CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the implementation of the 2016 Stormwater Code update; ensuring that the City's local program for stormwater regulation meets substantive requirements of the State Department of Ecology; amending Sections 22.170.120, 23.22.028, 23.22.074, 23.24.050, and 23.76.032 of the Seattle Municipal Code; amending Section 106 of the 2012 Seattle Building Code; and amending Section R105 of the 2012 Seattle Residential Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.22.028, last amended by Ordinance 123963, is amended as follows:

23.22.028 Effect of preliminary plat approval

A. Except as provided in Section 22.800.100, ((~~A~~))approval of the preliminary plat shall constitute authorization for the subdivider to develop the subdivision facilities and improvements as required in the approved preliminary plat. Development shall be in strict accordance with the plans and specifications as prepared or approved by the Director of Transportation and subject to any conditions imposed by the Hearing Examiner.

B. If the Hearing Examiner approves of the applicant proceeding with more than one final plat pursuant to subsection 23.22.054.B, then approval of the preliminary plat shall constitute approval for the use of multiple final plats.

C. Except as provided in Section 22.800.100, ((~~N~~))no subdivision requirements that become effective after the approval of a preliminary plat for a subdivision shall apply to such subdivision unless the Hearing Examiner determines that a change in conditions created a serious threat to the public health or safety.

Section 2. Section 23.22.074, last amended by Ordinance 124378, is amended as follows:

23.22.074 Council determination of final plat

A. The Council shall determine:

1. Whether a final plat is in substantial conformance with the approved preliminary plat;

2. Whether the requirements imposed when the preliminary plat was approved have been met;

3. Whether the bond, if required by the City, is sufficient in its terms to assure completion of improvements;

4. Whether the covenant described in subsection 23.22.070.E.2, if required, has been executed in form and substance acceptable to the Council; and

5. Whether the requirements of state law and the Seattle Municipal Code that were in effect at the time of preliminary plat approval, <u>or such other requirements as provided in Section 22.800.100,</u> have been satisfied by the sub-divider.

B. The Council shall approve by ordinance, disapprove, or return the proposed final plat. If the Council approves the plat, it shall inscribe and execute its written approval on the face of the plat, and the Director of Transportation shall transmit the original plat to the King County Recorder for filing, and forward one copy to the Director and one copy to the County Assessor. At least one copy of the approved final plat shall be retained in the files of the Director of Transportation.

Section 3. Section 23.24.050, last amended by Ordinance 121476, is amended as follows:

23.24.050 Director's decision((~~.~~))

A. If the Director determines that the provisions of this Chapter 23.24 are satisfied, or may be satisfied upon compliance with specified conditions, the Director shall inform the applicant in writing of the decision to approve the application and the conditions of the approval, if any, and may return the proposed short plat to the applicant for modification or correction. When the Director has determined that: (1) the short plat contains the certificates, dedication instruments, and statements of approval required by state law and this ((~~c~~))Chapter 23.24;((~~,~~)) (2) the short plat and all legal descriptions are technically correct((,)); and (3) review procedures pursuant to Chapter 23.76 have been concluded, the short plat shall be filed for record with the King County Director of Records and Elections. Except for purposes of appeal, no short plat or short subdivision granted approval by the Director shall be deemed to have final approval until filed.

B. The decision of the Director on a short subdivision is subject to the further review procedures established under the Master Use Permit process, Chapter 23.76.

C. Except as provided in Section 22.800.100, ((~~A~~))a short plat shall be governed by the terms of approval of the Director's decision, and any lots created thereunder shall be deemed to meet lot requirements imposed by this Land Use Code for a period of no less than five ((~~(5)~~)) years unless the City Council finds that a change in circumstances has occurred.

Section 4. Section 23.76.032, last amended by Ordinance 124747, is amended as follows:

23.76.032 Expiration and renewal of Type I and II Master Use Permits

A. Type I and II Master Use Permit expiration

1. An issued Type I or II Master Use Permit expires three years from the date a permit is approved for issuance as described in Section 23.76.028, except as follows:

a. A Master Use Permit with a shoreline component expires pursuant to WAC 173-27-090.

b. A variance component of a Master Use Permit expires as follows:

1) Variances for access, yards, setback, open space, or lot area minimums granted as part of a short plat or lot boundary adjustment run with the land in perpetuity as recorded with the King County Recorder.

