



Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

Environmentally Critical Areas Exemptions, Relief from Prohibition on Development, and Modifications to Submittal Requirements —

Application Instructions and Submittal Requirements

Updated May 15, 2017

Note: When this Tip refers to ECA regulations that apply within the Shoreline District, please reference ECA regulations dated before May 15, 2017. When the Tip refers to ECA regulations that apply outside the Shoreline District, please reference ECA regulations dated May 15, 2017.

The City of Seattle environmentally critical areas (ECAs) ordinance (SMC Chapter 25.09) regulates development affecting landslide-prone areas, steep slope erosion hazard areas, liquefaction-prone areas, peat settlement-prone areas, abandoned landfills, flood-prone areas, wetlands, riparian corridors, and other fish and wildlife habitat conservation areas, and ECA buffers.

In some cases SDCI may allow departures from ECA code requirements. This Tip explains these possibilities, and includes instructions to apply for (1) an exemption to the ECA regulations, (2) other relief from the prohibition on steep slope erosion hazard area development, or (3) modification to submittal requirements.

When considering whether an exemption or relief from steep slope erosion hazard area development standards apply as part of a specific development proposal, SDCI determines whether there is an ECA or ECA buffer on the parcel (SMC 25.09.030.B). In some

cases, the presence or absence of an ECA can be determined as part of the pre-application site visit (PASV) process.

If not, the determination may be made as part of the Tip 327A application process or during the plan review process. We recommend that the presence or absence of an ECA be made as early as possible in the permit process since the presence of ECAs discovered during plan review can result in significant delays or redesign of your project.

To determine whether there is an ECA on the parcel, SDCI relies on the definition of the ECA (SMC 25.09.020 for projects within the Shoreline District and SMC 25.09.012 for projects outside the Shoreline District), maps, site surveys, completed PASV form, topographic maps, technical environmental analysis, and any other information necessary (SMC 25.09.030.A). In determining whether there is an ECA buffer on the parcel, SDCI also consults SMC 25.09.020.A.5 for projects within the Shoreline District and SMC 25.09.012.A.5 for projects outside the Shoreline District (parcel specific peat settlement-prone area), 25.09.160 (wetlands), and 25.09.180 (steep slopes) for projects within the Shoreline District and SMC 25.09.090 for projects outside the Shoreline District. If there is no ECA or buffer on the site, then exemption from Chapter 25.09 is not necessary because this chapter applies only to parcels that have ECA areas or ECA buffers.

ECA EXEMPTIONS

If granted, an ECA exemption relieves development from many of the provisions of the ECA chapter. Standards specified in Section 25.09.045, the exemption section of the ordinance apply, and include limits on development, conditions on development, the use of best management practices, and mitigation of ground disturbance and critical areas functions disturbed by development. Additionally, other standards also apply, even when an exemption is granted, including the general administrative provisions of SMC Section



25.09.017; how to determine the presence of an ECA and buffer per SMC Section 25.09.030.B; and the enforcement provisions of the ordinance.

Exemption applications must be part of a specific development proposal (SMC 25.09.045.A.2). Exemptions from the ECA standards may be allowed for the following (see Section 25.09.045 of the ECA regulations for more detailed information):

1. Development that does not temporarily or permanently encroach within, alter, or increase the impact to the ECA or buffer on the parcel where the development occurs; but removing existing development and replacing it is not exempt (SMC 25.09.045D, for projects within the Shoreline District and SMC 25.09.045.E for projects outside the Shoreline District).
2. Work directly related to ending a condition that is both (1) an immediate threat to the public health, safety and welfare, or creates an immediate risk of damage to public or private property and (2) requires remedial or preventive action in a timeframe too short to allow compliance with the application provisions of this chapter; but the work done must be the minimum needed, the work must comply with the chapter's requirements to the extent practicable and related work after that time period is not exempt (SMC 25.09.045.E for projects within the Shoreline District and SMC 25.09.045.G for projects outside the Shoreline District).
3. Maintenance, repair, interior renovation, or interior structural alteration, or window, siding or roof replacement of an existing development. The change to existing development cannot increase the size of the development as determined from the "plan view;" the project does not increase the impact, encroach further within, or further alter an ECA or buffer (SMC 25.09.045.F).
4. For projects within the Shoreline District: Rebuilding or replacing structures that are destroyed by an act of nature, if replaced to the same footprint and height of the destroyed structure and there is no increase in nonconformity within the ECA regulations is allowed. Work on these structures must be commenced within one year (SMC 25.09.045.G) For replacing structures outside the Shoreline Districts see SMC 25.09.052).
5. Certain electric, natural gas, cable communications, telephone, public facility and utility, and right-of-way improvement projects when the project is not a prerequisite to development. This exemption will only be approved when it can be demonstrated that (1)

