for a City permit to develop real property that is located in an environmentally critical area or buffer may apply to the Director for an exception to modify environmentally critical area development standards, provided that an applicant cannot apply for an exception ~~((cannot be applied for))~~ to allow development or to obtain development credit under subsection 25.09.240.~~((E))G~~ or to relocate lot lines under Section 23.28.030. An applicant seeking relief under this Section 25.09.300 shall demonstrate that no other applicable administrative remedies in Chapter 25.09 or Title 23 will provide sufficient relief.

2. Public projects. If development in an environmentally critical area or buffer is necessary to accommodate a public facility or public utility, the Director may grant an exception permitting the public facility or public utility using the following criteria in lieu of subsections 25.09.300.C and 25.09.300.D:

a. No reasonable alternative location will accommodate the facility or utility, as demonstrated by an analysis of appropriate alternative location~~((s))~~ provided by the applicant or the Director;

b. ~~((The facility or utility is located, designed, and constructed:~~

1) ~~to avoid adverse impacts to the extent feasible by not taking all or part of an action;~~

2) ~~to minimize adverse impacts; and~~

3) ~~to mitigate impacts to critical area disturbance to the maximum extent feasible;))~~

Mitigation sequencing under Section 25.09.065 is applied to the siting, design, and construction of the facility or utility;

c. All requirements of subsections 25.09.300.A.1, 25.09.300.B, 25.09.300.E, and 25.09.300.F apply; and

d. In granting an exception to the development standards in Sections 25.09.090, 25.09.160, ~~((Wetlands,))~~ and 25.09.200 the Director shall apply the ~~((avoidance and))~~ mitigation standards in ~~((subs))~~Section 25.09.065 ~~((25.09.160.E))~~ when imposing any conditions.

B. Submittal requirements

1. An applicant requesting ~~((modification))~~ an exception shall provide the Director with the following information:

a. Documentation showing that no other applicable administrative remedy in ~~((Title))~~ Chapter 25.09 or Title 23 will provide sufficient relief;

b. Technical studies and other data that describe the possible injurious effects of the proposed development on occupiers of the land, on other properties, on public resources, and on the environment. Possible injurious effects must be described even when the injurious effect will become significant only in combination with similar effects from other developments;

c. Technical studies and other data by qualified persons showing that the proposed development will protect the occupiers of the land, other properties, public resources, and the environment to the same extent as the development standards that are proposed to be modified and explaining how this will occur;

d. Plans showing what can be developed in compliance with all environmentally critical area development standards and standards in Title 23, including the yard ~~((and))~~ or setback standards for ~~((front and rear))~~ yards;

e. An explanation with supporting evidence of how and why compliance with all environmentally critical areas development standards as shown on the plans required in subsection ~~((4))~~ 25.09.300.B.1.d would not permit any reasonable use of the property, including, but not limited to, submission

of the following evidence:

((f))1) The date the applicant purchased the property or obtained the right to develop or use it;

((f))2) The price the applicant paid for the rights described in subsection ((f)) 25.09.300.B.1.e.1; and

((f))3) Restrictions or conditions on use or development in existence when the applicant acquired the rights described in subsection ((f)) 25.09.300.B.1.e.1.

2. The Director may require the applicant to provide additional information prepared by qualified persons on the topics described in subsection 25.09.300.B.1.

3. All technical studies and data shall be accompanied by sufficiently detailed information to allow the Director to evaluate it under the standards for scientific information set out in ((Washington Administrative Code-)) WAC((f)) 365-195-905.

C. The Director may modify or waive an environmentally critical areas development standard and/or the yard and setback standard for ((front or rear)) yards when an applicant demonstrates by clear and convincing evidence that strict application of the development standards would not permit any reasonable use of the property and that development undertaken pursuant to the modified or waived standards would not cause significant injury to occupiers of the land, to other properties, and to public resources, or to the environment.

D. The relief granted by reduction, waiver, or other modification of an environmentally critical areas development standard and of the yard and setback standards for front or rear yards shall be the minimum to allow reasonable use of the property. Preference shall be given to modifying or waiving the yard and/or setback standards ((for front or rear yards)). In modifying a regulation, the Director may impose reasonable conditions that prevent or mitigate the same harm that the modified or waived regulation was intended to prevent or mitigate. In granting an exception to the development standards ((in Section 25.09.160, Wetlands,)) the Director shall apply the ((avoidance and)) mitigation standards in ((subsection 25.09.160 E when imposing any

~~condition))~~ Section 25.09.065.

E. The Director's decision must be consistent with the scientific approach used by the City in developing the environmentally critical area development standard at issue.

F. Decision

1. The process and procedures for notice of decision and appeal of an environmentally critical areas exception shall be ~~((provided))~~ in the manner prescribed for Type II land use decisions in Chapter 23.76.

2. The Director's decision shall be affirmed unless found to be clearly erroneous ~~((, and the burden of proof of justifying the environmentally critical areas exception shall be on the applicant))~~.

Section 28. Section 25.09.330 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

25.09.330 Application submittal requirements

All activities identified in Section 25.09.015 ~~((and not exempt from permit application requirements under Sections 25.09.045, 25.09.055, and subsections 25.09.200.A.4 and 25.09.320.A.3))~~ shall meet the following application submittal requirements in addition to the application submittal requirements specified in other codes , unless an application is not required under subsections 25.09.040 or an application to modify application submittal requirements is made under subsection 25.09.040.A.1.b as part of an approval requested under Section 25.09.045 or subsections 25.09.070.D, 25.09.090.D, or 25.09.160.G:

A. Topographic ~~((S))~~survey. A topographic site plan, prepared and stamped by a State of Washington licensed surveyor, is required for sites that include landslide-prone areas, flood-prone areas, riparian corridors, wetlands or ~~((its))~~ wetland buffers, and steep slope erosion hazard areas ~~((or their))~~ and buffers. The topographic site plan shall include the following existing physical elements:

1. Existing topography at ~~((two-foot (2')))~~ 2 foot contour intervals ~~((on-site))~~ on site, on adjacent lands within ~~((twenty-five feet (25')))~~ 25 feet of the site's property lines, and on the full width of abutting public and private rights-of-way and easements;

2. Terrain and stormwater-flow characteristics within the site, on adjacent sites within (~~twenty-five feet (25')~~) 25 feet of the site's property lines, and on the full width of abutting public and private rights-of-way and easements;

3. Location of areas with significant amounts of trees and vegetation, and specific location and description of all trees with trunks (~~(six inches (6"))~~) 6 inches or greater in diameter measured (~~((four feet, six inches (4'6"))~~) 4 feet, 6 inches above the ground, and noting their species;

4. Location and boundaries of all existing site improvements on the site, on adjacent lands within (~~(twenty-five feet (25'))~~) 25 feet of the site's property lines, and on the full width of abutting public and private rights-of-way and easements. This shall include the amounts of developmental coverage, including all impervious surfaces (noting total square footage and percentage of site occupied);

5. Location of all grading activities in progress, and all natural and artificial drainage control facilities or systems in existence or on adjacent lands on the site, within (~~(twenty-five feet (25'))~~) 25 feet of the site's property lines(~~(7)~~) and in the full width of abutting public and private rights-of-way and easements;

6. Location of all existing utilities (water, sewer, gas, electric, phone, cable, etc.), both above and below ground, on the site, on adjacent lands within (~~(twenty-five feet (25'))~~) 25 feet of the site's property lines, and in the full width of abutting public rights-of-way; and

7. Such additional existing physical elements information for the site and surrounding area as required by the Director to complete review of a project subject to the standards of Chapter 25.09.

B. Additional (~~(S)~~)site (~~(P)~~)plan (~~(I)~~)information. The following site plan information shall also be required for sites that include landslide-prone areas, flood-prone areas, riparian corridors, wetlands and wetland buffers, and steep slope erosion hazard areas (~~(or their)~~) and buffers. Information related to the location and boundaries of environmentally critical areas and required buffer delineations shall be prepared by qualified environmental professionals with training and experience in their respective area of expertise as demonstrated to the satisfaction of the Director.