2) Variances granted as separate Master Use Permits pursuant to subsection 23.76.004.G expire three years from the date the permit is approved for issuance as described in Section 23.76.028 or on the effective date of any text amendment making more stringent the development standard from which the variance was granted, whichever is sooner. If a Master Use Permit to establish the use is issued prior to the earlier of the dates specified in the preceding sentence, the variance expires on the expiration date of the Master Use Permit.

c. The time during which pending litigation related to the Master Use Permit or the property subject to the permit made it reasonable not to submit an application for a building permit, or to establish a use if a building permit is not required, is not included in determining the expiration date of the Master Use Permit.

d. Master Use Permits with a Major Phased Development or Planned Community Development component under Sections 23.47A.007, 23.49.036, or 23.50.015 expire as follows:

1) For the first phase, the expiration date shall be three years from the date the permit is approved for issuance;

2) For subsequent phases, the expiration date shall be determined at the time of permit issuance for each phase, and the date shall be stated in the permit.

e. Permits for uses allowed under Section 23.42.038, and temporary, interim, or intermittent use permits issued pursuant to Section 23.42.040, and transitional encampment interim use permits issued under Section 23.42.056, expire on the date stated in the permit.

f. Except as otherwise provided in this subsection 23.76.032.A.1.f, Master Use Permits for development pursuant to Sections 23.49.180 and 23.49.181 expire on the date set by the Director in the Master Use Permit decision, which date may be a maximum of 15 years from the date the Master Use Permit is approved for issuance. The Director shall consider the complexity of the project, economic conditions of the area in which the project is located, and the construction schedule proposed by the applicant in setting the expiration date. If no expiration date is set in the Master Use Permit decision, the expiration date is three years from the date a permit is approved for issuance.

1) In order for the Director to set the Master Use Permit expiration date, the applicant shall:

a) Submit with the application a site plan showing a level of detail sufficient to assess anticipated impacts of the completed project; and

b) Submit a proposed schedule for complying with the conditions necessary to gain the amount of extra floor area and the extra height sought for the project.

2) The expiration date of the Master Use Permit may be extended past the expiration date set in the Master Use Permit decision or the date established in this subsection 23.76.032.A.1.f if:

a) On the expiration date stated in the Master Use Permit decision, a building permit for the entire development has been issued, in which case the Master Use Permit is extended for the life of the building permit if the Master Use Permit would otherwise expire earlier, or

b) A complete application for a building permit that either is for the entire development proposed pursuant to Section 23.49.180, or is for construction to complete the entire development proposed pursuant to Section 23.49.180 is:

i) submitted before the expiration date of the Master Use Permit; and

ii) made sufficiently complete to constitute a fully complete building permit application as defined in the Seattle Building Code [2], or for a highrise structure regulated under Section 403 of the Seattle Building Code, made to include the complete structural frame of the building and schematic plans for the exterior shell of the building, in either case before the expiration date of the Master Use Permit, in which case the Master Use Permit is extended for the life of the building permit issued pursuant to the application if the Master Use Permit would otherwise expire earlier.

g. For a Master Use Permit that is either issued or approved for issuance after June 1, 2006 and that is not subject to subsection 23.76.032.A.1.a, 23.76.032.A.1.c, or 23.76.032.A.1.e, the applicant or permit holder may elect in writing to have the Master Use Permit expire pursuant to this subsection 23.76.032.A.1.g. A Master Use Permit subject to this

subsection 23.76.032.A.1.g expires six years from the date a permit is or was approved for issuance as described in Section 23.76.028, except as follows:

1) A variance component of a Master Use Permit expires as follows:

a) Variances for access, yards, setback, open space, or lot area minimums granted as part of a short plat or a lot boundary adjustment run with the land in perpetuity as recorded with the King County Recorder.

b) Variances granted as separate Master Use Permits pursuant to subsection 23.76.004.G expire six years from the date the permit is approved for issuance as described in Section 23.76.028 or on the effective date of any text amendment making more stringent the development standard from which the variance was granted, whichever is sooner. If a Master Use Permit to establish the use is issued prior to the earlier of the dates specified in the preceding sentence, the variance expires on the expiration date of the use approval.