no practicable alternative with less impact exists, (2) the encroachment into a critical area is minimized to the greatest extent practicable, and (3) mitigation measures are employed before, during and after construction. (SMC 25.09.045.H and 25.09.065 for projects outside the Shoreline District).

6. Normal and routine operation, structural maintenance, remodeling, repair, and removal of existing public facilities and utilities, when these activities do not result in substantial disturbance or adverse impacts of ECAs or buffers (SMC 25.09.045.I).
7. Normal and routine (a) pruning, (b) tree and vegetation maintenance and management, and (c) revegetation using native trees and vegetation when they both (1) do not result in substantial disturbance or adverse impacts of environmentally critical areas or buffers and (2) are carried out in parks, public utility rights-of-way, and publicly owned open spaces by the public agencies that are responsible for them (25.09.045.J).

Exemptions for some projects, except for those in wetlands or riparian corridors, may be approved by a permit leader or permit specialist at the counter if sufficient information is presented for this determination. Types of exemptions most frequently granted in this way are for routine repair and maintenance of existing structures and correction of emergency conditions. The staff member you speak with will be able to identify requests that trigger the need for a more formal application with documentation for review by the Director. They will also be able to provide you with procedural information about submittal and review of an exemption request.

Applicants can obtain ECA information online at www.seattle.gov/dpd/codesrules/codes/environmentally-criticalareas.

RELIEF FROM PROHIBITION ON STEEP SLOPE EROSION HAZARD AREA DEVELOPMENT

The ECA Code does not allow development in steep slope erosion hazard areas or steep slope buffers unless you obtain "Relief from Prohibition on Steep Slope Erosion Hazard Area Development" or an ECA Steep Slope Erosion Hazard Area Variance. When you apply for Relief from Prohibition on Steep Slope Erosion Hazard Area Development (Relief), we decide whether your projects fits one of the following four criteria to obtain Relief as described below (and more completely in SMC 25.09.180.B.2 for projects within

the Shoreline District and SMC 25.09.090.B.2 for projects outside the Shoreline District):

- a. When development is located within the footprint of lawfully constructed structures or paved areas (not including landscaped areas or areas that have been graded), if the impact on the steep slope area is not altered or increased (e.g. a legal structure in a steep slope area/buffer could be replaced in the same location).
- b. When development is located on steep slope erosion hazard areas that have been 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 area will result. This provision does not extend beyond the cut or fill created by the street, alley, sidewalk or other right-of-way improvement. This provision also does not apply if the original ground surface was a steep slope and the legal grading made the slope steeper.
- c. When development is located on steep slope erosion hazard areas that are less than 20 feet in vertical rise and that are 30 feet or more from other steep slope erosion hazard areas, if no adverse impact on the steep slope area will result.
- d. When the Director determines, based on geotechnical expertise, that stabilization of the steep slope area is necessary to mitigate an active landslide hazard. The stabilization measure must be the minimum necessary to mitigate the landslide hazard and use the least intrusive option possible. This provision for “necessary stabilization” may not be used to create new flat yard areas in steep slope areas and their buffers. Steep slope erosion hazard areas and buffers stabilized under this provision cannot be considered as areas of existing development for The applicant must also show that there will be no adverse impact on the stability or erosion potential of the steep slope erosion hazard area.

Relief from Prohibition on Steep Slope Development (as described above and in SMC 25.09.180.B.2 for projects within the Shoreline District and SMC 25.09.090.B.2 for projects outside the Shoreline District) cannot be obtained on waterfront lots in the Shoreline District (see SMC 23.60A.156.I). A Shoreline Variance is required to develop in steep slope areas and buffers on waterfront lots. It is important that you determine whether your development is on a waterfront lot prior to applying for Relief. You may consult

with a Land Use Planner in the Applicant Services Center for more information.