1. Location and boundaries of all environmentally critical areas and buffers on the site and on adjacent lands within ~~((twenty-five feet (25')))~~ 25 feet of the site's property lines, noting both total square footage and percentage of site;
2. Location and identification of all riparian corridors and the ordinary high water mark of all water bodies within 100 feet, and wetlands within ~~((one hundred feet (100')))~~ 200 feet of the site's property lines;
3. Location and boundaries of non-disturbance areas on the site that have been required by previous approvals~~((:))~~;
4. Proposed location and boundaries of all required undisturbed fenced areas and buffers on the site and on adjacent lands within ~~((twenty-five feet (25')))~~ 25 feet of the site's property lines;
5. Location and boundaries of all proposed site improvements on the site, on adjacent lands within ~~((twenty-five feet (25')))~~ 25 feet of the site's property lines, and on the full width of abutting public and private rights-of-way and easements. This shall include the amount of proposed land disturbing activities, including amounts of developmental coverage, impervious surfaces, and construction activity areas (noting total square footage and percentage of site occupied);
6. Location of all proposed grading activities and all proposed drainage control facilities or systems on the site, ~~((or))~~ on adjacent lands within ~~((twenty-five feet (25')))~~ 25 feet of the site's property lines, and on the full width of abutting public and private rights-of-way and easements;
7. Location of all proposed utilities (water, sewer, gas, electric, phone, cable, etc.), both above and below ground, on the site, on adjacent lands within ~~((twenty-five feet (25')))~~ 25 feet of the site's property lines, and in the full width of abutting public rights-of-way ~~((;))~~ ; ~~((and))~~ any proposed extension required to connect to existing utilities ~~((;))~~ ; and proposed methods and locations for the proposed development to hook-up to these services; and
8. ~~((Such))~~ Any additional site plan information related to the proposed development ~~((as~~

required by)) that the Director requires to complete review of a project subject to the standards of this ((e))C
hapter 25.09.

C. Technical ((R))reports. Technical reports and other studies and submittals shall be prepared as required by the Director detailing soils, geological, hydrological, drainage, plant ecology and botany, and other pertinent site information. The reports, studies, and submittals shall be used to condition development to protect and prevent potential harm ((and)) to ((protect)) the environmentally critical nature of the site, adjacent properties, and the drainage basin.

Section 29. Section 25.09.335 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

25.09.335 Posting, covenants, and recording conditions((:))

A. During construction, the Director may require conditions to be posted on the site that are visible from public rights-of-way.

B. The Director shall require that a permanent covenant, and a survey((:)) if ((a survey)) one has been prepared, be recorded in the King County ((Office of Records and Elections)) Recorder's Office that describes and delineates all required non-disturbance areas, that prohibits development on and any disturbance of them, and that prohibits considering them for development credit in future plats or development proposals.

C. Boundaries and markers

1. The Director shall require the boundaries of the following environmentally critical areas and((
~~or their~~)) buffers and any permanent conditions imposed be legibly shown and described in a permanent covenant with the property, which shall be recorded in the King County ((Office of Records and Elections)) Recorder's Office:

- a. Fish and wildlife habitat conservation areas and buffers;
- b. Wetlands ((critical areas and their)) and wetland buffers; and
- c. Steep slope erosion hazard areas and ((their)) buffers.

2. The covenant may be combined with the covenant required under subsection 25.09.335.B, if ~~((that subsection applies))~~ applicable. The covenant shall be recorded prior to the issuance of any permit or at the time a plat is recorded.

D. The Director may require placement of small permanent visible markers to delineate the areas described in subsections 25.09.335.B and 25.09.335.C. The location of the markers shall be legibly shown and described in the permanent covenant.

Section 30. Section 25.09.360 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

25.09.360 State Environmental Policy Act ((-))

This ~~((e))~~Chapter 25.09 establishes minimum standards to be applied to specific land use and platting actions in order to prevent further degradation of environmentally critical areas in the City, and is not intended to limit the application of the State Environmental Policy Act (SEPA). Projects subject to SEPA shall be reviewed and may also be conditioned or denied pursuant to Chapter 25.05.

Section 31. Section 25.09.380 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

25.09.380 Compliance with environmentally critical areas regulations ((-))

Notwithstanding the provisions of Chapter 23.76 authorizing issuance of Master Use Permits and Council Land Use Decisions upon compliance with the criteria and procedures of that ~~((e))~~Chapter 23.76, no permit for a development proposal or for actions described in Section 25.09.015 shall be issued unless it also complies with the regulations of this ~~((e))~~Chapter 25.09.

Section 32. Section 25.09.400 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

25.09.400 Violations ((-))

A. It is a violation of this ~~((e))~~Chapter 25.09 to fail to comply with any provision of this ~~((e))~~Chapter

25.09 or with any term of any permit condition or approval issued pursuant to this ((e))Chapter 25.09.

B. It is a violation of this ((e))Chapter 25.09 to fail to comply with any order issued pursuant to this ((e))Chapter 25.09 or to remove or deface any sign, notice, complaint, or order required by or posted in accordance with this ((e))Chapter 25.09.

C. It is a violation of this ((e))Chapter 25.09 to misrepresent any material fact in any application, on plans, or in any other information submitted to obtain any determination, authorization, permit condition, or approval under this ((e))Chapter 25.09.

D. It is a violation of this ((e))Chapter 25.09 to aid and abet, counsel, encourage, hire, command, induce, or otherwise procure another to violate or fail to comply with this ((e))Chapter 25.09.

Section 33. Section 25.09.410 of the Seattle Municipal Code, enacted by Ordinance 122050, is amended as follows:

25.09.410 Authority to enforce ((-))

A. The Director is authorized to enforce this ((e))Chapter 25.09 and may call upon other appropriate City departments to assist in enforcement.

B. The Director may, with the consent of the owner or occupier of any land, premises, building, or structure, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any land, riparian watercourse, premises, building, or structure subject to the consent or warrant.

C. It is the intent of this ((e))Chapter 25.09 to place the obligation of complying with its requirements upon the owner, occupier, or other person responsible for the condition of the trees and vegetation, land, riparian watercourse, premises, building, or structure within the scope of this ((e))Chapter 25.09.

D. No provision of or term used in this ((e))Chapter 25.09 is intended to impose any duty upon the City or any of its officers or employees that would subject them to damages in a civil action.

Section 34. Section 25.09.420 of the Seattle Municipal Code, enacted by Ordinance 122050, is amended as follows:

25.09.420 Investigation and notice of violation ((-))

A. The Director is authorized to investigate the condition of any trees and vegetation, land, riparian watercourse, premises, building, structure, activity, or use that the Director reasonably believes does not comply with the provisions of this ((e))Chapter 25.09. The Director's investigation and determination that a violation exists is not limited by ((determinations made by)) determinations ((made by)) that other City agencies have made.

B. If after investigation the Director determines that any provision of this ((e))Chapter 25.09 has been violated, the Director may serve a notice of violation upon any person that the Director believes is responsible for the violation. The notice of violation may: identify the violation by code section; and may state what corrective action (including restoration), if any, is necessary to comply with the provisions of this ((e))Chapter 25.09, set a reasonable time for compliance; and state the penalty for violating this ((e))Chapter 25.09. The Director may require that the restoration plan be prepared by a qualified environmental professional, at the violator's expense. Wetland mitigation shall be consistent with Sections 25.09.065 and 25.09.160.

C. Any notice issued pursuant to subsection 25.09.420.B shall be served upon the owner, occupier, or other person responsible for the violation by personal service in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of such person(s). Service is complete at the time of personal service((-)) or, if mailed, three ((3)) days following the date of mailing. If a notice of violation sent by first class mail is returned as undeliverable, then service of the notice upon such person or persons may be made by posting the notice at a conspicuous place on the property where the violation occurred.

D. If a notice of violation or order is recorded with the King County ((~~Department of Records and Elections~~)) Recorder's Office, a notice of violation or order for the same violation need not be served upon a new owner. If a new notice of violation or order is not issued and served upon a new owner, the Director may grant the new owner the same number of days to comply as was given the previous owner, starting on the date

that the conveyance is completed.

E. Nothing in this ~~((s))~~Section 25.09.420 shall be deemed to limit or preclude any action or proceeding pursuant to Sections 25.09.430 and 25.09.450 ~~((of this chapter))~~, and nothing in this ~~((s))~~Section 25.09.420 requires the Director to issue a notice of violation prior to the imposition of civil or criminal penalties.

Section 35. Section 25.09.430 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

25.09.430 Stop-work order ~~((s))~~

A. The Director may issue a stop-work order whenever any use, activity, work, or development

~~((f))1.((h))~~ is being done without a permit, determination, or authorization required by this Chapter 25.09~~((s))~~;

~~((f))2.((h))~~ is being done contrary to any determination, authorization, permit, or approval of the Seattle Department of Construction and Inspections and the use, activity, work, or development will ~~((immediately))~~ have an immediate negative impact on an environmentally critical area or materially impair the Director's ability to secure compliance with this ~~((e))~~Chapter~~((s))~~ 25.09; or

~~((f))3.((h))~~ immediately threatens the public health, safety, and welfare with respect to the interests protected under this Section 25.09.430.

B. The stop-work order shall describe the violation in writing and be posted on the premises or served on any person responsible for the violation. Except for emergency work necessary to stabilize the site that may be required by the Director, it is unlawful for any work on the property to be done after the posting or service of a stop-work order until the Director gives authorization to proceed ~~((is given by the Director))~~.

C. The stop-work order may require that trees and vegetation, land, riparian watercourse, premises, building, structure, or portion thereof~~((s))~~ be vacated within a reasonable time, depending on the degree of danger~~((, specified in the order))~~. No person shall occupy the trees and vegetation, land, premises, building, structure, or portion thereof after the date ~~((on))~~ by which it is required to be vacated until the trees and

vegetation, land, riparian watercourse, premises, building, structure, or portion thereof~~((5))~~ is restored to a safe condition as determined by the Director.