2) Master Use Permits with a Major Phased Development or Planned Community Development component under Sections 23.47A.007, 23.49.036, or 23.50.015 expire as follows:

a) For the first phase, the expiration date shall be six years from the date the permit is approved for issuance;

b) For subsequent phases, the expiration date shall be determined at the time of permit issuance for each phase and stated in the permit.

<u>h. The permit expires earlier pursuant to Section 22.800.100.</u>

2. On the expiration date determined as provided in subsection 23.76.032.A.1, a Master Use Permit expires unless one of the conditions in this subsection 23.76.032.A.2 exists:

a. A building permit is issued before the expiration date, in which case the Master Use Permit shall be extended for the life of the building permit.

b. A valid and fully complete application for a building permit is submitted prior to the Master Use Permit expiration date and a building permit is subsequently issued. In such cases, the Master Use Permit shall be extended for the life of the building permit.

c. For projects that do not require a building permit, the use has been established prior to the expiration date and is not terminated prior to that date by abandonment, change of use, or otherwise. In such cases the Master Use Permit expires when the use permitted by the Master Use Permit is terminated by abandonment, change of use, or otherwise.

d. The Master Use Permit is renewed pursuant to subsection 23.76.032.C.

e. A Major Phased Development or Planned Community Development component is part of the Master Use Permit, in which case subsection 23.76.032.A.1.d applies.

f. The Master Use Permit is for development subject to Section 23.49.180, in which case the provisions in subsection 23.76.032.A.1.f apply.

B. If a Master Use Permit is issued for a project, a building permit is issued for the project, and the project is constructed pursuant to the building permit, conditions of or incorporated in the Master Use Permit shall remain in effect, notwithstanding expiration of the Master Use Permit pursuant to 23.76.032.A, until the project is demolished or until an earlier date on which (1) the condition by its terms expires or is fully satisfied((,)); (2) the condition is removed through a permitting decision((,)); or (3) if the condition was imposed as to a specific use within the project, that use is terminated.

C. Master Use Permit Renewal((.))

1. Except for Major Phased Development permits, the Director shall renew issued Master Use Permits for projects that are in conformance with applicable regulations, including but not limited to land use and environmentally critical areas regulations and SEPA policies in effect at the time renewal is sought. Except as provided in subsections 23.76.032.C.2 and 23.76.032.C.3, Master Use Permit renewal is for a period of two years. A Master Use Permit shall not be renewed beyond a period of five years from the original date the permit is approved for issuance. The Director shall not renew issued Master Use Permits for projects that are not in conformance with applicable regulations in effect at the time renewal is sought.

2. If an application for a building permit is submitted before the end of the two year term of renewal, and is subsequently issued, the Master Use Permit shall be extended for the life of the building permit.

3. The Director may renew a Master Use Permit for the temporary relocation of police and fire stations issued pursuant to Section 23.42.040 for a period not to exceed 12 months.

4. The Director may renew a Master Use Permit for a transitional encampment interim use issued according to Section 23.42.056.E one time for up to one year.

Section 5. Section 106 of the 2012 Seattle Building Code, last amended by Ordinance 124616, is amended as follows:

SECTION 106
BUILDING PERMITS

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106.9 Expiration of permits. Authority to do the work authorized by a permit expires 18 months from the date of issuance. An *approved* renewal extends the life of a permit for an

additional 18 months from the prior expiration date. An *approved* reestablishment extends the life of the permit for 18 months from the date the permit expired.

Exceptions:

1. Initial permits for major construction projects that require more than 18 months to complete may be issued for a period that provides reasonable time to complete the work, according to an *approved* construction schedule. The *building official* may authorize a permit expiration date not to exceed three years from the date of issuance, except when there is an associated Shoreline Substantial Development permit in which case the *building official* may authorize an expiration date not to exceed the life of the Shoreline permit.

