

Seattle Permits

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

Environmentally Critical Areas Exemptions and Modifications to Submittal Requirements—

Application Instructions and Submittal Requirements

Updated May 31, 2006

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

In some cases DPD may allow exemptions to the ECA regulations or permit small projects to be built within these areas. This Client Assistance Memo (CAM) explains these possibilities.

Before considering whether an exemption applies, DPD determines whether there is an ECA or ECA buffer on the parcel (SMC 25.09.030 B). To determine whether there is an ECA on the parcel, DPD relies on the definition of the ECA (SMC 25.09.020), maps, site surveys, 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, DPD also consults SMC 25.09.160 (wetlands), 25.09.180 (steep slopes), and 25.09.200 B (shorelines). 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 exemption relieves development from all the provisions of the ECA chapter, except for those standards specified in the exemption section of the

ordinance (SMC 25.09.180). These standards include limits on development, conditions on development and the use of best management practices. 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 25.09.030B; and the enforcement provisions of the ordinance.

Exemption applications must be part of a specific development proposal (SMC 25.09.045 A2). 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 25.09.045 D)
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. (SMC 25.09.045 E)
3. 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 ECA or buffer. (SMC 25.09.045 F)
4. Rebuilding or replacing structures that are destroyed by an act of nature is exempt from the provisions of this chapter. Expansion or extension which increases nonconformity with the ECA regulations is not permitted. Structures damaged by an act of nature may be reconstructed or replaced within one year. (SMC 25.09.045 G)
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 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 25.09.045H)

6. Normal and routine operation, maintenance, remodeling, repair, and removal of existing public facilities and utilities is exempt from the provisions of this chapter when these activities do not result in substantial disturbance of ECAs or buffers. (SMC 25.09.045I)
7. Normal and routine (a) pruning, (b) tree and vegetation maintenance and management, and (c) revegetation are exempt from the provisions of the ECA ordinance when they both (1) do not result in substantial disturbance 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, including City agencies, that are responsible for them.

STEEP SLOPE STANDARDS

Steep slope development standards do not apply in the following situations, even though these are not exemptions under (SMC 25.09.045):

- a. In any downtown or highrise zone (not a steep slope critical area by definition under SMC 25.09.020 A4)
- b. When development is located where existing development is located, if the impact on the steep slope area is not altered or increased (See SMC Section 25.09.180 B for more detailed information)
- c. When development is 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 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 rights-of-way improvement, and does not release the applicant from any applicable geotechnical review requirements under the *Stormwater, Grading and Drainage Code*. (See Section 25.09.180 B for more detailed information)
- d. When 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, if no adverse impact on the steep slope area will result. (See Section 25.09.180 B for detailed information.)
- e. When the Director determines, based on geotechnical expertise, that application of the steep slope regulations would prevent necessary stabilization of a landslide-prone area, subject to the provisions

of Section 25.09.080 C, Third-party Review. (See Section 25.09.180 B for more detailed information.)

IMPORTANT NOTE: These projects are still subject to steep-slope drainage control and tree and vegetation regulations, as well as applicable landslide-prone area regulations of this chapter.

EXEMPTION APPLICATION INSTRUCTIONS (See attached form)

All requests for exemptions must be part of a specific development proposal.

Applicants should speak with a permit leader or a permit specialist by visiting the DPD Applicant Services Center (ASC), located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave.

Applicants can also obtain ECA information online at www.seattle.gov/dpd/planning/ECAupdate.

Minor exemptions 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, correction of threatening or emergency conditions or replacement of structures destroyed by an act of nature (subject to limitations). 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.

When required, applications for ECA exemptions and modifications to ECA submittal requirements are filed with a permit technician at the Public Resource Center (PRC), also located on the 20th floor of the Seattle Municipal Tower; an appointment is not necessary.

There is a fee for ECA exemptions or modifications to ECA submittal requirements applications requiring documentation and review. This fee may be revised annually and is collected at the time of application. Once analysis of research begins on an application, the fee is non-refundable.

Attached is the application form for ECA exemptions and modifications to ECA submittal requirements requests. This application form lists the information necessary to submit a complete application. It must be fully completed with the required information and documentation attached before it can be accepted by staff. Additional information may be requested of the applicant during the review process.

REVIEW PROCESS

After an application is submitted, it will be reviewed and analyzed by DPD staff. The DPD Director's decision on the request is final.