Section 36. Section 25.09.450 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

25.09.450 Review by the Director ~~((5))~~

A. Any person significantly affected by a notice of violation or stop-work order issued by the Director pursuant to this ~~((e))~~Chapter 25.09 may obtain an administrative review of the notice or order by requesting such review in writing to the Director within ten ~~((10))~~ days of the date of the notice or order. When the last day of the period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until ~~((five (5:00)))~~ 5 p.m. on the next business day. A request for administrative review is an administrative remedy that must be exhausted before judicial review of the notice or order may be sought.

B. Upon receipt of the request, the Director shall notify by mail any persons served within the notice or order and any person requesting review, advising them of the request for review, of the date of the review, and of the deadline for submitting additional written information for consideration. The deadline for submitting additional written information shall be ten ~~((10))~~ days from the date the notice of administrative review is mailed, unless otherwise agreed to by all persons served with the notice or order. The Director and all persons served with the notice or order may also agree to review the matter within a shorter period ~~((or))~~ of time that shall not be less than three ~~((3))~~ days from the date the notice or order was issued.

C. The Director shall conduct the administrative review and issue a decision on the request for administrative review in the form of an Order of the Director. The Director shall review all written information received by the submission deadline and any additional evidence or information available to the Seattle Department of Construction and Inspections staff and placed in the case file. The Director may also request clarification of information received and a site visit. After review of the case file and of the additional written information and/or after a site visit, the Director shall issue an Order of the Director that may:

1. Sustain the notice or order;
2. Withdraw the notice or order;
3. Continue the review to a date certain for receipt of additional information; or
4. Modify the notice or order, which may include an extension of the compliance date, if any.

D. The Director shall issue the Order of the Director no later than ten ~~((10))~~ days from the deadline for submitting additional information. The Order of the Director is mailed by first class mail to the person or persons named on the notice of violation or order and to any person who requested the administrative review. If the original notice or order was recorded with the King County ~~((Department of Records and Elections))~~ Recorder's Office the Order of the Director shall also be recorded.

Section 37. Section 25.09.460 of the Seattle Municipal Code, enacted by Ordinance 122050, is amended as follows:

25.09.460 Civil penalty ~~((:))~~

A. Any person who violates or fails to comply with any provision of this ~~((e))~~ Chapter 25.09 is subject to a civil penalty ~~((in an amount not to exceed Five Hundred Dollars ()))~~ of at most \$500~~((+))~~ per day for each violation, and in the event of a continuing violation shall be subject to a cumulative civil penalty of \$500 per day for each violation from the time the violation occurs or begins until compliance is achieved. In cases where the Director has issued a notice of violation with a compliance date, the violation is deemed to begin, for purposes of determining the number of days of violation, on the date compliance is required by the notice of violation. For removing, clearing, or taking any action detrimental to a tree over six inches in caliper an additional civil penalty of ~~((Five Thousand Dollars ()))~~ \$5,000~~((+))~~ shall be assessed.

B. Violations causing significant damage may be assessed an additional penalty in an amount reasonably determined to be equivalent to the economic benefit that the violation derived from the violation, measured as the greater of ~~((:))~~ ; the resulting increase in market value of the property ~~((:))~~ ; the value received by the violator ~~((:))~~ ; or the savings of construction costs realized.

C. The penalty imposed by this ((s))Section 25.09.460 may be collected by civil action brought in the name of the City. The Director notifies the City Attorney in writing of the name of any person subject to the penalty, and the City Attorney, with the assistance of the Director, takes appropriate action to collect the penalty. In any civil action for a penalty, the City has the burden of proving by a preponderance of the evidence that a violation exists or existed; the issuance of a notice of violation or of an Order following an administrative review by the Director is not itself evidence that a violation exists.

Section 38. Section 25.09.470 of the Seattle Municipal Code, enacted by Ordinance 122050, is amended as follows:

25.09.470 Alternative criminal penalty ((-))

Any person who violates or fails to comply with this ((e))Chapter 25.09 shall be guilty of a gross misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply and none of the mental states described in Section 12A.04.030 need be proved. The Director may request the City Attorney prosecute such violations criminally as an alternative to the civil penalty provision outlined in this ((e))Chapter 25.09. Each day that a person continues to violate or fail to comply with the provisions of this ((e))Chapter 25.09 and each occurrence of a prohibited activity constitutes a separate offense.

Section 39. Section 25.09.480 of the Seattle Municipal Code, enacted by Ordinance 122050, is amended as follows:

25.09.480 Additional relief ((-))

The Director may seek legal or equitable relief to enjoin any acts or practices and abate any condition that constitutes or will constitute a violation of this ((e))Chapter 25.09.

Section 40. Section 25.09.520 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

25.09.520 Definitions

"Annual high static groundwater level" means the highest elevation where the soil is saturated with the main body of groundwater during any part of the year.

"Aquatic environment" means a water body and the habitat and life that is supported by the environment. Aquatic habitat includes streams, rivers, ponds, lakes, estuaries, wetlands and other water bodies.

"Aquatic life" means plants and animals that use the aquatic environment to live.

"Best available science" (BAS) means the current scientific information derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925 used in the process to designate, protect, and/or restore critical areas.

"Best management practices" means

~~((a))~~1. ~~((t))~~The practices defined in Section 22.801.030 ~~((of the Stormwater Code))~~ ; and

~~((b))~~2. ~~((s))~~Structural, nonstructural, and managerial techniques identified by the Director, or by the director of a City agency when that agency is making determinations under this Chapter 25.09, as the most effective and practical means in an urban environment to mitigate adverse environmental effects on environmentally critical areas and buffers and their functions.

"Biodiversity areas and corridors" means an area described in subsection 25.09.012.D.1.

"Biologist" means a person who has earned a degree in biological sciences from an accredited college or university, or a professional who has equivalent educational training and has experience as a practicing biologist.

"Buffer" means a ~~((designated))~~ defined area adjacent to and/or a part of an environmentally critical area and intended to protect the environmentally critical area.

"City agency" means The City of Seattle or any of its subdivisions, including but not limited to, any City board, commission, committee, officer, or department.

"City project" means all work described in Section 25.09.015 that is undertaken by a City agency.

"Conservation easement" means a recorded legal agreement a landowner voluntarily makes to limit the

type or amount of development, including uses, that may take place on the landowner's property, while retaining private ownership of the land. Examples of limits on development include constructing buildings and subdividing land. Conservation easements convey the right to enforce these restrictions to the qualified organization or agency holding the easement.

"Construction activity area" means all areas of land disturbing activity within a site or on adjacent sites or rights-of-way used during construction including, but not limited to, development coverage areas and construction access and storage areas.

"Contaminated soils" is defined in Section 21.36.012(~~(, Solid Waste Code)~~).

"Department" means the Seattle Department of Construction and Inspections or its successor department.

"Detention" is defined in Section 22.801.050 (~~(of the Stormwater Code)~~).

"Development" means all components and activities related to construction or disturbance of a site, including but not limited to land disturbing activities.

"Development standard" means a regulation establishing a limit on development.

"Director" means the Director of the Seattle Department of Construction and Inspections (or its successor department) or the Director's designee.

"Downtown zones" means all Downtown Office Core, Downtown Retail Core, Downtown Mixed Commercial, Downtown Mixed Residential, Downtown Harbor Front, International District Mixed, International District Residential, Pike Market Mixed, and Pioneer Square Mixed, as defined in Chapter 23.30.

"Drainage-control facility" is defined in Section 22.801.050 (~~(of the Stormwater Code)~~).

"Drainage-control system" is defined in Section 22.801.050 (~~(of the Stormwater Code)~~).

"Ecological ~~(F)~~function" means the work performed or role played individually or collectively by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the natural environment.

"Exception" (~~refers to~~) means the environmentally critical areas exception ((;)) described in Section 25.09.300.

"Exemption" means to release a project either fully or partially from compliance with the environmentally critical areas regulations, or from specific development standards of this ((e))Chapter 25.09, as provided in Section 25.09.045.

"Feasible" means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

1. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
2. The action provides a reasonable likelihood of achieving its intended purpose; and
3. The action does not physically preclude achieving the project's primary intended legal use.

In cases where this Chapter 25.09 requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the Director may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

"Fish habitat" means and refers to wildlife habitat that supports fish at any life stage at any time of the year, including off-channel habitat and potential habitat that is likely to be used by fish and could be restored.

"Geologist" means a person who has earned a degree in geology from an accredited college or university and has at least five ~~((5))~~ years' experience as a practicing geologist or four ~~((4))~~ years of experience and at least two ~~((2))~~ years of postgraduate study, research, or teaching. The practical experience shall include at least three ~~((3))~~ years of work in applied geology and evaluation, in close association with qualified practicing geologists or geotechnical/civil engineers.

"Geotechnical/civil engineer" means a practicing geotechnical/civil engineer licensed as a professional civil engineer by the State of Washington who has at least four ~~((4))~~ years of professional experience as a

geotechnical engineer including experience with landslide evaluation.