2. The *building official* may issue permits which expire in less than ((~~eighteen~~))18 months if the *building official* determines a shorter period is appropriate to complete the work.

This section is subject to the limitations in Seattle Municipal Code Section 22.800.100, Stormwater Code.

106.10 Renewal of permits. Permits may be renewed and renewed permits may be further renewed by the *building official* if the following conditions are met:

1. Application for renewal is made within the 30 day period immediately preceding the date of expiration of the permit; and

2. If the project has had an associated discretionary Land Use review, the land use approval has not expired; and

3. If an application for renewal is made more than 18 months after the date of mandatory compliance with a new or revised edition of the Seattle Building Code, the permit shall not be renewed unless:

   3.1 The *building official* determines that the permit complies, or is modified to comply, with the Seattle Building, Mechanical, Fuel Gas, Energy, Stormwater, Side Sewer and Grading codes in effect on the date of application for renewal; or

   3.2 The work authorized by the permit is substantially underway and progressing at a rate *approved* by the *building official*. "Substantially underway" means that normally required building inspections have been *approved* for work such as foundations, framing, mechanical, insulation and finish work that is being completed on a continuing basis; or

   3.3. Commencement or completion of the work authorized by the permit is delayed by litigation, appeals, strikes or other extraordinary circumstances related to the work authorized by the permit, beyond the permit holder's control, subject to approval by the *building official*((.)); and

4. If an application for renewal is made on or after January 1, 2016, the permit shall not be renewed unless: (a) the *building official* determines that the permit complies, or is modified to comply, with the Seattle Stormwater Code in effect on the date of application for renewal; or (b) construction has started. For purposes of this provision, "started

construction" means the site work associated with and directly related to the *approved* project has begun. For example, grading the project site to final grade or utility installation constitutes the start of construction; simply clearing the project site does not.

106.11 Reestablishment of expired permits. A new permit is required to complete work if a permit has expired and was not renewed.

Exception: A permit that expired less than one year prior to the date of a request for reestablishment may be reestablished upon approval of the *building official* if it complies with Section 106.10, Items 2, ((~~and~~)) 3, and 4 above. Once re-established the permit will not be considered to have expired. The new expiration date of a reestablished permit shall be determined in accordance with Section 106.9.

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Section 6. Section R105 of the 2012 Seattle Residential Code, last amended by Ordinance 124613, is amended as follows:

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R105.9 Expiration of permits. Authority to do the work authorized by a permit expires 18 months from the date of issuance. An approved renewal extends the life of the permit for an additional 18 months from the prior expiration date. An approved reestablishment extends the life of the permit for 18 months from the date the permit expired.

Exceptions:

1. Initial permits for major construction projects that require more than 18 months to complete may be issued for a period that provides reasonable time to complete the

work, according to an approved construction schedule. The *building official* may authorize a permit expiration date not to exceed three years from the date of issuance, except when there is an associated Shoreline Substantial Development permit in which case the *building official* may authorize an expiration date not to exceed the life of the Shoreline permit.

2. The *building official* may issue permits which expire in less than ((~~eighteen~~))18 months if the *building official* determines a shorter period is appropriate to complete the work.

This section is subject to the limitations in Seattle Municipal Code Section 22.800.100, Seattle Stormwater Code.

R105.10 Renewal of permits. Permits may be renewed and renewed permits may be further renewed by the *building official* if the following conditions are met:

1. Application for renewal is made within the 30 day period immediately preceding the date of expiration of the permit; and

2. If the project has had an associated discretionary Land Use review, the land use approval has not expired; and

3. If an application for renewal is made more than 18 months after the date of mandatory compliance with a new or revised edition of the *Seattle Residential Code* the permit shall not be renewed unless:

3.1. The *building official* determines that the permit complies, or is modified to comply, with the Seattle Residential, Energy, Stormwater, Side Sewer and Grading codes in effect on the date of application for renewal; or

3.2. The work authorized by the permit is substantially underway and progressing at a rate approved by the *building official*. "Substantially underway" means that normally required building inspections have been approved for work such as foundations, framing, mechanical, insulation and finish work that is being completed on a continuing basis; or

3.3. Commencement or completion of the work authorized by the permit is delayed by litigation, appeals, strikes or other extraordinary circumstances related to the work authorized by the permit beyond the permit holder's control, subject to approval by the *building official*.