IMPORTANT NOTE: Areas that meet the criteria for relief from prohibition on steep slope erosion hazard area development are still considered environmentally critical areas. Relief from prohibition on steep slope erosion hazard area development is not an ECA exemption under SMC 25.09.045. If we grant relief, projects are still subject to ECA review, steep slope drainage control, and tree and vegetation regulations, as well as applicable landslide-prone area regulations of the ECA ordinance and any applicable geotechnical requirements under the Grading Code and the Stormwater Code. In addition, some of these projects may need review under the State Environmental Policy Act (SEPA). Applications for Relief must be part of a specific development proposal.

MODIFICATIONS TO SUBMITTAL REQUIREMENTS

Modifications to ECA submittal requirements may be allowed in the following situations under Section 25.09.330 and Director’s Rule 3-2007 or subsequent rules:

- a. When the applicant demonstrates to the satisfaction of SDCI that complete submittals are not necessary to review the proposal for compliance with the substantive requirements of the ECA regulations. The applicant must document the reasons for a requested modification to the submittal requirements.
- b. In cases where the applicant has requested but been denied permission for a surveyor to obtain right of entry to adjoining properties. If this is the case, SDCI may allow a modification to the surveyed site plan required as detailed in Tip 103B, ECA Site Plan Requirements, and normally used to show topographic conditions on neighboring properties. SDCI may allow the surveyor to indicate on the survey the general conditions of the off-site areas. This modification to the survey requirements will only be allowed when the applicant demonstrates that entry has been denied and that this off-site survey information is not necessary to review the proposed development and protect the public safety and prevent harm to the environment. In these cases, the surveyor shall always indicate on the face of the survey what information is estimated, including general observations. The applicant shall describe in writing what efforts were made to obtain right of entry for the off-site areas and provide a

signed statement verifying that the request for entry has been denied.

APPLICATION INSTRUCTIONS

All requests must be part of a specific development proposal and should be submitted before you apply for your permit application. To submit the exemption, relief, or modification request, you'll need to first complete a preliminary application and pay the fee for your pre-application site visit (if the visit is required for your project).

A pre-application site visit (PASV) is required for most projects that involve ground disturbance. Begin your preliminary application and request your site visit. Once the site visit has been completed and you have received your PASV report you may apply for the exemption or relief online via the SDCI Project Portal (<http://web6.seattle.gov/dpd/eplan>) using the "Request for Exemption" link on the left side of the SDCI Project Portal.

The forms attached to this Tip will help you prepare the information you need to submit your application. You do not need to submit the forms; you'll enter the information directly into the Portal.

There is an hourly review fee for ECA exemption requests, relief from steep slope requirements, and modifications to ECA submittal requirements applications. You must pay the initial minimum review fee when you apply; it is non-refundable once we begin review of the request.

We recommend that you speak with a permit leader or a permit specialist before submitting your exemption request. Visit the SDCI Applicant Services Center, located on the 20th floor of Seattle Municipal Tower.

REVIEW PROCESS

After an application is submitted, it will be reviewed and analyzed by SDCI staff. We may ask for additional information during the review process.

The SDCI Director's decision on a request for an ECA exemption under SMC 25.09.045 or for relief from steep slope requirements under SMC 25.09.180.B.2 for projects within the Shoreline District and SMC 25.09.090.B.2 for projects outside the Shoreline District) is a Final decision that may be reviewed and modified by requesting an Interpretation under SMC 23.88.020. An Interpretation is required before seeking judicial review.

OTHER ECA-RELATED DOCUMENTS

- **Director's Rule 3-2007**, [Application Submittal Requirements in Environmentally Critical Areas](#)
- **Tip 103B**, [Environmentally Critical Area Site Plan Requirements](#)
- **Tip 209**, [Application Requirements for Shoreline Permits](#)
- **Tip 324**, [Reducing Landslide and Stormwater Erosion Damage: What You Can Do](#)
- **Tip 327b**, [Environmentally Critical Areas — Small Project Waivers](#)
- **Tip 328**, [Environmentally Critical Areas Exceptions](#)
- **Tip 329**, [Environmentally Critical Areas Administrative Conditional Use Permit](#)
- **Tip 330**, [Environmentally Critical Areas Yard & Setback, Steep Slope Erosion Hazard and Wetland Buffer Variances — Application Instructions and Submittal Requirements](#)
- **Tip 331**, [Environmentally Critical Areas — Tree and Vegetation Overview](#)
- **Tip 331A**, [Environmentally Critical Areas: Vegetation Restoration](#)
- **Tip 331B**, [Hazard Trees](#)

Access to Information

Links to electronic versions of **SDCI publications are available on the "Tools and Resources"** page of our website at www.seattle.gov/sdcj. Paper copies are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.