"Groundwater regime" means the amount, distribution, and seasonal variation of water below the surface of the land.

"Impervious surface" is defined in Section 22.801.100 ~~((of the Stormwater Code))~~.

"Improved public road right-of-way" means a right-of-way ~~((which))~~ that either contains utilities or is paved.

"Infeasible." See "feasible."

"Infiltration facility" is defined in Section 22.801.100 ~~((, Stormwater, Grading and Drainage Control Code))~~.

"Invasive plants" means the plants listed for Western Washington in Washington State Department of Ecology Publication #~~((04-06-025))~~04-06-029 and King County designated noxious weeds.

"Land disturbing activity" means any activity that results in a movement of earth, or a change in the existing soil cover (both vegetative and nonvegetative) or the existing topography. Land disturbing activities include, but are not limited to, clearing, grubbing, grading, filling, excavation, draining water from a site, or addition or replacement of impervious surface.

"Lot" means a platted or unplatted parcel or parcels of land abutting upon and accessible from a private or public street sufficiently improved for vehicle travel or abutting upon and accessible from an exclusive, unobstructed permanent access easement. A lot may not be divided by a street or alley.

"Maximum extent feasible" is defined in Section 22.801.140.

"Native fish" means a species of fish identified by the United States Fish and Wildlife Service as occurring in the Puget Sound area as part of its indigenous fresh water or marine aquatic fauna.

"Native vegetation" means vegetation, including trees, comprised of plant species that are indigenous and noninvasive, naturalized to the Puget Sound region and that reasonably can be expected to naturally occur on a site. Native vegetation does not include noxious weeds.

"Non-disturbance areas" means areas where development is not to be allowed.

"Normal pruning and maintenance" means for trees, shrubs, and other woody plants compliance with American National Standards Institute A300 pruning standards.

"Noxious weeds" means weeds listed by the King County Noxious Weed Control Board.

"Ordinary high water mark" means, on all lakes, streams, and tidal water, that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, or as it may naturally change thereafter or as it may change thereafter in accordance with permits issued by the Director ~~((of))~~ or the Washington State Department of Ecology; provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

"Parcel" means a lot, unplatted property, or combination thereof, whether public or private property, in the City of Seattle, including City ~~((right-of-way))~~ right-of-way and state right-of-way.

"Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, partnership, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the State of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, the United States or any instrumentality thereof, and any entity of whatever type.

"Pesticide" means, but is not limited to:

~~((a))~~ 1. Any substance or mixture of substances intended to prevent, destroy, control, repeal, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal ~~((which))~~ that is normally considered to be a pest or ~~((which))~~ that the Director may declare to be a pest;

~~((b))~~2. Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and

~~((c))~~3. Any spray adjuvant.

“Plan view” means a drawing made to scale to represent the view from the top or a horizontal section of a structure, development, or proposal.

~~(“Provisions of this chapter” means all sections of this chapter.)~~

“Public agency” means a government organization including the City.

“Public projects” means projects sponsored by a government agency, including the City.

“Qualified environmental professional” means a person who has earned a degree in a science field from an accredited college or university, or a professional who has equivalent educational training and has experience as a practicing scientist with education and/or experience in the field. A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetland professional, including delineating wetlands using the federal manual and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.

“Reasonable alternative location” means a location that can accommodate the proposal’s objectives at the lowest level of impact to ecological function in consideration of the environmental, social, and economic impacts on the public and the cost to the applicant.

“Reasonable” or “reasonably” means its common usage except as provided below:

1. If the regulations of this Chapter 25.09 require that an action be reasonable in connection with determining mitigation measures, environmental impacts, other adverse impacts, or alternative development, “reasonable” means that the action will allow a proposal to attain or approximate its objectives with the least impact to ecological function in consideration of the costs and alternatives. When considering the cost of an action, the cost of the action is compared to the nature of the project not to the personal financial status of the applicant.

2. If the regulations of this Chapter 25.09 require that an action be reasonable in determining location, “((R))reasonable alternative location” means a location that can accommodate the proposal’s objectives at the lowest level of impact to ecological function in consideration of the environmental, social, and economic impacts on the public and the cost to the applicant.

“Reasonable use of property” means the use of property to which its owner is entitled under the Constitution of the United States of America and the Washington State Constitution, as interpreted by the highest courts of those jurisdictions.

“Retaining structure” means any improvement built up or composed of parts joined together in some definite manner and affixed to the ground for the purposes of retaining earth or rocks, including but not limited to concrete retaining walls, mechanically stabilized earth systems, soil nails, or terracing((~~or flower bed frames~~)).

“Riparian watercourse” means a channel through which water flows as defined in subsection ((~~25.09.020 D5~~)) 25.09.012.D.5.

“Short subdivision” means the division or redivision of land into nine ((~~9~~)) or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, development, or financing, and shall include all resubdivision of previously platted land and properties divided for the purpose of sale or lease of townhouse units.

“Single-family residence” means single-family dwelling unit as defined in Section 23.84A.032 in the definition of “residential use.”

“Site” means the unit of land for which an applicant is receiving permission to carry out development.

“Species of local importance” means those species of fish or wildlife designated under ((~~S~~))subsection 25.09.200((~~E~~)).C.

“Stabilize” means to possess permanent characteristics, either naturally or by manmade improvements, which can be shown to have sufficient resistance to forces normally expected to occur, and those forces that

may occur as a result of ~~((a one (1) in one hundred (100) year event))~~ the Seattle Building Code design earthquake.

"~~Steep slope((s)) erosion hazard area~~" means an area described in subsection 25.09.012.A.3.b.5. ~~((slopes of forty percent (40%) inclination or more within a vertical elevation change of at least ten feet (10'). For the purpose of this definition, a slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten feet (10') of elevation difference. Also for the purpose of this definition:~~

~~(a) The "toe" of a slope means a distinct topographic break in slope that separates slopes inclined at less than forty percent (40%) from slopes inclined at forty percent (40%) or more. Where no distinct break exists, the "toe" of a slope is the lower most limit of the area where the ground surface drops ten feet (10') or more vertically within a horizontal distance of twenty-five feet (25'); and~~

~~(b) The "top" of a slope is a distinct topographic break in slope that separates slopes inclined at less than forty percent (40%) from slopes inclined at forty percent (40%) or more. Where no distinct break exists, the "top" of a slope is the upper most limit of the area where the ground surface drops ten feet (10') or more vertically within a horizontal distance of twenty-five feet (25) feet.~~

~~"Steep slope area" means an area described in subsection 25.09.020 A 3.)~~

"Street" means a right-of-way ~~((which))~~ that is intended to provide or ~~((which))~~ that provides a roadway for general vehicular circulation, is the principal means of vehicular access to abutting properties and includes space for utilities, pedestrian walkways, sidewalks, and drainage.

"Subdivision" means the division or redivision of land into ten ~~((10))~~ or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, ~~((and))~~ or transfer of ownership.

"Tree and vegetation management" means any action that involves organic plant life, including removing and replacing organic plant life with other organic plant life or other ground cover that is pervious or impervious or planting organic plant life where no organic plant life existed.

"Utility lines" means pipes, cables, or other linear conveyance systems used to transport power, water,

gas, oil, wastewater, or similar items.

"Vegetation" means any and all organic plant life growing on, below, or above the soil surface including trees.

"Wetland ((C))creation" means the creation of a wetland within an upland area.

"Wetland rehabilitation" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland.

Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Rehabilitation activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.

"Wetland ((R))restoration" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland.

Restoration results in rebuilding a former wetland and results in a gain in wetland acres and functions.

Restoration activities could include removing fill, plugging ditches, or breaking drain tiles.

"Wildlife" means all species of the animal kingdom as defined in RCW 77.08.010.

"Wildlife habitat" means and refers to those areas that support individual or populations of animals defined as wildlife for all or part of an annual cycle.

Section 41. Section 25.09.530 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

25.09.530 Construction ((-))

In any case where the provisions of this ((e))Chapter 25.09 conflict with the provisions of the underlying zoning or the Seattle Shoreline Master Program, the provisions of this ((e))Chapter 25.09 apply. For purposes of this ((e))Chapter 25.09, the singular includes the plural and vice versa, and the masculine gender includes the feminine and neutral genders.

Section 42. Section 25.05.305 of the Seattle Municipal Code, last amended by Ordinance 119096, is

amended as follows:

25.05.305 Categorical exemptions ((-))

A. Application and exception

1. If a proposal fits within any of the provisions in Subchapter IX of these rules, the proposal shall be categorically exempt from threshold determination requirements (Section 25.05.720) except ((as follows:)) for a proposal described in subsection 25.05.305.A.2.

~~((1. The proposal is not exempt under Section 25.05.908, environmentally critical areas;))~~

2. The proposal is not exempt if it is a segment of a proposal that includes:

a. A series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not, or

b. A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction. If so, that agency shall be the lead agency, unless the agencies with jurisdiction agree that another agency should be the lead agency. Agencies may petition the Washington State Department of Ecology to resolve disputes (Section 25.05.946), or may petition the Mayor to resolve disputes between City agencies (Section 25.05.910).

