

**CITY OF SEATTLE**  
**ORDINANCE \_\_\_\_\_**  
**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE relating to environmentally critical areas (ECA) regulations; amending Sections 25.09.010, 25.09.015, 25.09.017, 25.09.020, 25.09.030, 25.09.040, 25.09.045, 25.09.060, 25.09.080, 25.09.100, 25.09.110, 25.09.120, 25.09.160, 25.09.180, 25.09.200, 25.09.220, 25.09.240, 25.09.260, 25.09.280, 25.09.300, 25.09.320, 25.09.330, 25.09.335, 25.09.360, 25.09.380, 25.09.400, 25.09.410, 25.09.420, 25.09.430, 25.09.450, 25.09.460, 25.09.470, 25.09.480, 25.09.520, and 25.09.530 of the Seattle Municipal Code (SMC); renumbering Section 25.09.050 of the SMC; repealing Section 25.09.055, and adding new sections 25.09.052, 25.09.290, and 25.09.325 to the SMC to clarify language, correct formatting, and update the ECA regulations based on changes to the best available science and state requirements.

..body

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Section 25.09.010 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

**Chapter 25.09**

**REGULATIONS FOR ENVIRONMENTALLY CRITICAL AREAS**

**25.09.010 Purpose of the chapter((e))**

This ((e))Chapter 25.09 is based on and implements The City of Seattle Comprehensive Plan, as amended from time to time. It is expressly the purpose of this ((e))Chapter 25.09 to provide for and promote the health, safety, and welfare of the general public, and to not create or otherwise establish or designate any particular person, or class, or group of persons who will or should be especially protected or assisted by the terms or provisions of this ((e))Chapter 25.09, and to not protect views from private property. This ((e))Chapter 25.09 is intended to promote safe, stable, and compatible development that avoids adverse environmental impacts and

1 potential harm on the parcel and to adjacent property, the surrounding neighborhood, and the  
2 drainage basin.

3 Section 2. Section 25.09.015 of the Seattle Municipal Code, last amended by Ordinance  
4 124105, is amended as follows:

5 **25.09.015 Application of chapter**

6 A. This Chapter 25.09 applies to any development, as defined in Section 25.09.520, or  
7 platting carried out by any person on publicly or privately owned parcels, including City right-  
8 of-way, containing an environmentally critical area or buffer, except that:

9 1. Parcels that are solely within seismic or volcanic hazards areas, as defined in  
10 ~~((S))~~subsections 25.09.020.A.6 and 25.09.020.A.7, and that are not liquefaction-prone areas are  
11 subject only to Sections 25.09.010, 25.09.020, 25.09.030, and subsections ~~((A, B, C and F of~~  
12 ~~Section))~~25.09.017.A, 25.09.017.B, 25.09.017.C and 25.09.017.F~~((and Section 25.09.020, and~~  
13 ~~25.09.030))~~; and

14 2. For parcels, including submerged land, that are in the Seattle Shoreline  
15 ~~((District))~~Master Program, as described in Section 23.60A.010, this Chapter 25.09 as  
16 incorporated by reference into Section 23.60A.156 applies to development and shoreline  
17 modifications, as defined in Chapter 23.60A, to uses~~((;))~~ and platting, and to actions described in  
18 subsection 25.09.015.C.

19 B. This Chapter 25.09 applies to altering vegetation, trees, or habitat carried out by any  
20 person ~~((in))~~ on publically or privately owned parcels with landslide-prone ~~((critical))~~ areas,  
21 ~~((including))~~ steep slope areas ~~((, steep slope))~~ and buffers, riparian corridors, wetlands, and  
22 wetland buffers ~~((on publicly or privately owned parcels))~~, except for parcels, including  
23 submerged land, in the Seattle Shoreline ~~((District))~~Master Program, where such actions shall  
24 comply with Section 23.60A.190.