SMALL PROJECT WAIVERS

Minor development projects comprising no more than 750 square feet may intrude into an ECA or buffers subject to simplified conditions, instead of the full requirements of the ECA ordinance using the "small project waiver" per SMC Section 25.09.055. This small project waiver allows for limited disturbance of ECAs and ECA buffers as indicated below:

- up to 150 square feet in riparian management areas and wetland buffers
- up to 300 square feet in steep slope areas or buffers
- up to 750 square feet in landslide-prone (except steep slope areas), liquefaction-prone, flood-prone and abandoned landfill areas

These disturbance allowances are cumulative, therefore no further development in the ECA is allowed under the provision once the square foot maximum has been reached. In flood-prone areas, development is regulated through the SMC 25.06, *Seattle Floodplain Development Ordinance*, and this proposed "small project waiver" does not supersede the authority of SMC chapter 25.06. In all cases, protective fencing is required to be installed at no more than 10 feet from the foundation line to protect the remainder of the critical area. The Director may require additional measures as appropriate to protect the critical area.

For the purposes of this section, development disturbance in the critical area and its buffer shall be determined by using the coverage of the proposed development, and previously permitted development since Oct. 31, 1992, as seen from a "bird's-eye" view. All portions of the structure, including eaves and other projections, shall be included in this coverage calculation for the portions of structure proposed in the critical area and its buffer. The proposed structure should be fully dimensioned on the project site plan, and calculations for the ECA/buffer disturbance area shall be provided on the site plan as well.

The Director may approve these new accessory structures or additions to existing structures provided that no construction occurs over or in a water course, water body, or wetland, when 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 Oct. 31, 1992.

2. It is not possible to build the accessory structure or addition to an existing structure for the intended purpose out of the ECA or buffer.
3. The location of the accessory structure or addition to an existing structure keeps impact on the ECA and buffer to a minimum.
4. 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.

Required Mitigation for Projects Using the Small Project Waiver

Mitigation in the form of new native plantings in the critical area or buffer will be required to offset any impacts resulting from the removal or disturbance of natural vegetation in the ECA and buffer areas due to the small project construction. The intent of this provision is to ensure that re-vegetation of all disturbed areas occurs, with native plantings that will help ensure long-term restoration of natural habitat.

Lawns and manicured landscape areas are not included in the areas that require replanting with native vegetation. The Director does, however, strongly encourage the restoration and maintenance of these existing landscaped areas in order to protect against erosion control and restore the existing planting condition.

Basic directions for preparing a planting mitigation plan can be found by obtaining a copy of the *ECA Standard Mitigation Plan*, available in the ASC. In addition, other resources for identifying native plant choices that work well for your particular site conditions, as well as planting and maintenance information, can be found at the following websites:

- DPD's Tree & Landscaping Regulations Website www.seattle.gov/dpd/codes/Tree_Landscaping_Regulations
- Washington State University's Master Gardener Website - <http://mastergardener.wsu.edu>
- Washington State University's Native Plant Website - <http://gardening.wsu.edu/text/nwnative.htm>
- King County's Native Plant Nursery's list - <http://dnr.metrokc.gov/wlr/pi/Go-Native/plant-list.htm>
- King County's Noxious Weed Program Website - <http://dnr.metrokc.gov/Weeds>

Plan Submittal Requirements for Small Project Waiver

Small project waivers will be reviewed as part of the permit application for the proposed development. In addition to the normal plan, documentation that is required for an addition, alteration or new accessory structure, some additional specific information will be required to assist in reviewing the ECA small project waiver. At a minimum, projects desiring to utilize the small project waiver must include the following documentation on their project site plan and/or the *ECA Standard Mitigation Plan*:

1. ECA is clearly delineated.
2. ECA buffer is clearly dimensioned and delineated.
3. The area of encroachment into the ECA and/or buffer of the proposed addition or new accessory structure is fully dimensioned, and the calculations of the structures disturbance of ECA/buffer areas are shown.
4. Protective fencing to limit the areas of construction disturbance is delineated.
5. Landscaping information or a separate landscape plan showing:
 - Existing lawn and manicured landscape areas are clearly documented, as well as areas of existing undisturbed natural vegetation, especially in the critical area and buffer areas.
 - Rough dimensions of disturbed natural vegetation areas, and the related calculations that determine the mitigation planting required. Where possible, species of natural vegetation should be noted.
 - Proposed native plantings for the re-vegetation plan, showing size, spacing and species of plantings. Refer to the standard mitigation plan.

