

Environmentally Critical Areas Regulations Amendments

Director's Report and Recommendations

October 19, 2015



Background

What are environmentally critical areas?

In 1990 the Washington State Legislature passed the Growth Management Act (GMA) requiring local governments to manage growth by designating urban growth areas, preparing comprehensive plans, and implementing development regulations.

The GMA lists [13 separate goals](#), including:

(9) Open space and recreation. Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.

(10) Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

To meet the GMA goals, jurisdictions must designate and adopt development regulations that protect critical areas (see [RCW 36.70A.60](#)). Local governments must base their regulations on the best available science (BAS) and give special consideration to preserving and enhancing anadromous fisheries (e.g., salmon).

The City of Seattle protects environmentally critical areas (ECAs) through the regulations of Chapter 25.09 of the Seattle Municipal Code (SMC). In Seattle there are five types of ECAs: Geologic hazard areas, flood-prone areas, wetlands, fish and wildlife habitat conservation areas and abandoned landfills. Below is an explanation of each of these environmentally critical areas.

Geologic hazard areas

Liquefaction-prone areas

Liquefaction occurs when relatively loose, cohesionless, saturated soils are temporarily transformed into a quicksand-like state, usually as a result of earthquake-induced ground shaking. Structures built on or within liquefiable soils can be more susceptible to damage if the structural design does not consider liquefaction and associated effects.

Landslide-prone areas

Landslides present a major hazard to people and property. Identification of landslide-prone areas is important so that development can follow the grading and building standards and requirements necessary to avoid structural damage and personal injury. In some areas, the risk is so great that no development can safely occur. In Seattle, landslide-prone areas include both known and potential landslide areas. Known landslide areas are documented areas of significant movement. Potential landslide areas have been identified through studies, have signs of potential earth movement, display certain geological conditions or features, or have slopes with an incline of 40 percent or more.

Steep slope areas

Steep topography increases the risk of adverse impacts related to development activity, including impacts to adjacent properties, public rights-of-way, water bodies, and natural resources. Steep slope areas are slopes with an incline of 40 percent or more; they are a subset of landslide-prone areas.

Peat settlement-prone areas

Peat settlement-prone areas contain substantial deposits of peat-rich soils that are prone to settlement. Peat-rich soils present a potential geologic hazard because they are highly compressible and prone to sinking when loaded with new structures and fill or when the groundwater table is lowered.

Seismic hazard areas

In addition to liquefaction-prone areas, seismic hazard areas also include the Seattle Fault Zone, shoreline and upland areas adjacent to waterbodies at risk of tsunami inundation and seiches, a sudden oscillation in the surface of an enclosed body of water that raises water levels.

Volcanic hazard areas

Volcanic hazard areas are subject to inundation by lahars (a landslide of volcanic debris) or related flooding resulting from volcanic activity on Mt. Rainier.

Flood-prone areas

Flood-prone areas would likely be covered with or carry water as a result of a 100-year storm, that is, a storm that has a one-percent chance of occurring in a given year. Flood-prone areas are generally the low-lying areas in and around the floodplain of a river or stream. Development in flood-prone areas can present flooding problems on site and on adjacent properties.

Wetlands

Wetlands are areas that are sufficiently inundated or saturated by surface water or ground water to support vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, and bogs and provide many valuable ecological functions, such as flood control, water quality improvement, shoreline stabilization, and habitat for fish and wildlife. Wetlands also serve as recreational and educational opportunities and contribute to the aesthetic value of our city.

Fish and wildlife habitat conservation areas***Riparian corridors***

Riparian corridors are the areas between land and a river or creek. This area provides a unique environment for plant and animal life and protects water quality by filtering sediment and toxins from runoff before it enters the watercourse.

Washington Department of Fish and Wildlife (WDFW) biodiversity areas and corridors

WDFW identifies areas and corridors that support fish and wildlife and their habitat.

WDFW priority habitats and species areas

WDFW also maintains a list of important fish, wildlife, and habitat resources in Washington. These habitats and species are priorities for conservation, protection, and management due to their population status, sensitivity to habitat alteration, and/or recreation, commercial, or tribal importance. The list is available at <http://wdfw.wa.gov/conservation/phs/list/>. The ECA regulations require that development affecting these priority areas take certain measures to protect the habitat and species that may exist there.

Areas providing habitat for wildlife and species of local importance

The City of Seattle has a process for designating wildlife and species of local importance that may not be included in WDFW's list. The ECA regulations not only outline the process and criteria for nominating a species for this designation but also include provisions for protecting these areas.

The ECA regulations previously applied to shoreline habitats as well. However, with the implementation of the new Shoreline Master Program (Ordinance 124750) in June 2015, those areas are now regulated by Chapter 23.60A of the Seattle Municipal Code.

Abandoned landfills

Areas once used as solid waste disposal sites present certain potential environmental health problems, such as the release of methane and other gases or contaminated water. In Seattle, some of these sites exist in Interbay, Genesee, Montlake, Haller Lake, West Seattle, Green Lake, Washington Park, and Judkins Park.

In general, the ECA regulations apply to any development or platting activity carried out on a public or private parcel containing an ECA or its buffer. As defined in Section 25.09.520, “development” includes all components of and activities related to construction or disturbance of a site. With some exceptions, all development activity occurring on parcels with ECAs must comply with the provisions of Chapter 25.09.