25 C. Subsection 25.09.200.A.4 applies to daylighting pipes and culverts defined in that  
26 subsection 25.09.200.A.4.

1 Section 3. Section 25.09.017 of the Seattle Municipal Code, last amended by Ordinance  
2 124447, is amended as follows:

3 **25.09.017 Administration**

4 A. The Director shall administer and interpret the provisions of this Chapter 25.09, except  
5 as specifically provided.

6 B. The Director shall determine whether development, platting, or alteration of  
7 vegetation, trees, or habitat is subject to this Chapter 25.09. The Director may ~~((also))~~ consult  
8 with other City departments and state and federal agencies as necessary to obtain additional  
9 technical and environmental review assistance.

10 C. The Director shall review and analyze ~~((all))~~ applications for ~~((all))~~ permits or  
11 approvals subject to this Chapter 25.09 that are issued by the Department of Planning and  
12 Development. Such applications shall be approved only after the Director is satisfied the  
13 applications comply with this Chapter 25.09.

14 D. Every other City department issuing a permit or other approval for development on  
15 parcels containing an environmentally critical area or ~~((its))~~ buffer or for altering vegetation,  
16 trees, or habitat in the areas set out in subsection 25.09.015.B, and no Department of Planning  
17 and Development permit or approval is required, shall require the use of best management  
18 practices identified by the Director to prevent impacts to environmentally critical areas and  
19 ~~((their))~~ buffers and to meet the intent of this Chapter 25.09. Departments shall ~~((require))~~ apply  
20 mitigation sequencing as set out in Sections 25.09.160, as appropriate, and 25.09.325 to  
21 ~~((address unavoidable))~~ minimize impacts. All such City departments shall maintain records  
22 documenting compliance with this subsection 25.09.017.D.

23 E. The Director shall identify techniques that are best management practices for ~~((actions~~  
24 ~~administered by the Director))~~ all development in an environmentally critical area or buffer. The  
25 Director may do this by Director's Rule. The directors of other City departments applying these  
26 regulations or issuing permits for development in an environmentally critical area ~~((s))~~ or ~~((their~~

1 ))buffer((s)) may identify techniques that are best management practices and may do this by  
2 Director's Rule.

3 F. The provisions of Section 23.88.020 apply to a decision by the Director as to the  
4 meaning, application, or intent of any provision of this Chapter 25.09. The provisions of Section  
5 23.88.020 are the exclusive administrative remedy for any determination by the Director under  
6 Chapter 25.09, except as otherwise specifically provided. Other administrative appeal provisions  
7 set out in Title 23 do not apply to decisions under this Chapter 25.09, except as specifically  
8 provided.

9 Section 4. Section 25.09.020 of the Seattle Municipal Code, last amended by Ordinance  
10 124750, is amended as follows:

11 **25.09.020 Environmentally critical areas definitions**

12 The following are environmentally critical areas designated by this Chapter 25.09:  
13 geologic hazard areas, steep slope areas, flood-prone areas, wetlands, fish and wildlife habitat  
14 conservation areas, and abandoned landfills.

15 A. Geologic ((H))hazard ((A))areas and ((S))steep ((S))slope ((A))areas((-))

16 1. Geologic hazard areas are liquefaction-prone areas, landslide-prone areas, peat  
17 settlement-prone areas, seismic hazards areas and volcanic hazard areas described in subsections  
18 25.09.020.A.2, 25.09.020.A.3, 25.09.020.A.5, 25.09.020.A.6, and 25.09.020.A.7. Landslide-  
19 prone areas include steep slope areas. Steep slope areas that are regulated for additional erosion  
20 hazards are described in subsection 25.09.020.A.4.

21 2. Liquefaction-prone ((A))areas. Liquefaction-prone areas are areas typically  
22 underlain by cohesionless soils of low density, usually in association with a shallow groundwater  
23 table, that lose substantial strength during earthquakes.

24 3. Landslide-prone ((A))areas. The following are landslide-prone areas:

25 a. Known landslide areas identified by documented history, or areas that  
26 have shown significant movement during the last ((ten thousand (-)))10,000((-)) years or are  
27 underlain by mass wastage debris deposited during this period; or

b. Potential landslide areas:

((f))1) Those areas that are described as potential slide areas in "Seattle Landslide Study" (Shannon & Wilson, 2000 and 2003).