Application Instructions for Small Project Waiver

Applicants should seek coaching in the ASC. A permit specialist or land use planner can inform you about the specific permit process that will apply to your project scope and provide applications, forms and other information to help you in your plan preparation. Small project waivers will be reviewed as part of your permit application once you submit your project for review.

ECA MODIFICATIONS TO SUBMITTAL REQUIREMENTS (See attached form)

Modifications to ECA submittal requirements may be allowed in the following situations:

- a. When the applicant demonstrates to the satisfaction of DPD that complete submittals are not necessary

in order 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, DPD may allow a modification to the surveyed site plan required as detailed in CAM 103B, *ECA Site Plan Requirements*, and normally used to show topographic conditions on neighboring properties. DPD 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.

OTHER ECA-RELATED DOCUMENTS

- **Director's Rule 3-2007**, *Application Submittal Requirements in Environmentally Critical Areas*
- **CAM 103B**, *ECA Site Plan Requirements*
- **CAM 324**, *Reducing Landslide and Stormwater Erosion Damage: What You Can Do*
- **CAM 328**, *ECA Exception—Application Instructions and Submittal Requirements*
- **CAM 329**, *ECA Administrative Conditional Use Permit—Application Instructions and Submittal Requirements*
- **CAM 330**, *ECA Yard and Setback Variance—Application Instructions and Submittal Requirements*
- **CAM 331**, *ECA: Tree and Vegetation Overview*
- **CAM 331A**, *ECA: Vegetation Restoration*
- **CAM 331B**, *ECA: Hazard Trees*

Access to Information

Links to electronic versions of DPD publications are available on the "Publications" page of our website at www.seattle.gov/dpd. 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.



Application Form for Environmentally Critical Areas

**ECA EXEMPTION & MODIFICATIONS
 TO SUBMITTAL REQUIREMENTS REQUESTS**

T O B E C O M P L E T E D B Y A P P L I C A N T

TYPE OF APPLICATION

- Proposed development is outside the ECA and its buffers and imposes no additional impact to the ECA [Section 25.09.045.D]
- Steep Slope Exemption [Section 25.09.180.B]

Choose any that apply:

- Development is located on a slope less than 20' in vertical rise, 30' or more away from other steep slopes and no adverse impacts on the ECA will occur. [B2c]
- Steep slope is the result of legal grading activities. [B2b]
- Proposed development is on an already developed site, with no increase in impact on the ECA. [B2a]
- Application of development standards would prevent necessary stabilization of a landslide-prone area. [B2d]
- Request is for modification to submittal requirements (per DPD Director's Rule 3-2007).

SITE AND PROJECT INFORMATION

Site Address: _____

Description of proposed project: _____

Please describe the reasons for your request: _____

Exemption requests must be part of a specific development proposal. Please enter the assigned DPD project number here: _____

TO BE COMPLETED BY APPLICANT

PROPERTY OWNER/AGENT INFORMATION

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 DPD STAFF

Intake Staff: _____ Fee: _____

Analyst: _____ Date: _____

Zone: _____ Land Use Map number: _____

Type of Critical Area: _____

Result of review:
 Approved: _____

Denied: _____

ALL APPLICATIONS MUST INCLUDE THE FOLLOWING

1. The following information is required with each type of application:
 - a. **ECA EXEMPTIONS.** You must prepare and submit detailed written information and documentation related to the requirements for exemptions listed in Section 25.09.040 and 25.09.180 of the ECA regulations. Additional information and technical documentation may be required to make a decision about the exemption request.
 - b. **MODIFICATIONS TO ECA SUBMITTAL REQUIREMENTS.** You must prepare and submit in writing the reasons for a modification to the submittal requirements, specifically addressing the submittal requirements requested to be modified. You are responsible for proving that full compliance with the submittal requirements is not necessary to review the proposal for compliance with the substantive requirements of the ECA regulations.
2. In some instances detailed site information as described in DPD Client Assistance Memo 103B, *ECA Site Plan Requirements*, is either required or may be requested to make a decision on ECA exemptions or modifications to ECA submittal requirements.

ADDITIONAL REQUIREMENTS

The Director may require the following technical reports:

- _____ a. Vegetation and Revegetation Report
 - _____ b. Soils Report
 - _____ c. Geology Report
 - _____ d. Hydrology Report
 - _____ e. Wetlands/Riparian Corridor Report
 - _____ f. Other reports as required by the Director
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