ECA Update Requirements

All jurisdictions in Washington State are required to periodically update their regulations for protecting critical areas to ensure compliance with the GMA requirements and review BAS and make changes based on any new information. The last major update to the City’s ECA regulations occurred in 2006.

The proposed amendments reflect updates to the BAS for protecting wetland functions, great blue heron, and managing impervious surface. Additionally, the proposal includes changes to the regulations for steep slopes that would better protect neighborhood character while maintaining the ability to recover development credit. The amendments also clarify language and correct typographical errors to make the Code easier for the public and City staff to use and implement.

In addition to the proposed amendments to Chapter 25.09 of the SMC, DPD updated Director’s Rule 5-2007 concerning Great Blue Heron Management Plans. This update reflects WDFW’s latest recommendations for protecting Great Blue Heron and their nests. Great Blue Heron are listed as a WDFW Priority Species and a species of local importance in the City of Seattle.

Finally, the City is also currently considering amendments to its Comprehensive Plan, a process that occurs once a year. The Comprehensive Plan establishes the policy basis for the City’s regulations on development on parcels containing or within ECAs. Included in this year’s proposed Comprehensive Plan amendments are changes that clarify the City’s commitment to:

1. Adopt regulations that protect life safety, property, and the ecological functions and values of ECA;
2. Include BAS in the identification and protection of ECAs; and
3. Provide opportunities for public agencies and private individuals to improve water quality and enhance ECAs for the benefit of wildlife and people.

Summary of public participation

During nine months of public outreach, DPD staff attended a number of meetings with organizations and neighborhood groups to discuss these proposed changes.

Meeting Date	Organization
January 21, 2015	Master Builders Association
February 3, 2015	North Beacon Hill Council
February 4, 2015	Leschi Community Council
February 12, 2015	Master Builders Association
February 27, 2015	City Interdepartmental Meeting
March 31, 2015	Beacon Hill Public Forum
April 4, 2015	Seattle Parks and Recreation Mini-Summit
May 6, 2015	Urban Forestry Commission
May 12, 2015	Heron Habitat Helpers
May 28, 2015	Thornton Creek Alliance
June 25, 2015	Cedar Park Neighborhood Council

DPD also held a public meeting at City Hall on February 25, 2015, to solicit feedback on existing ECA regulations and provide information about DPD's ongoing review and update.

Public input collected at these meetings addressed the following topics:

- Application of subsections 25.09.045.F.3.f – Exemptions for public projects;
- Application of Sections 25.09.240 – Short subdivisions and subdivisions;
- Application of Section 25.09.260 – Administrative conditional uses;
- Application of the stormwater regulations in relation to the ECA regulations;
- Protection of great blue heron; and
- Protection of wildlife habitat and other wildlife areas.

DPD used input from these meetings in the development of the proposed amendments. Prior to releasing this staff draft of the proposed amendments, DPD developed a summary of potential code changes that was circulated to stakeholders through the ECA listserv, distributed at public meetings, and posted on the ECA update project website. DPD has continually updated the project website with a timeline, background information, and BAS documents.

Analysis

Since the last update of the ECA regulations, DPD gathered input from the public, met with City staff that implement and enforce the regulations, reviewed the BAS, and conducted site visits. This work resulted in proposed code amendments that fall into three categories:

1. **Correction or clarification of existing provisions.** Based on experience administering the ECA regulations, City staff identified places where clearer language and organization would make the Code easier to understand and enforce consistently.
2. **Amendments based on BAS review.** DPD reviewed every section of the ECA regulations in light of updated BAS documents, which are available on the [project website](#). The BAS calls for changes in the provisions for wetlands, fish and wildlife habitat, and management of impervious surfaces. These changes reflect new scientific findings and recommendations.

3. **Substantive regulatory changes.** Based on the intent of the ECA regulations, scientific recommendations, and observation of developed projects, amendments, such as those related to wetlands and buffers and heron habitat, would modify how and where development can occur on parcels with ECAs in order to protect their ecological function and value.

Aside from purely typographical corrections or clarifications, the following table summarizes the substantive changes proposed in each Code section of the ECA regulations:

Proposed Change(s)	Rationale
25.09.015 Application of chapter	
Add “including City rights-of-way” to the locations where development is subject to Chapter 25.09.	This responds to questions about whether the regulations apply in public rights-of-way containing an ECA of buffer.
25.09.045 Exemptions	
Clarify the requirements for new development and maintenance, repair, or renovation of existing development. Address rebuilding or replacement of structures in a new Section 25.09.052.	Currently, the regulations for new development and maintenance of existing development are located in different subsections and are difficult to understand. The new section 25.09.052 would continue to allow replacement but without exempting that activity from review (see below).
Clarify that the exemption for public projects in an ECA is for projects intended specifically to increase the public’s enjoyment of the ECA.	The intent of this exemption is to allow public agencies to complete projects that help the public to enjoy the ECA, like a walking trail providing access to a wetland. However, the current language is ambiguous and could be interpreted to exempt <u>any</u> public project in an ECA if it benefits the public — such as a bus stop shelter at the edge of a riparian corridor — regardless of whether that benefit is related to enjoyment of the ECA.
25.09.052 Rebuilding or replacing structures	
This new section would contain the requirements for rebuilding or replacing structures.	<p>The new section would distinguish rebuilding a structure that has been destroyed by an act of nature from voluntary replacement of a structure.</p> <p>Both of these actions are allowed (with certain restrictions). But neither would be exempt from Chapter 25.09, allowing the City to ensure that the rebuilding minimizes the impact on the functions and values of the ECA.</p>
25.09.055 Small project waiver	
Remove 25.09.055 and move the provisions for small project waivers in each type of ECA to the appropriate code section containing other provisions for each type of ECA.	Because the small project waiver does not apply to all types of ECAs, it is more effective to put these provisions with the other requirements for each ECA. This alleviates having to switch back and forth between code sections.