SITE, PROJECT, AND OWNER/AGENT INFORMATION

Site Address: _____

Description of proposed project: _____

Please describe the reasons for your request: _____

Request must be part of a specific development proposal submitted for Seattle DCI review and apply only to that proposal. Please provide the assigned SDCI project number for the proposal:

Property Owner's Name: _____

Residence Address: _____

City/State/Zip Code: _____

Telephone: _____

Agent's Name: _____

Address: _____

City/State/Zip Code: _____

Telephone: _____

Applicant's Signature: _____

Date of Application: _____

TO BE COMPLETED BY SDCI STAFF

Meets Criteria Does Not Meet Criteria

Reviewer _____ Date _____

Explanation or Conditions:

To obtain review of a decision on an application under SMC 25.09.045, an interpretation must be requested under SMC 23.88.020.



SDCI Project No. _____

REQUEST FOR RELIEF FROM PROHIBITION ON STEEP SLOPE DEVELOPMENT OR MODIFICATION TO ECA SUBMITTAL REQUIREMENTS

TO BE COMPLETED BY APPLICANT

ECAS AND/OR BUFFERS MAPPED OR IDENTIFIED ON SITE

Geologic Hazard Areas

- Steep Slope
 Potential Slide due to Geologic Conditions
 Known Slide
 Liquefaction-prone
 Peat Settlement-prone

Fish and Wildlife Habitat Conservation Areas

- Riparian Corridor (includes Riparian Management Area)
 Other Fish and Wildlife Habitat Area

Other

- Wetland
 Wetland Buffer
 Flood-prone
 Abandoned landfill

TYPE OF APPLICATION

- Relief from Prohibition on Steep Slope Development under Section 25.09.180B. Choose any that apply (Not an ECA exemption. Project subject to ECA review**.)**
- Proposed development is located where existing development is located, with no increase in impact on the steep slope [B2a]
 - Proposed development is located on steep slope areas created through previous legal grading activities [B2b]
 - Proposed development is 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, and no adverse impacts on the ECA will occur [B2c]
 - Application of development standards would prevent necessary stabilization of a landslide prone area [B2d]
- Modification to submittal requirements (not an ECA exemption. Project subject to ECA review**).** Request for modification to application submittal requirements per Director's Rule 3-2007. If more than one ECA is mapped or identified on the site, indicate applicable ECA for which modified submittal requirements are requested.

FOR SDCI INTERNAL USE ONLY
SS:REDV
SS:GRAD
SS:ISOL
SS:STAB

*For Shoreline Habitat and buffer, regulations in SMC 23.60 also apply. A Shoreline Substantial Development Permit (SSDP) or Exemption may be required. See Tip 209A for information about exemptions from SSDP.

**Development may also be subject to SEPA. See Tip 208, *When Environmental Review is Required in the City of Seattle.*

SITE, PROJECT, AND OWNER/AGENT INFORMATION

Site Address: _____

Description of proposed project: _____

Please describe the reasons for your request: _____

Request must be part of a specific development proposal submitted for SDCI review and apply only to that proposal. Please provide the assigned SDCI project number for the proposal:

Property Owner's Name: _____

Residence Address: _____

City/State/Zip Code: _____

Telephone: _____

Agent's Name: _____

Address: _____

City/State/Zip Code: _____

Telephone: _____

Applicant's Signature: _____

Date of Application: _____

TO BE COMPLETED BY SDCI STAFF

Meets Criteria

Does Not Meet Criteria

Reviewer _____ Date _____

Explanation or Conditions:

To obtain review of a decision on an application under SMC 25.09.180B, an interpretation must be requested under SMC 23.88.020.