((f))2) Areas with indications of past landslide activity, such as landslide headscarps and sidescarps, hummocky terrain, areas with geologic conditions that can promote earth movement, and areas with signs of potential landsliding, such as springs, groundwater seepage, and bowed or backtilted trees.

((f))3) Areas with topographic expression of runout zones, such as fans and colluvial deposition at the toes of hillsides.

((f))4) Setbacks at the top of very steep slopes or bluffs, depending on soil conditions.

((f))5) Slopes with an incline of ~~((forty))~~40~~((+))~~ percent or more within a vertical elevation change of at least ~~((ten feet (10')))~~10 feet.

For the purpose of this definition, a slope is measured by establishing its toe and top and averaging the inclination over at least ~~((ten feet (10')))~~10 feet of elevation difference.

Also for the purpose of this definition:

((f))a) The "toe" of a slope means a distinct topographic break in slope that separates slopes inclined at less than ~~((forty))~~40 percent ~~((40%))~~ from slopes inclined at ~~((forty))~~40 percent ~~((40%))~~ or more. Where no distinct break exists, the "toe" of a slope is the lower-most limit of the area where the ground surface drops ~~((ten feet (10')))~~10 feet or more vertically within a horizontal distance of ~~((twenty five feet (25')))~~25 feet; and

((f))b) The "top" of a slope is a distinct topographic break in slope that separates slopes inclined at less than ~~((forty))~~40 percent ~~((40%))~~ from slopes inclined at ~~((forty))~~40 percent ~~((40%))~~ or more. Where no distinct break exists, the "top" of a slope is the upper-most limit of the area where the ground surface drops ~~((ten feet (10')))~~10 feet or more vertically within a horizontal distance of ~~((twenty five feet (25')))~~25 feet.



1                   b. The Seattle Fault zone as delineated in Troost et al., 2005, *The geologic*  
2 *map of Seattle, a progress report, U.S. Geological Survey, Open-file report 2005-1252*, or as the  
3 Director determines is more accurately mapped by the U.S. Geological Survey, as set out in a  
4 Director's Rule.

5                   c. For tsunamis the waterbody of Lake Washington and for tsunamis and  
6 tsunami inundation, the water body and land area as shown in Walsh, et al., 2003, *Tsunami*  
7 *hazard map of the Elliott Bay area, Seattle, Washington: Modeled tsunami inundation from a*  
8 *Seattle Fault earthquake, Washington State Department of Natural Resources and National*  
9 *Oceanic and Atmospheric Administration, Washington Division of Geology and Earth Resources*  
10 *Open File Report 2003-14*, or as the Director determines are more accurately mapped by the  
11 National Oceanic and Atmospheric Administration, the U.S. Geological Survey or the  
12 Washington State Department of Natural Resources, as set out in a Director's Rule.

13                   d. The shoreline and upland areas surrounding Lake Washington are  
14 classified as an unknown risk from tsunamis under WAC 365-190-~~((080(4)(b)(iii)))~~120(4)(c).

15                   e. For seiches, the waterbodies of Elliott Bay, Lake Union, and Lake  
16 Washington.

17                   f. The shoreline and upland areas surrounding the waterbodies in  
18 subsection 25.09.020.A.6.e~~((e))~~ are classified as an unknown risk from seiches under WAC  
19 365-190-~~((080(4)(b)(iii)))~~120(4)(c).

20                   7. Volcanic ~~((H))~~hazard ~~((A))~~areas. Volcanic hazard areas are areas subject to  
21 inundation by lahars or related flooding resulting from volcanic activity on Mount Rainier, as  
22 delineated by the U.S. Geological Survey in Hoblitt, et al., 1998, *Volcano Hazards from Mount*  
23 *Rainier, Washington, Revised 1998: U.S. Geological Survey Open-File Report 98-428*, or as the  
24 Director determines are more accurately mapped by the U.S. Geological Survey, as set out in a  
25 Director's Rule.