25.09.060 General development standards	
Add prohibition of synthetic fertilizers within 50 feet of a wetland or riparian corridor watercourse. Require best management practices for use of organic fertilizers within 50 feet of a riparian corridor watercourse or wetland.	The current regulations do not distinguish between synthetic and organic fertilizers. The proposed amendments reflect the scientific recommendations incorporated into the updated Shoreline Master Program.
25.09.080 Landslide-prone areas	
Clarify that the purpose of regulations for landslide-prone areas is to allow safe and stable development.	The current code includes the vague term “compatible” development. Compatibility is already defined more clearly as part of the proposed amendments and is not specifically the purpose of the regulations for landslide-prone areas.
Incorporate provisions for small project waivers from current section 25.09.055.	See above.
25.09.110 Development standards for peat settlement-prone areas	
Clarify that removal of peat below the annual high static groundwater level is prohibited in a Category I peat settlement-prone area.	City staff identified this as a gap in current regulations.
25.09.160 Development standards for wetlands	
Include estuarine and coastal lagoons as wetlands with a 200-foot buffer.	Proposed changes are based on BAS.
Change the buffer for Category III wetlands with moderate or greater habitat function from 85 feet to 110 feet.	
Include best management practices for development that will occur adjacent to wetland buffers.	
Update references to wetland delineation, wetland function determination requirements, and mitigation guidance.	
25.09.180 Development standards for steep slope areas	
Clarify definition of existing development.	In steep slope areas, development located in the footprint of existing development is allowed. However, the current code is not clear about what constitutes existing development. The proposed amendments would stipulate that development must be within the footprint of existing legal structures or disturbed land and all impacts to the stability of the slope must be minimized.

<p>Clarifying criteria for preemptive stabilization.</p>	<p>Stabilization measures to mitigate a landslide hazard are already allowed, but current regulations are unclear about how this activity must occur. The proposed amendments clarify that the stabilization must use the least intrusive method and are the minimum necessary to mitigate the landslide hazard to reasonably protect people and property.</p>
<p>Clarify what does not constitute existing development.</p>	<p>The proposed amendments stipulate that, along with clearing or management of vegetation, stabilization measures do not constitute existing development so that stabilization cannot become a justification for subsequent development in steep slope areas.</p>
<p>Incorporate provisions for small project waivers from current section 25.09.055.</p>	<p>See above.</p>
<p>Remove criteria for the steep slope area variance and move to a new section 25.09.290.</p>	<p>The existing provisions for a steep slope area variance under 25.09.180.E refer to criteria for yard variances in 25.09.280 that an applicant must fulfill. The proposed amendments consolidate all criteria for a steep slope variance in one section and removes confusing cross-references to yard variances in section 25.09.280.</p>
<p>25.09.200 Development standards for fish and wildlife habitat conservation areas</p>	
<p>Include designated species of local importance.</p>	<p>Currently, the procedure and criteria for nominating and designating a species of local importance is outlined in 25.09.200.D, but it is not clear what species are on that list. The proposed amendments would indicate that Great Blue Heron are currently on that list. Further information about fish and wildlife habitat conservation areas is available through Director’s Rules, which will be updated.</p>
<p>25.09.220 Development standards for abandoned landfills</p>	
<p>Add provision that all utility lines leaving an abandoned landfill must be sealed to prevent the trench bedding from becoming a preferential pathway for gas migration.</p>	<p>This requirement would increase safety when development occurs in areas with abandoned landfills.</p>
<p>25.09.240 Short subdivisions and subdivisions</p>	
<p>Add utilities to the list of things for which each lot must contain an area outside the ECA when parcels are divided.</p>	<p>Currently, applications for short subdivisions and subdivisions must show that each lot contains area outside ECAs and buffers for all structures and access. In order to protect the ECA, the proposed amendments would also require that applications show adequate area outside the ECA for utilities.</p>