3. For ~~((such))~~ proposals described in subsection 25.05.305.A.2, the agency or applicant may proceed with the exempt aspects of the proposals, prior to conducting environmental review, if the requirements of Section 25.05.070 are met.

B. An agency is not required to document that a proposal is categorically exempt. Agencies may note on an application that a proposal is categorically exempt or place such a determination in agency files.

C. If requested by a private applicant, the responsible official shall make a preliminary determination as to the scope of a proposal and whether the proposal is categorically exempt within seven ~~((7))~~ days following submission of such request.

Section 43. Section 25.05.747 of the Seattle Municipal Code, last amended by Ordinance 119096 is repealed:

~~((25.05.747 Environmentally critical area.~~

~~"Environmentally critical area" means those areas designated by The City of Seattle Environmentally Critical Areas Policies and regulated and mapped in SMC Chapter 25.09, Regulations for Environmentally Critical Areas, and other City codes. Certain categorical exemptions do not apply within the following environmentally critical areas (Sections 25.05.305, 25.05.908, and Subchapter IX of these rules):~~

~~A. Landslide-prone areas, including, but not limited to, known landslide areas, potential landslide areas, and steep slopes of forty (40) percent average slope or greater;~~

~~B. Riparian corridors;~~

~~C. Wetlands; and~~

~~D. Fish and wildlife habitat conservation areas.))~~

Section 45. Section 25.05.800 of the Seattle Municipal Code, last amended by Ordinance 124885, is amended as follows:

25.05.800 Categorical exemptions

The proposed actions contained in this Section 25.05.800 are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in Section 25.05.305.

A. Minor new construction; flexible thresholds

1. The exemptions in this subsection 25.05.800.A apply to all licenses required to undertake the construction in question. To be exempt under this Section 25.05.800, the project shall be equal to or smaller than the exempt level. For a specific proposal, the exempt level in subsection 25.05.800.A.2 shall control. If the proposal is located in more than one city or county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency. The exemptions in this subsection 25.05.800.A apply except

when the project:

- a. Is undertaken wholly or partly on lands covered by water;
- b. Requires a license governing discharges to water that is not exempt under RCW

43.21C.0383;

- c. Requires a license governing emissions to air that is not exempt under RCW

43.21C.0381 or WAC 197-11-800 (7) or 197-11-800 (8); or

- d. Requires a land use decision that is not exempt under subsection 25.05.800.F.

2. The following types of construction are exempt, except when undertaken wholly or partly on lands covered by water ((~~or unless undertaken in environmentally critical areas listed in subsection 25.05.908.A~~)):

- a. The construction or location of residential or mixed-use development containing no more than the number of dwelling units identified in Table A for 25.05.800;

Table A for 25.05.800 Exemptions for residential uses		
Zone	Residential uses	
	Number of exempt dwelling units	
	Outside urban centers and urban villages containing SAODs	Within urban centers or urban villages containing SAODs
SF, RSL	4	4
LR1	4	20
LR2	6	20
LR3	8	20
NC1, NC2, NC3, C1, C2	4	20
MR, HR, SM, SM-SLU, SM-D, SM-NR	20	20
MPC-YT	NA	20
Downtown zones	NA	20
Industrial zones	4	4
Footnotes to Table A for 25.05.800((:)) SAOD = Station Area Overlay District NA = not applicable Urban centers and urban villages are identified in the Seattle Comprehensive Plan		

b. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet or less, and to be used only by the property owner or ~~((his or her))~~ the property owner's agent in the conduct of farming the property. This exemption does not apply to feed lots;

c. The construction of office, school, commercial, recreational, service, or storage buildings, containing no more than the gross floor area listed in Table B for 25.05.800 below:

Table B for 25.05.800 Exemptions for non-residential uses		
Zone	Non-residential uses	
	Exempt area of use (square feet of gross floor area)	
	Outside urban centers and urban villages containing SAODs	Within urban centers or urban villages containing SAODs
SF, RSL, LR1	4,000	4,000
LR2, LR3	4,000	12,000
MR, HR, NC1, NC2, NC3	4,000	12,000
C1, C2, SM, SM-SLU, SM-D, SM-NR	12,000	12,000
Industrial zones	12,000	12,000
MPC-YT	NA	12,000
Downtown zones	NA	12,000
Footnotes to Table B for 25.05.800 SAOD = Station Area Overlay District NA = not applicable Urban centers and urban villages are identified in the Seattle Comprehensive Plan		

d. The construction of a parking lot designed for 40 or fewer automobiles, as well as the addition of spaces to existing lots up to a total of 40 spaces;

e. Any fill or excavation of 500 cubic yards or less throughout the total lifetime of the fill or excavation; and any excavation, fill or grading necessary for an exempt project in subsections 25.05.800.A.2.a, 25.05.800.A.2.b, 25.05.800.A.2.c, or 25.05.800.A.2.d shall be exempt.

f. Mixed-use construction, including but not limited to projects combining residential and commercial uses, is exempt if each use, if considered separately, is exempt under the criteria of subsections

25.05.800.A.2.a through 25.05.800.A.2.d, unless the uses in combination may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction (see subsection 25.05.305.A.2.b);

g. In zones not specifically identified in this subsection 25.05.800.A, the standards for the most similar zone addressed by this subsection 25.05.800.A apply;

h. For the purposes of this subsection 25.05.800.A, "mixed-use development" means development having two or more principal uses, one of which is a residential use comprising 50 percent or more of the gross floor area;

i. To implement the requirements of Table A for 25.05.800 and Table B for 25.05.800, the Director shall establish exemption limits by rule for each urban center and each urban village containing a SAOD to assure that proposed development that could cause growth targets in Appendix A of the Comprehensive Plan's Urban Village Element to be exceeded is subject to SEPA review. The exemption limits shall contain a "cushion" to assure that development does not exceed growth targets without SEPA review, provided that the cushion shall be at least ~~((10))~~ ten percent of the residential or employment growth targets established in the Comprehensive Plan; and

j. The Director shall monitor residential and employment growth and publish quarterly a determination of growth for each urban center and urban village containing a SAOD. Residential growth shall include, but need not be limited to, net new units that have been built and net new units in projects that have received a building permit but have not received a certificate of occupancy. If the Director determines that exemption limits have been reached for an urban center or urban village containing a SAOD, subsequent development is not categorically exempt from SEPA review pursuant to RCW 43.21C.229.

B. Other minor new construction

1. The exemptions in this subsection 25.05.800.B apply to all licenses required to undertake the following types of proposals except when the project:

a. Is undertaken wholly or partly on lands covered by water;

- b. Requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;
 - c. Requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or subsection 25.05.800.H or subsection 25.05.800.I; or
 - d. Requires a land use decision that is not exempt under subsection 25.05.800.F.
- 2. The construction or designation of bus stops, loading zones, shelters, access facilities, and pull-out lanes for taxicabs, transit, and school vehicles;
 - 3. The construction and/or installation of commercial on-premises signs, and public signs and signals;
 - 4. The construction or installation of minor road and street improvements by any agency or private party that include the following:
 - a. Safety structures and equipment: Such as pavement marking, freeway surveillance and control systems, railroad protective devices (not including grade-separated crossings), grooving, glare screen, safety barriers, or energy attenuators;
 - b. Transportation corridor landscaping (including the application of state of Washington approved herbicides by licensed personnel for right-of-way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660);
 - c. Temporary traffic controls and detours;
 - d. Correction of substandard curves and intersections within existing rights-of-way or widening of a highway by less than a single lane width where capacity is not significantly increased and no new right-of-way is required;
 - e. Adding auxiliary lanes for localized purposes (e.g. weaving, climbing, and speed change), where capacity is not significantly increased and no new right-of-way is required;
 - f. Channelization and elimination of sight restrictions at intersections, street lighting,

guard rails, and barricade installation;

g. Installation of catchbasins and culverts for the purposes of road and street

improvements;

h. Reconstruction of existing roadbed (existing curb-to-curb in urban locations),

including adding or widening of shoulders where capacity is not increased and no new right-of-way is required;

i. Addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not

including additional automobile lanes;

5. Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections 25.05.800.A and 25.05.800.B, as well as fencing and the construction of small structures and minor accessory facilities;

6. Additions or modifications to or replacement of any building or facility exempted by subsections 25.05.800.A and 25.05.800.B when such addition, modification, or replacement will not change the character of the building or facility in a way that would remove it from an exempt class¹;

7. The demolition of any structure or facility, the construction of which would be exempted by subsections 25.05.800.A and 25.05.800.B, except for structures or facilities with recognized historical significance such as listing in a historic register¹;

8. The installation or removal of impervious underground or above-ground tanks, having a total capacity of 10,000 gallons or less except on agricultural and industrial lands. On agricultural and industrial lands, the installation or removal of impervious underground or above-ground tanks, having a total capacity of 60,000 gallons or less;

9. The vacation of streets or roads;

10. The installation of hydrological measuring devices, regardless of whether or not on lands covered by water;

11. The installation of any property, boundary, or survey marker, other than fences, regardless of

whether or not on lands covered by water;

12. The installation of accessory solar energy generation equipment on or attached to existing structures and facilities whereby the existing footprint and size of the building is not increased.