4. When an application for renewal is submitted on or after January 1, 2016, the permit shall not be renewed unless: (a) the *building official* determines that the permit complies, or is modified to comply, with the Seattle Stormwater Code in effect on the date of application for renewal; or (b) construction has started. For purposes of this provision, "started construction" means that the site work associated with and directly related to the approved project has begun. For example, grading the project site to final grade or utility installation constitutes the start of construction; simply clearing the project site does not.

R105.11 Reestablishment of expired permits. A new permit is required to complete work if a permit has expired and was not renewed.

Exception: A permit that expired less than one year prior to the date of a request for reestablishment may be reestablished upon approval of the *building official*, if it complies with Section R105.10, Items 2, ((~~and~~)) 3, and 4 above. Once re-established the permit will not be considered to have expired. The new expiration date of a reestablished permit shall be determined in accordance with Section R105.9.

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Section 7. Section 22.170.120, last amended by Ordinance 124617, is amended as follows:

SMC 22.170.120 Expiration and ((~~R~~))renewal of ((~~G~~))grading ((~~P~~))permit

A. Applicability of codes. Subsections 22.170.120.B through 22.170.120.D apply to applications for grading permits that are not components of building permits. Expiration and renewal of grading components of building permits shall occur pursuant to the applicable provisions of the Seattle Building Code or the Seattle Residential Code.

B. Expiration. Authority to do the work authorized by a grading permit expires 18 months from the date of issuance unless otherwise stated in the permit. Where advisable to satisfy the requirements or purposes of this code, the Director may issue nonrenewable grading permits that expire less than 18 months from date of issuance. Requirements of this code and conditions included in any permit do not terminate with the expiration of the grading permit unless they are explicitly identified as temporary for the duration of grading operations.

C. Renewal or Extension

1. Unless otherwise stated in the permit, a grading permit may be renewed once for up to 18 additional months if the following conditions are met:

a. Application for renewal is made within the 30-day period immediately preceding the date of expiration of the permit; and

b. If the project has had an associated discretionary Land Use review, the land use approval has not expired; and

c. If an application for renewal is made more than 18 months after the date of mandatory compliance with a new or revised edition of this code, the Seattle Building, or Residential Code, the permit shall not be renewed unless:

1) The Director determines that the permit complies, or the permit is modified to comply, with the Seattle Building, Residential, Stormwater, Side Sewer, and Grading codes in effect on the date of application for renewal; or

2) The work authorized by the permit is substantially underway and progressing at a rate approved by the Director. "Substantially underway" means that normally required inspections have been approved for work such as excavation that is being completed on a continuing basis;

d. When an application for renewal is submitted on or after January 1, 2016, the permit shall not be renewed unless: (a) the Director determines that the permit complies, or is modified to comply, with the Seattle Stormwater Code in effect on the date of application for renewal; or (b) construction has started. For purposes of this provision, "started construction" means that the site work associated with and directly related to the approved project has begun. For example, grading the project site to final grade or utility installation constitutes the start of construction; simply clearing the project site does not.

2. Where advisable to satisfy the requirements or purposes of this code, the Director may issue grading permits that are not renewable, or are renewable only under specified special conditions.

3. In addition to renewals under subsection 22.170.120.C.1, a permit may be renewed, or the Director may extend a permit to expire more than 18 months from the date of issuance, if commencement or completion of the work authorized by the permit is delayed by litigation, appeals, strikes or other causes related to the work authorized by the permit, beyond the permit holder's control and the applicant submits a request for extension prior to expiration of the permit.

Section 8. This ordinance shall take effect and be in force on the later of: (a) January 1, 2016; or (b) the effective date of a new Seattle Municipal Code Section 22.800.100.

Passed by the City Council the ____ day of _____, 2015, and signed by me in open session in authentication of its passage this _____ day of _____, 2015.

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President _____of the City Council

Approved by me this ____ day of _____, 2015.

_____

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2015.

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Monica Martinez Simmons, City Clerk

(Seal)