<p>Apply Single Family development standards for new lots in single family zones based on non-ECA area.</p>	<p>An application for a short subdivision or subdivision in an ECA already must exclude the area of the ECA in the calculation of the number of lots the parcel may contain. However, current regulations allow a development to include the ECA area in the calculation of certain development standards, such as lot coverage. This has resulted in some development where the structure appears out of scale with existing development in the same vicinity and same zone because it counts the ECA area as the uncovered portion of the lot.</p>
<p>Apply Single Family development standards for new lots in single family zones based on non-ECA area.</p>	<p>An application for a short subdivision or subdivision in an ECA already must exclude the area of the ECA in the calculation of the number of lots the parcel may contain. However, current regulations allow a development to include the ECA area in the calculation of certain development standards, such as lot coverage. This has resulted in some development where the structure appears out of scale with existing development in the same vicinity and same zone because it counts the ECA area as the uncovered portion of the lot.</p> <p>The proposed amendments would stipulate that the development standards apply to the area outside the ECA. This would allow the same total number of houses to be built on a lot through a short subdivision or subdivision as under the current code. However, those houses would be required to meet the single-family lot coverage, maximum height, and yard standards based on the non-ECA area, since that is in effect the buildable area for the development. This requirement could constrain the size of some houses on some lots, but does not limit the number of houses on a lot.</p>
<p>25.09.260 Environmentally critical areas administrative conditional use</p>	
<p>Remove the option for the Director to allow smaller than required yards and more than one unit per lot. Continue to allow smaller than required lot sizes, with a minimum lot size of 2,500 square feet.</p>	<p>As currently written, the ECA administrative conditional use (ACU) process has resulted in development that is out of scale with what could otherwise be constructed on a non-ECA parcel. The current approach with the ACU review is to allow an applicant to count ECA land in calculating the number of lots allowed on the parcel.</p> <p>The proposed amendments would continue to allow an applicant to propose smaller lots. The amendments create a minimum lot size of 2,500 square feet, consistent with the minimum lot size allowed in certain other zones of the city. Under the proposed amendments, even if smaller than required lots are proposed, the resulting development would still have to comply with the yard standards of the underlying zone, helping to make them fit in better. If compliance with yard standards is too difficult, the applicant would have the option to propose fewer, larger lots.</p>

<p>Add prioritization for how to modify development in a steep slope area or buffer in order to minimize impact on the ECA.</p>	<p>If an administrative conditional use application includes development in a steep slope area or buffer, that development must be the minimum necessary to achieve the maximum number of units allowed on the lot. The proposed amendments specify the order in which a proposal should be modified to achieve this: first by reducing lot size, then by reducing the steep slope buffer, and finally by developing in at most 30 percent of the steep slope area.</p>
<p>Modify development standards for single family dwelling units. Replace vague and difficult to assess phrase "neighborhood compatibility" with specific development standards.</p>	<p>Similar to the proposed amendments for short subdivisions and subdivisions under 25.09.240, this legislation responds to observation of development on parcels with ECAs that has resulted in structures that are out of scale with existing development in the vicinity and in the same zone. While the intent of the ACU provisions is to allow an applicant to reasonably develop a parcel while protecting the ECA, the current regulations allow development that deviates substantially from what would be allowed on a non-ECA parcel.</p> <p>In addition, in administering the ACU regulations, DPD has found it difficult to consistently assess the requirement for neighborhood compatibility under 25.09.260.B.3. For these reasons, the proposed amendments add specific development standards for development proposed in an ACU application.</p> <p>Similar to the proposed amendments to 25.09.240, development would be subject to the lot coverage, maximum height, and yard standards for single-family dwelling units. The current regulations allow for clustering of houses by reducing yards, and for attached houses, but this can result in development that is larger and bulkier than otherwise allowed by the Land Use Code. The ACU would continue to allow greater flexibility than under 25.09.240, but lot coverage would apply to the sum of the non-ECA land and any area of intrusion into the ECA that is authorized in order to achieve the maximum number of lots allowed on the parcel.</p> <p>For example, an application for development on a parcel large enough to subdivide into four lots can still propose four smaller than required lots in order to stay out of or minimize intrusion into the ECA. Because they have to conform to height and yard standards, the structures on those lots may be smaller as a result. The number of lots and structures allowed on the parcel is unchanged, but to protect the ECA those houses may have to be smaller than some recent applications have proposed.</p>

<p>Require that new lots created under 25.09.240 or 25.09.260 must be approved through the unit lot subdivision regulations.</p>	<p>By requiring a unit lot subdivision, ECA covenants and other site constraints that protect the ECA such as drainage requirements would apply to the entire property, not just individual lots.</p>
<p>25.09.280 Yard and setback reduction and variance to preserve ECA buffers and riparian corridor management areas.</p>	
<p>Clarify that the analysis of whether granting the variance would be injurious to safety, the property, or surrounding area occurs after all codes have been implemented.</p>	<p>Currently, analyzing the safety of an ECA variance occurs before other codes have been considered and applied. Application of other codes may affect the outcome of the analysis. This amendment would require that this analysis consider all other applicable regulations, such as the Building Code and Stormwater Code.</p>
<p>25.09.290 Steep Slope Area Variance</p>	
<p>Create new section consolidating the criteria for granting a steep slope area variance.</p>	<p>Most of the criteria for a steep slope area variance are currently contained in subsection 25.09.180.E.1. However, this subsection refers to other variance criteria contained in subsection 25.09.280.B, requiring reviewers to move back and forth through the Code. The proposed amendments remove this inefficiency by consolidating the criteria in a single section.</p>
<p>25.09.300 Environmentally critical area exception</p>	
<p>Refer to new section 25.09.325 for mitigation sequencing.</p>	<p>The ECA exception criteria currently require that public projects pursuing an exception minimize and mitigate all adverse impacts. This subsection would be replaced with a reference to a new section 25.09.325 that would outline mitigation requirements more specifically. See below for additional information about 25.09.325.</p>
<p>25.09.320 Standards for vegetation and impervious surface management</p>	
<p>Add management of impervious surface to this section. Provide additional guidance and clarity regarding how to remove vegetation and/or how an increase in impervious surface must be mitigated.</p>	<p>Clarify management and mitigation requirements and meet best available science regarding impervious surface.</p>
<p>25.09.325 Standards for mitigation</p>	
<p>Create new section outlining specific mitigation sequencing and requirements.</p>	<p>Certain development that has an adverse impact on an ECA requires mitigation. However, current Chapter 25.09 is often vague or silent about the order in which mitigation should occur. Therefore, as required by the GMA this new section establishes the steps in mitigation sequencing.</p>

