

SDCI

Director's Rule 13-2018

Applicant: City of Seattle Department of Construction and Inspections (SDCI)	Page 1 of 6	Supersedes: 5-2007
	Publication: 5/25/17	Effective: 4/9/18
Subject: Great Blue Heron Management	Code and Section Reference: Seattle Environmentally Critical Areas Ordinance SMC 25.09.200.D	
	Type of Rule: Code Interpretation	
	Ordinance Authority: SMC 3.06.040	
Index: Environmentally Critical Areas	Approved	Date
	(signature on file) Nathan Torgelson, Director, SDCI	4/6/2018

BACKGROUND AND PURPOSE:

Great blue herons (*Ardea herodias*) can be vulnerable because of their tendency to aggregate during their breeding season. These colonial breeders nest in a variety of deciduous and evergreen tree species. Nests are usually constructed in the tallest trees available, presumably to reduce the risk of predation by mammals. The availability of suitable great blue heron breeding habitat is declining as human population increases. Great blue herons and their nests are protected under the federal Migratory Bird Treaty Act, RCW 77.15.130 (Protected fish or wildlife -- Unlawful taking), as a Priority Species by Washington Department of Fish and Wildlife (WDFW), and as a Species of Local Importance by Seattle's Regulations for Environmentally Critical Areas (SMC 25.09).

Statewide, WDFW recommends a permanent, year-round buffer of 60 meters (197-feet) from the outermost most nest trees of the great blue heron nesting colony for urban areas (Azerrad 2012; <http://wdfw.wa.gov/publications/01371>). Additional WDFW management recommendations include a seasonal buffer of 200 meters (656 feet) for loud noises, such as outdoor construction and 400 meters (1,320 feet) for extremely loud noises, such as the use of jack hammers and blasting (Azerrad 2012). The seasonal buffer is measured from the outside edge of the year-round buffer (Azerrad 2012). WDFW recommends that local land use planning should, when possible, protect existing great blue

heron colonies using colony site-specific management plans that consider the colony size, location, relative isolation, and degree of habituation to human disturbance.

SDCI recommends that any newly identified pre-nesting areas be mapped and studied to determine if these areas require additional protection beyond the current great blue heron management area, and that these areas be monitored by professionally trained personnel to determine if the same level of protection suggested by WDFW, should be triggered during the January 1 through March 31 pre-nesting congregations each year. Published updates to this rule, resulting from any new mapping or studies, would indicate any changes in protection.

RULE:

A 197-foot year-round buffer is established for great blue heron nesting colonies. Seasonal buffers shall be 500 feet for the Kiwanis and North Beach ravines, and 300 feet for all other nesting colonies. If development is proposed within a great blue heron management area or pre-nesting area as defined by this rule, then development conditions found in Appendix I (Great Blue Heron Standard Management Plan, Section 1, Conditions) apply unless WDFW has approved an alternative great blue heron management plan (Appendix 1, Section 2: Alternatives) and Appendix II.

IMPLEMENTATION:

Approval of permits for activities within the heron management area shall not occur prior to SDCI's receipt of an applicant's Standard Management Plan or SDCI's receipt of an applicant's Alternative Management Plan approved by WDFW. SMC 25.09.045.G of the Environmentally Critical Areas regulations allows for emergency work.

DEFINITIONS:

Great Blue Heron Management Area: the area consisting of a heron nesting colony, the year-round buffer, and the seasonal buffer.

Great Blue Heron Management Core Zone: the area consisting of the heron nesting colony and the year-round buffer.

Great Blue Heron Nesting Colony: the area inside the line created when the outermost nesting trees are connected. This line is the nesting colony boundary of two or more nests. For the Kiwanis Ravine and North Beach Ravine colonies, the nesting colony includes the entire ravine areas.

Great Blue Heron Nesting Season: February 1 through August 31

Great Blue Heron Pre-Nesting Area: those areas where herons gather in groups prior to initiating nesting. In Seattle, pre-nesting areas include the heron management areas for the Kiwanis Ravine; Commodore Park and the Ballard Locks heron colonies; and the area connecting the Kiwanis Ravine great blue heron management area to the dock located at 2750 W. Commodore Way; and the area on the north side of the ship canal within the Hiram M. Chittenden Locks that includes all of the Carl S. English, Jr. Botanical Gardens and bordering vegetated areas.

Great Blue Heron Pre-Nesting Season is January 1 through March 31.

Screening Tree is a tree that is within the direct line of sight between the structure(s) or development and the nesting area, and/or a tree that blocks the visibility of the nesting colony from the structure(s) or development during any part of the year, and within the great blue heron management area.

MEASUREMENTS AND MAPS:

Year-round buffer: The year-round buffer is measured from the nesting colony boundary.