¹Footnote for subsections 25.05.800.B.6 and 25.05.800.B.7: Proposed actions that involve structures that exceed the following thresholds and that appear to meet criteria set forth in Chapter 25.12 for Landmark designation are subject to referral to the Department of Neighborhoods pursuant to Section 25.12.370:

Table A for Footnote (1) for 25.05.800.B.((5))<u>6</u> and 25.05.800.B.((6))<u>7</u>	
Zone	Residential uses Permit applications for addition, demolition, or replacement of structures with the following number of dwelling units are referred to for landmark review:
SF, RSL, LR1, NC1, NC2, NC3, C1, C2, Industrial zones	4
LR2	6
LR3	8
MR, HR, SM, SM-SLU, SM-D, SM-NR, Downtown zones	20

Table B for Footnote (1) for 25.05.800.B.((5))<u>6</u> and 25.05.800.B.((6))<u>7</u>	
Zone	Non-residential uses Permit applications for addition, modifications, demolition, or replacement of structures greater than the following square footage amounts are referred to for landmark review:
C1, C2, SM, SM-SLU, SM-D, SM-NR, Industrial zones	12,000
All other zones	4,000

* * *

Section 45. Section 25.05.900 of the Seattle Municipal Code, last amended by Ordinance 119096, is amended as follows:

25.05.900 Purpose of Seattle SEPA rules sections ((:))

(See WAC 197-11-900).

A. The City's SEPA policies designated as possible bases for the exercise of substantive authority under SEPA are set forth in Sections 25.05.665, 25.05.670, and 25.05.675.

~~B. ((The City's environmentally critical areas and the categorical exemptions which are inapplicable in such areas are set forth in Section 25.05.908.~~

~~C.)) Rules for designating the responsible department and responsible official when the City is the lead agency are provided in Section 25.05.910.~~

~~((D))~~C. Procedures on requests for consultation are provided in Section 25.05.912.

~~((E))~~D. Fees and costs for SEPA compliance for private projects are provided for in Section 25.05.914.

~~((F))~~E. The application of these rules to ongoing actions is provided in Section 25.05.916.

~~((G))~~F. Agencies with environmental expertise are provided in Section 25.05.920.

~~((H))~~G. Rules for determining the lead agency are provided in Sections 25.05.922 through 25.05.948.

Section 46. Section 25.05.908 of the Seattle Municipal Code, last amended by Ordinance 124919, is repealed:

~~((25.05.908 Environmentally critical areas.~~

~~A. Pursuant to WAC 197-11-908 and 197-11-305(1)(a), proposals identified in subsection (C) and located within the following environmentally critical areas are not categorically exempt from review under this chapter.~~

~~1. Landslide-prone areas, including, but not limited to, known landslide areas, potential landslide areas, and steep slopes of forty (40) percent average slope or greater;~~

~~2. Wetlands; and~~

~~3. Fish and wildlife habitat conservation areas.~~

~~B. The scope of environmental review of proposals within these environmental critical areas is limited~~

to:

1. Documenting whether the proposal is consistent with The City of Seattle Regulations for Environmentally Critical Areas, SMC Chapter 25.09; and
2. Evaluating potentially significant impacts on the environmentally critical area resources not adequately addressed in The City of Seattle Environmentally Critical Areas Policies or the requirements of SMC Chapter 25.09, Regulations for Environmentally Critical Areas, including any additional mitigation measures needed to protect the environmentally critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

C. The following types of development shall not be categorically exempt in designated environmentally critical areas (see Section 25.05.800), unless a development site has been determined to be exempt under the exemption provisions contained in Chapter 25.09, Regulations for Environmentally Critical Areas:

1. Minor new construction:
 - a. One (1) single family dwelling unit exceeding nine thousand (9,000) square feet of development coverage, or two (2) or more dwelling units;
 - b. Agricultural structures;
 - c. Office, school, commercial, recreational, service and storage buildings;
 - d. Parking lots;
 - e. Landfill or excavation;
2. Other minor new construction: construction/installation of minor road and street improvements, transportation corridor landscaping and herbicides for weed control;
3. Minor land use decisions: Short plats or short subdivisions;
4. Utilities: Chemical means to maintain design condition;
5. Natural resources management: Issuance of agricultural leases of one hundred (100) acres or less;

- ~~6. Issuance of leases for school sites;~~
- ~~7. Development of non-ATV recreational sites (twelve (12) campsites or less);~~
- ~~8. Chemical means to maintain public park or recreation land.~~

~~D. The Official Land Use Map of The City of Seattle contains overlays identifying the general boundaries of all known environmentally critical areas within the city, which reference The City of Seattle's Environmentally Critical Areas Maps to determine the general boundaries of each environmentally critical area. The Environmentally Critical Areas Maps specify those designated areas that are subject to SEPA pursuant to WAC 197-11-908. A copy of the maps shall be maintained in the SEPA Public Information Center.~~

~~The maps shall be used and amended as follows:~~

~~1. The maps are advisory and used by the Director of the Seattle Department of Construction and Inspections to provide guidance in determining applicability of SEPA to a property. If the Director of the Seattle Department of Construction and Inspections determines that a proposal is located in an area that has been incorrectly mapped as an environmentally critical area, then the Director shall apply SEPA in the same manner as would be applied in areas that are not environmentally critical.~~

~~2. The boundaries and contents of these designated environmentally critical areas maps may be amended by the Director following the environmentally critical areas maps amendment process as set forth in subsection 25.09.020.C of the regulations for environmentally critical areas.~~

~~E. Proposals that will be located within environmentally critical areas are to be treated no differently than other proposals under this chapter, except as stated in the prior subsection. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in an environmentally critical area.))~~

Section 47. Subsection 21.33.010.S of the Seattle Municipal Code, which section was last amended by Ordinance 124801, is amended as follows:

21.33.010 Definitions

* * *

S. “Riparian corridors” means the riparian watercourse and riparian management area as defined in subsection ~~((25.09.020.D.5.a))~~ 25.09.012.D.5.a.

* * *

Section 48. Section 22.170.050 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended by amending the following definitions:

22.170.050 Definitions

* * *

“Environmentally critical area” means an area designated in Section ~~((25.09.020))~~ 25.09.012.

* * *

“Geologic hazard area” has the meaning set forth in Section ~~((25.09.020, Environmentally critical areas definitions))~~ 25.09.012.

* * *

Section 49. Subsection 22.170.210.A of the Seattle Municipal Code, which section was last amended by Ordinance 124952, is amended as follows:

22.170.210 Grading in Areas of Special Flood Hazard

A. In addition to requirements for grading permit set forth in this code, all grading in areas of special flood hazard, as identified in the report entitled “Flood Insurance Study for King County, Washington and Incorporated Areas” and the accompanying Flood Insurance Rate Maps that are filed with the City Clerk in ~~((C.F.))~~ Clerk File 296948, is subject to additional standards and requirements, including floodplain development approval or a Floodplain Development License, as set forth in ~~((SMC))~~ Chapter 25.06~~((, the Seattle Floodplain Development Ordinance))~~. Grading in a flood-prone area as defined in ~~((SMC 25.09.020))~~ Section 25.09.012 is subject to the requirements of ~~((SMC))~~ Chapter 25.09~~((, Regulations for Environmentally Critical Areas))~~.

* * *

Section 50. Section 22.801.060 of the Seattle Municipal Code, last amended by Ordinance 124872, is amended by amending the following definition:

22.801.060 “E”

* * *

“Environmentally critical area” (ECA) means an area designated in Section ~~((25.09.020))~~ 25.09.012.

* * *

Section 51. Section 22.801.240 of the Seattle Municipal Code, last amended by Ordinance 124872, is amended by amending the following definition:

22.801.240 “W”

* * *

“Wetland” means a wetland designated under Section ~~((25.09.020))~~ 25.09.012.