25.09.520 Definitions	
Add definition for “fish habitat.”	In a few instances, Chapter 25.09 refers to fish habitat, which currently is not defined except broadly as part of the definition of “wildlife habitat.” The proposed amendments would define fish habitat as wildlife habitat that specifically “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.”
Modify definition of “land disturbing activity.”	The proposed amendments would add “draining water from a site” to the list of actions that land disturbing activity includes.

Changes to short subdivisions, subdivisions, and the ECA administrative conditional use

As discussed in the table above, the proposed amendments to Sections 25.09.240 and 25.09.260 modify the development standards for short subdivisions, subdivisions, and applications to allow smaller than required lot sizes through the ECA administrative conditional use. In both sections, the proposed amendments would require that development comply with the lot coverage, yard, setback, and height standards of the underlying zone—but do not limit the number of housing units that can be constructed.

Attachment 1 illustrates what development is allowed pursuant to 25.09.240 and 25.09.260 in the current code and what would change under the proposed amendments.

Development Standards for Wetlands

The increase in the wetland buffer size for Type III wetlands with a moderate or greater level habitat function from 85 feet to 110 feet adds an additional 25 feet of land that will become regulated under this ordinance for this wetland type. Based on the past seven years of regulating wetlands the majority of wetlands do not fall into this category. Additionally, DPD analyzed the City’s mapped wetlands and the majority of these wetlands are located on parks property, within other environmentally critical areas or on single-family residential zoned land. Therefore, DPD expects very little impact from this change on the number of housing units.

Heron Director’s Rule

Though not part of this Ordinance, DPD is also amending Director’s Rule (DR) 5-2007: Great Blue Heron Management Plan. Great blue heron is a designated species of local importance in Seattle. (See Section 25.09.200.D for details on nominations and designations of species of local importance.) Great blue heron can be vulnerable due to their tendency to congregate during the breeding season. Their nests are typically constructed in the tallest trees available. As a listed WDFW Priority Species, great blue heron are protected along with their nests under RCW 77.15.130, which concerns the protection of fish and wildlife.

DR 5-2007 requires that an applicant have a Great Blue Heron Management Plan approved by DPD prior to any development. The proposed amendments to DR 5-2007 would make the following primary changes:

Attachment 2 illustrates the proposed amendments to when and where development is allowed in and around great blue heron nesting colonies.

The most significant change to DR 5-2007 is the addition of a 197-foot year-round buffer within which potential impacts of development on the great blue heron nesting colony will be required to be evaluated

Proposed Change(s)	Rationale
Include a year-round buffer. Maintain existing seasonal buffer.	The updated WDFW guidance for protection of great blue heron recommends a 60-meter (197-foot) year-round buffer and an additional seasonal buffer of 200 meters (656 feet) for loud noises and 400 meters (1,320 feet) for extremely loud noises such as blasting. DPD is updating the regulations to include the year-round buffer and maintain the current 152-meter (500-foot) seasonal buffer given the highly urban nature of Seattle.
<p>Include a new term: "Great Blue Heron Management Core Zone";</p> <p>Change the term "colony nesting area" to "great blue heron nesting colony"; and</p> <p>Update the definition of Great Blue Heron Management Area.</p>	<p>Currently the Great Blue Heron Management Area includes the "Colony Nesting Area" and a surrounding 500-foot seasonal buffer.</p> <p>The proposed changes reflect updated guidance from WDFW.</p>
Strengthen tree preservation requirements.	The proposed amendments would require that all six-inch diameter breast height (dbh) trees be retained when removal of these trees would decrease the extent to which a colony is screened from new development. Currently only 22-inch dbh screening trees must be retained during nesting season.
Specify that a nesting colony that has been abandoned by a great blue heron colony shall be protected for a period of 10 years from the last known active nesting season.	Based on best available science and a requirement of WDFW.

though mitigation sequencing. DPD analyzed the specific parcels that this regulation could affect. Currently, there are seven locations identified as great blue heron nesting areas. Much of the land within the proposed 197-foot buffer surrounding these areas meets one of the following conditions:

- It is a park or another ECA, such as a wetland or riparian corridor, and therefore already is not likely or able to be developed.
- It is zoned for single-family residential development and already developed. The 197-foot buffer will not limit the number of houses that can be developed. Vegetation management for protection of the great blue heron nesting colonies will be required.

Two other nesting areas are located where the year-round buffer includes land that could see development:

- On the University of Washington campus at Rainier Vista. This year-round buffer for this nesting area includes land zoned for Major Institutions.

- At the edge of the West Duwamish Greenbelt. A portion of the year-round buffer for this nesting area includes land zoned for industrial uses. This land is currently developed and the property can be redeveloped using mitigation sequencing.