Seasonal buffer: The seasonal buffer is measured from the great blue heron management core zone. For the Kiwanis and North Beach Ravines, the seasonal buffer is measured from the top of the slope of each of these ravine areas.

Maps of the great blue heron management areas are found by choosing the Wildlife box under the Environmentally Critical Areas layer of the City's GIS at:
<http://web6.seattle.gov/dpd/maps/dpdgis.aspx>

LITERATURE CITED:

Azerrad, J. M. 2012. Management recommendations for Washington's priority species: Great Blue Heron. Washington Department of Fish and Wildlife, Olympia.

APPENDIX I: GREAT BLUE HERON STANDARD MANAGEMENT PLAN

Section 1. Conditions:

In the Great Blue Heron Management Area (which includes nesting colonies and both year-round and seasonal buffers) and any defined pre-nesting areas:

- ☐ Any clearing, grading, outside construction or other activity that causes loud noise above ambient noise levels shall be done:
 - A. from April 1 through December 31, for the defined pre-nesting areas for the Kiwanis Ravine, Commodore Park, and Ballard Locks nesting colonies.
 - B. from September 1 through December 31, for the Great Blue Heron Management Areas for the Kiwanis Ravine, Commodore Park, and Ballard Locks nesting colonies; and
 - C. from September 1 through January 31 for the Great Blue Heron Management Areas for all other nesting colonies.

Ambient noise is specific to the location of the nesting colony site and can include noises such as sirens and passenger vehicle use. Noises not considered ambient noise include, but are not limited to, outdoor construction and the use of dump trucks, front end loaders, pile drivers, jack hammers, and blasting equipment.

- ☐ All 6-inch diameter breast height (dbh) or larger trees shall be retained if the removal of those trees decreases the effectiveness of the trees screening of new and existing development from the colony and if replacing the removed trees with other trees does not screen the nesting colony to the same extent as the existing trees.

Within the Great Blue Heron Management Core Zone (which includes the nesting colony and year-round buffer)

- ☐ No development shall occur in the great blue heron nesting colony.
- ☐ Any development within the year-round buffer shall use mitigation sequencing as set out in Section 25.09.065 to:
 - Limit development to be consistent with baseline development conditions in the vicinity, including light and ambient noise levels;
 - Maintain heron habitat features and processes and provide mitigation for any loss of heron habitat features and processes;
 - Site the location of development where it is screened from the heron nesting colony, as feasible; and shall
 - Include a maintenance, operation, and general activities plan for the development that addresses outside activities, including activities on roof top decks, and the required mitigation to offset the impact of these activities on the heron nesting colony. This plan shall demonstrate the proposed development meets baseline development conditions such as light, ambient noise, pollution generating activities, including smoke from BBQs, and habitat features, including trees. Include maps, as-built drawings, any allowed vegetation removal and required planting, and timing and noise level restrictions.
- ☐ If a great blue heron nesting colony has been abandoned, the heron management

core zone for this colony shall be protected for a period of 10 years from the last known active nesting season.

- ☐ If the parcel where the development will occur abuts a heron nesting colony, there shall be a minimum 15-foot building setback. The setback shall be vegetated using native vegetation that screens activities on the parcel from the nesting colony.

Section 2. Alternative:

WDFW may approve a site-specific Alternative Management Plan. To request an Alternative Management Plan, contact WDFW's Urban Biologist at 425-775-1311 and see Appendix II.

If the conditions set forth above in Section 1 are acceptable, please sign below and return this document along with the required maintenance, operation, and general activities plan for your proposed development. That submittal will serve as your Great Blue Heron Management Plan. Activities will be periodically monitored by SDCI. Your failure to comply with the Plan constitutes a violation of the City's Regulations for Environmentally Critical Areas (SMC Chapter 25.09) and may result in an enforcement action (SMC 25.09.410).

I have read and understand the above conditions placed on parcel # _____
(APN number)

located at _____
(Property address)

(Signature)

(Date)

Appendix II: Great Blue Heron Management Plan

WDFW Site-specific Review

If an applicant does not wish to comply with the conditions of the Great Blue Heron Standard Management Plan (Director's Rule 13-2018, Appendix I, they must obtain a site-specific Alternative Management Plan from Washington Department of Fish and Wildlife (425-775-1311).

At a minimum, an applicant shall provide the following information to WDFW to support their consideration of an Alternative Management Plan. WDFW may subsequently request additional information on the project site and proposal. If WDFW approves the Alternative Management Plan the applicant shall submit this approval to SDCI.

Name of Applicant

Project Address

Proposed Project Activities

Proposed Project Start and End Dates

Proposed Equipment and Materials to be Used

Reason for the Request

Other Information