* * *

Section 52. Subsection 22.807.020.A of the Seattle Municipal Code, which section was last amended by Ordinance 124919, is amended as follows:

22.807.020 Drainage control review and application requirements

A. Thresholds for ~~((Drainage Control Review))~~ drainage control review. Drainage control review and approval shall be required for any of the following:

1. Standard drainage control review and approval shall be required for the following:

- a. Any land disturbing activity encompassing an area of 750 square feet or more;
- b. Applications for either a master use permit or building permit that includes the cumulative addition of 750 square feet or more of land disturbing activity and/or new and replaced impervious surface;
- c. Applications for which a grading permit or approval is required pursuant to Chapter 22.170;

d. Applications for street use permits for the cumulative addition of 750 square feet or more of new and replaced impervious surface and land disturbing activity;

e. City public works projects or construction contracts, including contracts for day labor and other public works purchasing agreements, for the cumulative addition of 750 square feet or more of new and replaced impervious surface and/or land disturbing activity to the site, except for projects in a City-owned right-of-way and except for work performed for the operation and maintenance of park lands under the control or jurisdiction of the Department of Parks and Recreation;

f. Permit approvals and contracts that include any new or replaced impervious surface or any land disturbing activity on a site deemed a potentially hazardous location, as specified in Section 22.800.050 (Potentially Hazardous Locations);

g. Permit approvals that include any new impervious surface in a Category I peat settlement-prone area delineated pursuant to Section ((25.09.020)) 25.09.012;

h. Whenever an exception to a requirement set forth in this Subtitle VIII or in a rule promulgated under this Subtitle VIII is desired, whether or not review and approval would otherwise be required, including, but not limited to, alteration of natural drainage patterns or the obstruction of watercourses;
or

i. Whenever roadway project infeasibility pursuant to subsection 22.805.060.E is applied, whether or not review and approval would otherwise be required.

2. Large project drainage control review and approval shall be required for projects that include:

a. 5,000 square feet or more of new plus replaced hard surface;

b. 1 acre or more of land disturbing activity;

c. Conversion of $\frac{3}{4}$ acres or more of vegetation to lawn or landscaped area; or

d. Conversion of 2.5 acres or more of native vegetation to pasture.

3. The City may, by interagency agreement signed by the Directors of SPU and SDCI, waive the

drainage and erosion control permit and document requirements for property owned by public entities, when discharges for the property do not enter the public drainage system or the public combined sewer system.

Whether or not the public entities are required to obtain permits or submit documents, such entities are subject to the substantive requirements of this subtitle, unless exceptions are granted as set forth in Section 22.800.040.

* * *

Section 53. Subsection 22.900C.010.F of the Seattle Municipal Code, which section was last amended by Ordinance 124919, is amended as follows:

22.900C.010 Land use fees

* * *

F. Fees for all environmentally critical areas reviews apply to environmentally critical areas inside or outside the Shoreline District.

Table C-1 for 22.900C.010-LAND USE FEES	
* * *	
B. MISCELLANEOUS HOURLY LAND USE REVIEWS, RESEARCH, AND OTHER SERVICES	
Hours worked beyond those covered by minimum will be charged the Land Use hourly rate, unless otherwise specified on invoice.	
Type of Land Use Review	Minimum Land Use Review Fee
* * *	
38. Tree and Vegetation Restoration Review in threshold where SEPA is not required other than <u>25.09.320.A.3.c(2)(b))</u> <u>25.09.070.E.1.b)</u>	Land Use Hourly × 2

* * *

Section 54. Section 23.60A.156 of the Seattle Municipal Code, last amended by Ordinance 124750, is amended as follows:

23.60A.156 Standards for environmentally critical areas in the Shoreline District

* * *

C. Environmentally critical areas designation and location

1. Environmentally critical areas within the Shoreline District are geologic hazard areas, steep slope areas, flood-prone areas, wetlands, fish and wildlife habitat areas, and abandoned landfills, all as designated in Section ~~((25.09.020))~~ 25.09.012.

2. Environmentally critical areas are located as follows:

a. Areas designated in Section ~~((25.09.020))~~ 25.09.012 are geographically located pursuant to Section 25.09.030, except for priority habitat areas and shoreline setbacks, which are geographically located pursuant to subsection ~~((25.09.020.D.6))~~ 25.09.012.D.6 and Sections 23.60A.160 and 23.60A.167.

b. Wetlands and delineation of their boundaries pursuant to Chapter 25.09 shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements in lieu of the “Washington State Wetlands Identification and Delineation Manual” as adopted by Ecology (Publication #96-94).

* * *

F. Small project waivers

1. The small project waiver provisions in ~~((Section 25.09.055))~~ subsections 25.09.090.D, 25.09.160.G and 25.09.200.A.4 do not apply in the shoreline setback area.

2. Small project waivers for areas outside the shoreline setback area shall mitigate adverse impacts pursuant to subsection 23.60A.152.A and Section 23.60A.158, in addition to complying with the standards of ~~((Section 25.09.055))~~ subsections 25.09.090.D, 25.09.160.G and 25.09.200.A.4.

G. In applying the designation of flood-prone areas in subsection ~~((25.09.020.B))~~ 25.09.012.B, areas of special flood hazard as defined in Section 25.06.030 shall be determined using the Flood Insurance Rate Maps that accompany the Flood Insurance Study for King County, Washington and incorporated areas, dated May 16, 1995.

* * *

I. Development (~~(Standards)~~) standards for steep slope areas

1. Subsection (~~(25.09.180.B.2)~~) 25.09.090.B.2 does not apply to development on waterfront lots.
2. Applications for steep slope area variances under (~~(subsection 25.09.180.E)~~) Section 25.09.290 for developments on lots with a feeder-bluff in the Shoreline District shall use the shoreline variance standards and process in addition to complying with the standards in (~~(subsection 25.09.180.E)~~) Section 25.09.290. In applying these standards the applicant is required to demonstrate the development is necessary for reasonable use of the property instead of demonstrating hardship. If the Director authorizes a shoreline variance under these standards, relief shall be in the sequence in subsection (~~(25.09.180.E.2)~~) 25.09.290.D.
3. Applications for steep slope area variances under (~~(subsection 25.09.180.E)~~) Section 25.09.290 for developments in the Shoreline District not on waterfront lots with a feeder bluff shall use the shoreline variance standards and process in addition to complying with the standards in (~~(subsection 25.09.180.E)~~) Section 25.09.290. If the Director authorizes a variance under these standards, relief shall be in the sequence set out in subsection (~~(25.09.180.E.2)~~) 25.09.290.D.

J. Development standards for fish and wildlife habitat areas

1. Riparian corridors. If access is allowed within the Shoreline District over a watercourse in a riparian corridor under subsection 25.09.200.A.2.a, the Director shall require mitigation of impacts to ecological function, including the associated hyporheic zone, pursuant to Section 23.60A.158.
2. Priority habitat areas and shoreline setbacks that are designated critical areas in subsection (~~(25.09.020.D.6)~~) 25.09.012.D.6 are regulated as set out in Sections 23.60A.160 and 23.60A.167 and this Chapter 23.60A, the Shoreline Master Program, and not by Chapter 25.09, Regulations for Environmentally Critical Areas. Other types of environmentally critical areas, such as geologic hazard areas and wetlands, that are located within priority habitat areas or within a shoreline setback that is designated a critical area are regulated by the standards applicable to that type of critical area under this Section 23.60A.156.

K. Subdivisions and short subdivisions

1. The standards for short subdivisions and subdivisions Section 25.09.240 incorporated by reference into this Chapter 23.60A apply to short subdivisions and subdivisions in the Shoreline District, except as provided in subsections 23.60A.156.K.2 and 23.60A.156.K.3.

2. Subsection 25.09.240.B does not apply. Parcels shall be divided so that each lot contains an area for the principal structure, all accessory structures, and necessary walkways and access for this area that are outside the riparian corridor, wetlands, wetland buffers, and steep slope areas and buffers, except as follows:

a. Development on upland lots may be located on steep slope areas that have been created through previous legal grading activities, including rockeries or retaining walls resulting from rights-of-way improvements, if steep slope erosion is not increased as determined by the Director based on a geotechnical report; and

b. Development on upland lots may be located on steep slope areas that are less than 20 feet in vertical rise and that are 30 feet or more from other steep slope areas, if steep slope erosion is not increased as determined by the Director based on a geotechnical report.

3. Subsection 25.09.240.~~((E))~~G does not apply. In computing the number of lots a parcel in a single-family zone may contain, the Director shall exclude easements and/or fee simple property used for shared vehicular access to proposed lots that are required under Section 23.53.005.

* * *

N. Vegetation management within environmentally critical areas shall comply with Section 23.60A.190, and Section ~~((25.09.320))~~ 25.09.070 and subsection ~~((25.090.060.L))~~ 25.09.075 do not apply in the Shoreline District. In the Shoreline District critical area standards that require compliance with Section ~~((25.09.320))~~ 25.09.070 or subsection ~~((25.090.060.L))~~ 25.09.075 shall be construed to require compliance with Section 23.60A.190.

* * *

Section 55. Subsection 23.60A.160.B of the Seattle Municipal Code, which section was enacted by Ordinance 124105, is amended as follows:

23.60A.160 Standards for priority habitat protection

* * *

B. Priority saltwater habitat

1. The following are designated as priority saltwater habitat:

- a. Kelp beds;
- b. Eelgrass beds;
- c. Spawning and holding areas for forage fish, such as herring, smelt and sandlance;
- d. Subsistence, commercial and recreational shellfish beds;
- e. Mudflats;
- f. Intertidal habitats with vascular plants;
- g. Areas with which WDFW priority species have a primary association; and
- h. Habitat designated as priority saltwater habitat by the Director under ~~((25.09.200.E))~~

subsection 25.09.200.C.