Two areas of note are the Kiwanis and North Beach Ravines. In these areas, the entire ravine is considered the nesting colony and is surrounded by a 500-foot seasonal buffer. The 197-foot year-round buffer would apply around the specific nesting trees in the ravines. The majority of the area surrounding the ravines is zoned for single-family residential development, and the regulations will not limit the number of houses that can be developed.

Recommendations

The GMA requires jurisdictions to meet several different goals. For example, policies to encourage urban growth must be reconciled with regulations for protection of habitat, air and water quality, and the environment. The proposed amendments meet the goals to protect environmentally critical areas while still meeting the goal to encourage urban growth. The process of updating the ECA regulations engaged the public and stakeholders throughout the drafting of this Ordinance, and input from public meetings informed DPD's recommended code changes.

The proposed amendments reflect updates to the BAS for protecting wetland functions, conserving great blue heron habitat, and managing impervious surfaces. Changes to how DPD regulates development in steep slope areas would add specific standards to improve compatibility with neighborhood character while maintaining the ability for a property owner to recover development credit.

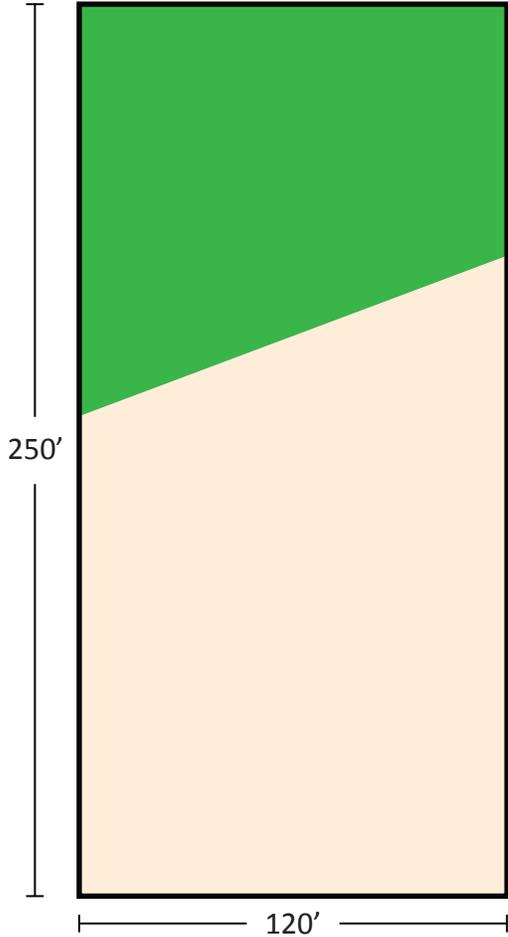
The City has longstanding provisions providing property owners options for relief from development regulations where appropriate in order to ensure reasonable use of their property. In the relatively few instances where the proposed amendments would change how a parcel is currently regulated under Chapter 25.09, a property owner would continue to have an opportunity to apply for relief through a variance or exception process.

DPD recommends adoption of the proposed amendments in order to comply with the GMA requirement to maintain up to date, science-based standards for protecting critical areas. The proposed amendments reflect the City's goals of environmental protection, efficient land use, and production of housing. The Ordinance helps to protect and enhance the critical ecological functions and values that contribute to Seattle's high quality of life.

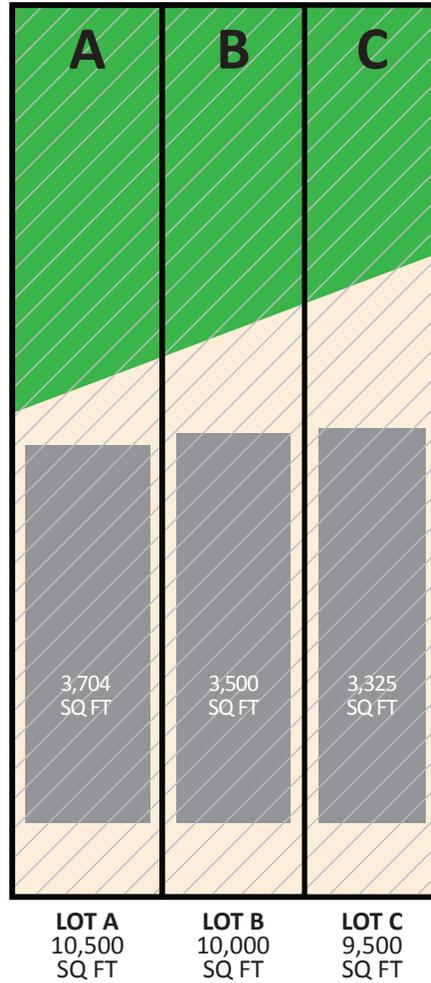
ATTACHMENT 1

PROPOSED CHANGES TO 25.09.240 SHORT SUBDIVISIONS AND SUBDIVISIONS

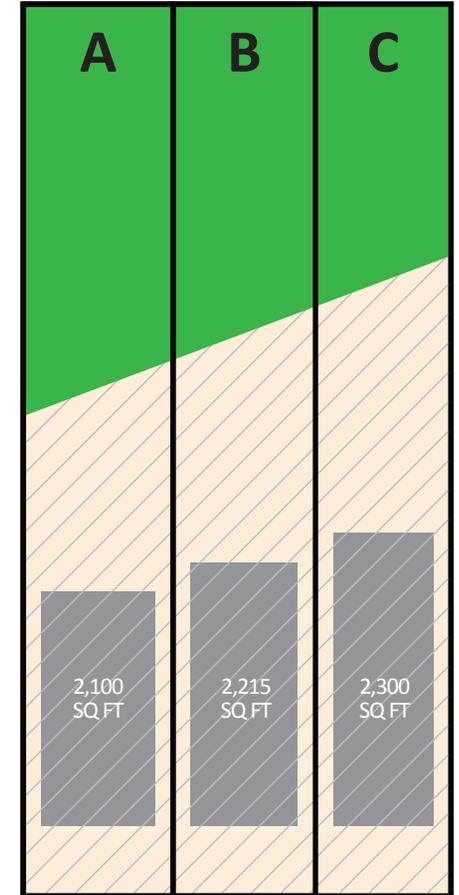
EXAMPLE SITE
30,000-SQUARE-FOOT PARCEL IN
SINGLE FAMILY 7200 ZONE



CURRENT CODE
LOT COVERAGE CALCULATION
INCLUDES ECA AREA.



PROPOSED CODE
LOT COVERAGE EXCLUDES ECA
AREA. YARD STANDARDS APPLY.

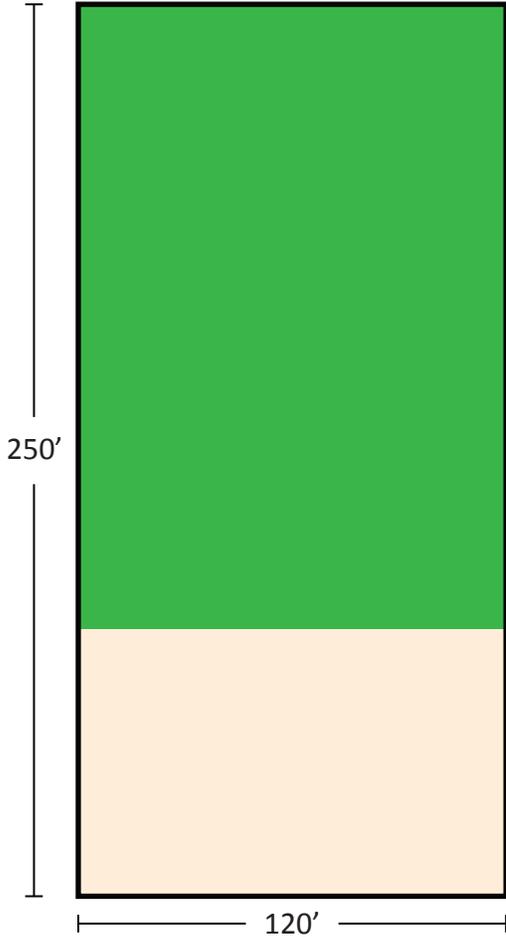


ATTACHMENT 1

PROPOSED CHANGES TO 25.09.260 ENVIRONMENTALLY CRITICAL AREAS ADMINISTRATIVE CONDITIONAL USE

EXAMPLE SITE

30,000-SQUARE-FOOT PARCEL IN SINGLE FAMILY 7200 ZONE



MAX ECA INTRUSION: 30%

CURRENT CODE

LOT COVERAGE CALCULATION APPLIES TO INDIVIDUAL NEW LOTS AND INCLUDES ECA AREA.

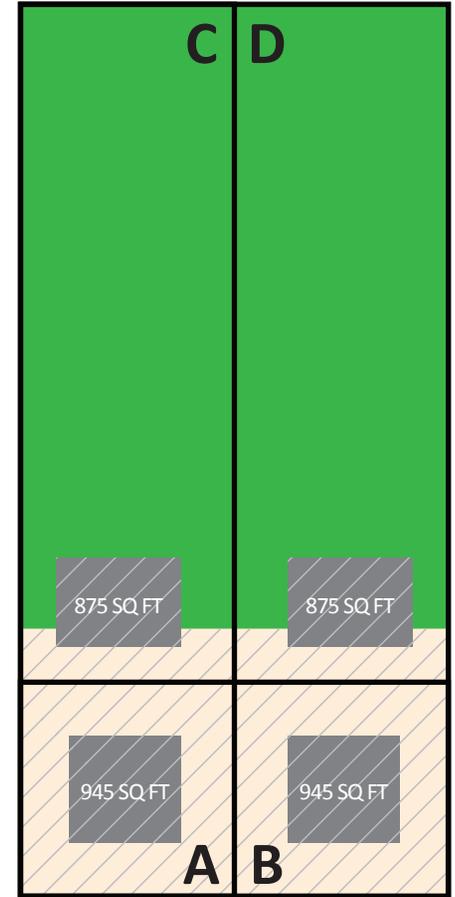


LOTS A & B
4,500 SQ.FT
MAX COVERAGE: 1,575 SQ.FT

LOTS C & D
10,500 SQ.FT
MAX COVERAGE: 3,675 SQ.FT

PROPOSED CODE

LOT COVERAGE APPLIES TO PARENT LOT AND IS BASED ON SUM OF ON NON-ECA AREA AND AREA OF ALLOWED INTRUSION. YARD STANDARDS APPLY WITH OPTION TO REDUCE.