2. Applicants for any permit in the Shoreline District shall provide an inventory containing the following information:

- a. Location and boundaries of all saltwater habitat on the lot and on adjacent lands within 35 feet of the lot lines, noting both total square footage and percentage of the lot;
- b. Location and boundaries of all existing development on the lot, on adjacent lands within 35 feet of the lot lines, and on the full width of abutting public and private rights-of-way and easements. This shall include the amounts of developmental coverage;
- c. Location and boundaries of non-disturbance areas on the lot that have been required by previous approvals; and

d. Location and boundaries of all proposed development, shoreline modifications and proposed disturbance areas on the lot and on the full width of abutting public and private rights-of-way and easements. This shall include the areas of developmental coverage, dredging, filling, or impervious surfaces and construction activity areas (noting total square footage and percentage of the lot occupied).

3. No structure, including but not limited to bulkheads, bridges, fill, floats, jetties, piles, utility crossings, and piers, except for piers that are regulated under subsection 23.60A.160.B.4, shall intrude into or over priority saltwater habitats unless the structure is allowed in the applicable shoreline environment, all development standards are met, and the applicant demonstrates that all of the conditions below are met:

a. The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;

b. It is not feasible to avoid adverse impacts to priority saltwater habitats by an alternative alignment or location or avoidance would result in unreasonable and disproportionate cost to accomplish the same general purpose; and

c. The project is consistent with the State's interest in resource protection and species recovery.

4. Private, noncommercial piers for single-family residential or community use may be authorized if the structure is allowed in the shoreline environment, all development standards are met, and the applicant demonstrates that it is not feasible to avoid adverse impacts to priority saltwater habitats by an alternative alignment or location.

5. Exceptions for priority saltwater habitat. If the shoreline habitat is classified as priority saltwater habitat because the habitat is used by anadromous fish for migration:

a. The provisions of this Section 23.60A.160 are waived for water-dependent development and uses, water-related development and uses that meet the definition of "Water-related use" #1 in

Section 23.60A.944; and

b. The proposed project shall comply with all other provisions of this Chapter 23.60A, including the requirement for no net loss of ecological function and Section 23.60A.158(~~(Mitigation sequencing)~~)).

Section 56. Subsection 23.60A.190.D of the Seattle Municipal Code, which section was last amended by Ordinance 124919, is amended as follows:

23.60A.190 Standards for vegetation and impervious surface management

* * *

D. Shoreline District landward of the OHW mark. Tree and (~~(V)~~)vegetation and impervious surface management activities are prohibited within the portion of the Shoreline District that is landward of the OHW mark, both within and outside the shoreline setback, except as follows or as otherwise provided in this Section 23.60A.190:

1. Normal and routine pruning and maintenance that promotes the health and vigor of trees and shrubs and maintenance of existing impervious surface is allowed as set out in this subsection 23.60A.190.D.1 without submitting an application and without complying with Section 23.60A.158 unless a violation has occurred:

a. Up to 750 square feet of trees and vegetative cover lawfully maintained prior to May 9, 2006;

b. Lawns paths and landscaping lawfully maintained prior to May 9, 2006, that were not in an environmentally critical area or buffer prior to May 9, 2006, but are in an environmentally critical area or buffer as a result of the passage of Ordinance 122050 enacting regulations for environmentally critical areas;

c. Steep slope areas created through previous legal grading activities, including rockeries or retaining walls resulting from right-of-way improvements, if no adverse impact on the steep slope or shoreline area will result;

d. Trees and vegetation specifically approved by permit prior to May 9, 2006, if the conditions of that permit are complied with;

e. Tree and ~~((V))~~vegetation ~~((and tree))~~ planting and removal approved by the Director under subsections ~~((25.09.320.A.3.b))~~ 25.09.070.D.2 and ~~((25.09.320.A.3.e))~~ 25.09.070.E.1 before June 15, 2015; and

f. Tree and ~~((V))~~vegetation ~~((and tree))~~ planting and removal shown on a plan filed with the Seattle Department of Construction and Inspections in compliance with subsection ~~((25.09.320.A.3.b))~~ 25.09.070.D.2 before June 15, 2015.

2. Actions taken under subsections 23.60A.190.D.1.d, 23.60A.190.D.1.e, and 23.60A.190.D.1.f are required to comply with the conditions on such permit or plans.

3. Removing trees is allowed if the Director determines the tree is a threat to health or safety based on a report prepared by a qualified professional with a Tree Risk Assessor certification as established by the Pacific Northwest Chapter of the International Society of Arboriculture (ISA) or equivalent experience and training and the removal is performed by or under the direction of a qualified professional. If a tree is removed from designated shorelines of statewide significance as defined by RCW 90.58.030, a shoreline conditional use permit is required.

4. Permits authorizing development, shoreline modifications and uses may authorize disturbance areas and land clearing using mitigation sequencing set forth in Section 23.60A.158 and complying with the following standards:

a. Any surface disturbed or cleared of vegetation and not to be used for development shall be planted with native vegetation, except that pre-disturbance landscaped areas containing non-native vegetation located farther than 100 feet from the OHW may be re-landscaped using non-native, noninvasive vegetation;

b. Mitigation required for subsection 23.60A.158.B.1.e (Step E) shall include a plan with

the vegetation areas and improvements required for project impacts; and

c. Mitigation required for subsection 23.60A.158.B.1.e (Step E) for the removal of trees shall include compensation for any loss of the contribution of woody debris into the adjacent aquatic environment.

* * *

Section 57. Section 23.60A.910 of the Seattle Municipal Code, enacted by Ordinance 124105, is amended by amending the following definition:

23.60A.910 Definitions-“E”

* * *

“Environmentally critical area” means wetlands, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas as designated in Section ((25.09.020)) 25.09.012 and located in Section 25.09.030, as incorporated by reference into Section 23.60A.156.

Section 58. Section 25.06.020 of the Seattle Municipal Code, last amended by Ordinance 124447, is amended as follows:

25.06.020 Purpose

The purpose of this Chapter 25.06 is to regulate development in areas of special flood hazard in accordance with standards established by the National Flood Insurance Program and the Washington State Department of Ecology and areas identified as flood-prone in subsection ((25.09.020.B)) 25.09.012.B. This Chapter 25.06 is intended to promote the public health, safety, and welfare and is not intended to protect or benefit any individual or any class or group of persons specifically, or to create or form the basis for any liability on the part of the City or its officers, employees, or agents in connection with administration of this Chapter 25.06. This Chapter 25.06 shall be administered by affected City departments and interpreted to accomplish its stated purpose.

Section 59. Section 25.06.040 of the Seattle Municipal Code, last amended by Ordinance 124447, is

amended as follows:

25.06.040 Applicability

This Chapter 25.06 shall apply to all areas of special flood hazards within the jurisdiction of The City of Seattle. This Chapter 25.06 shall also apply to flood-prone areas as defined in subsection ~~((25.09.020.B))~~ 25.09.012.B that are not located within areas of special flood hazards, as provided in this Chapter 25.06 by cross reference to subsection ~~((25.09.020.B))~~ 25.09.012.B.

Section 60. Section 25.06.100 of the Seattle Municipal Code, last amended by Ordinance 124447, is amended as follows:

25.06.100 General standards

In all areas of special flood hazards and in all other flood-prone areas defined in subsection ~~((25.09.020.B))~~ 25.09.012.B, the following standards are required:

* * *

Section 61. Section 25.06.110 of the Seattle Municipal Code, last amended by Ordinance 124447, is amended as follows:

25.06.110 Standards involving base flood elevations

If base flood elevation data has been provided under Section 25.06.050 or subsection 25.06.090.C, the standards of subsections 25.06.110.A through 25.06.110.E apply to areas of special flood hazards and to flood-prone areas defined in subsection ~~((25.09.020.B))~~ 25.09.012.B.

* * *

Section 62. Section 25.11.030 of the Seattle Municipal Code, last amended by Ordinance 122919, is amended as follows:

25.11.030 Exemptions ((-))

The following activities are exempt from the provisions of this chapter:

* * *

E. Tree removal approved as part of an Environmentally Critical Area tree and ~~((re))~~vegetation plan as provided in Section ~~((25.09.320))~~ 25.09.070;

* * *

Section 63. Subsection 25.11.040.C of the Seattle Municipal Code, last amended by Ordinance 123409, is amended as follows:

25.11.040 Restrictions on tree removal.

* * *

C. Tree removal in Environmentally Critical Areas shall comply with the provisions of Section ~~((25.09.320))~~ 25.09.070.

Section 64. This ordinance shall take effect and be in force on whichever is the later of: the effective date of approval and adoption by Ecology; or thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2017, and signed by me in open session in authentication of its passage this ____ day of _____, 2017.

President _____ of the City Council

Approved by me this ____ day of _____, 2017.

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2017.

Monica Martinez Simmons, City Clerk

(Seal)