LOTS A & B
3,600 SQ.FT

LOTS C & D
11,400 SQ.FT

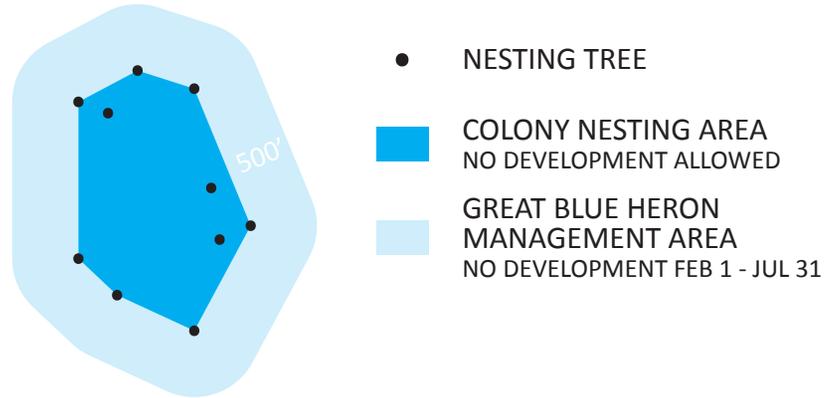
MAX COVERAGE FOR ALL LOTS
3,640 SQ.FT



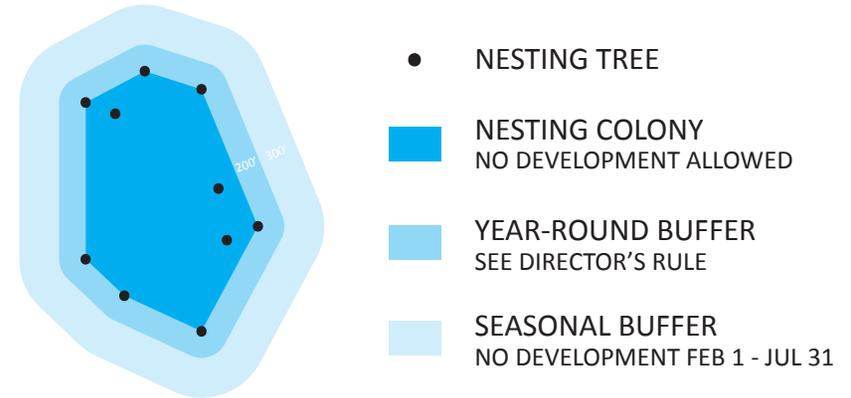
ATTACHMENT 2

PROPOSED CHANGES TO DIRECTOR'S RULE 5-2007: GREAT BLUE HERON MANAGEMENT PLANS

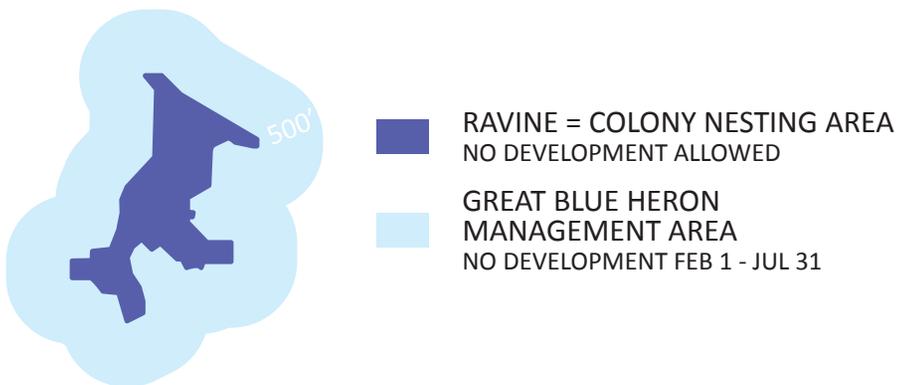
CURRENT MANAGEMENT PLAN FOR GREAT BLUE HERON COLONIES



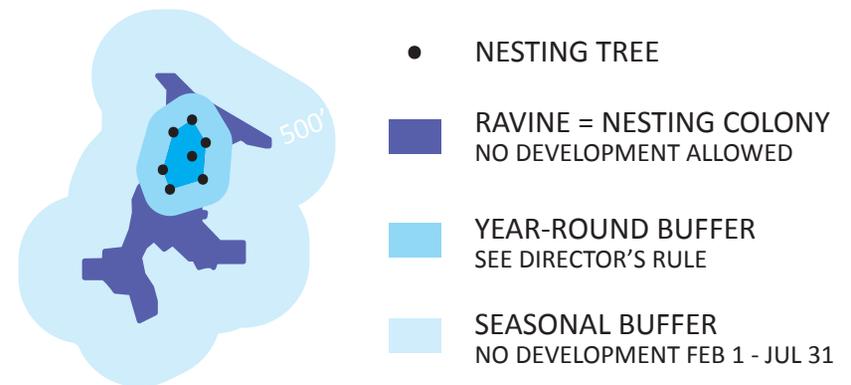
PROPOSED MANAGEMENT PLAN FOR GREAT BLUE HERON COLONIES



CURRENT MANAGEMENT PLAN FOR KIWANIS AND NORTH BEACH RAVINES



PROPOSED MANAGEMENT PLAN FOR KIWANIS AND NORTH BEACH RAVINES



These diagrams are examples of how nesting trees are regulated. They are not intended to identify the location of any particular nesting trees.