26                   B. Flood-prone areas. Flood-prone areas are those areas that would likely be covered with  
27 or carry water as a result of a 100 year flood event, or that would have a one percent or greater

1 chance of being covered with or of carrying water in any given year based on current  
2 circumstances or maximum development permitted under existing zoning. This includes areas  
3 defined as areas of special flood hazard in Section 25.06.030 and areas mapped by Seattle Public  
4 Utilities.

5 C. Wetlands. Wetlands are those areas that are inundated or saturated by surface water or  
6 ground water at a frequency and duration sufficient to support, and that under normal  
7 circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil  
8 conditions.

9 1. Wetlands generally include:

10 a. ~~((s))~~ Swamps, marshes, bogs, and similar areas ~~((:))~~; and

11 b. Those wetlands intentionally created from nonwetland or former  
12 wetland areas to mitigate conversion of wetlands.

13 2. Wetlands do not include:

14 a. ~~((t))~~ Those artificial wetlands intentionally created from nonwetland  
15 sites, including, but not limited to, irrigation and stormwater ditches, grass-lined swales, canals,  
16 detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities ~~((:))~~; or

17 b. ~~((t))~~ Those wetlands created after July 1, 1990, that were unintentionally  
18 created as a result of the construction of a road, street, or highway. ~~((Wetlands include those~~  
19 artificial wetlands intentionally created from nonwetland areas to mitigate conversion of  
20 wetlands.))

21 c. Determination that a wetland meets the conditions of subsection  
22 25.09.160.C.2.a or 25.09.160.C.2.b made during the evaluation of an application prior to  
23 allowing the fill of such wetlands.

24 3. Identification of wetlands and delineation of their boundaries pursuant to this  
25 Chapter 25.09 shall be done in accordance with the approved federal wetland delineation manual  
26 and applicable regional supplements.

1 D. Fish and wildlife habitat conservation areas. The following are fish and wildlife  
2 habitat conservation areas:

3 1. Areas mapped by the Washington ((State)) Department of Fish and Wildlife  
4 (WDFW) as Biodiversity Areas and Corridors((~~urban natural open space habitat areas~~)).

5 2. Areas designated by WDFW as priority habitats and species areas, including  
6 native eel grass beds, kelp beds, and recreational shellfish areas.

7 3. ((Corridors))Land or water areas connecting priority habitats and species areas  
8 or habitat areas for species of local importance meeting one of the following criteria:

9 a. ((WDFW or †))The Department's species habitat management plan  
10 identifies the parcel as part of a corridor connecting habitat areas for ((~~priority species or~~  
11 ))species of local importance;

12 b. ((†))The parcel is adjacent to or connects parcels containing priority  
13 species or species of local importance and the Director determines that the parcel is part of a  
14 wildlife corridor based on information provided by a qualified wildlife biologist; or((;))

15 c. ((†))The parcel provides fish passage between fish habitat in Type S, F,  
16 Np and Ns waters per WAC 222-16-030 and 22-16-031 upstream and downstream of the parcel,  
17 whether that passage is in riparian watercourses, pipes, or culverts.

18 4. Areas that provide habitat for wildlife and species of local importance.

19 5. Riparian corridors.

20 a. Riparian corridors((~~, which~~)) are the riparian watercourse and the  
21 riparian management area. The riparian watercourse is the watercourse of Type F, Np and Ns  
22 waters defined in WAC 222-16-030 and 222-16-031 that have fish or wildlife habitat. Water in  
23 surface water ditches and stormwater conveyances, pipes, culverts, flow control facilities, and  
24 water quality facilities are not regulated as riparian watercourses. The riparian management area  
25 is the area within 100 feet of the watercourse measured horizontally landward from the top of  
26 each bank of the watercourse((;)) or, if the top of the bank cannot be determined, from the  
27 ordinary high water mark of the watercourse as surveyed in the field((~~, if the top of the bank~~

1 ~~cannot be determined~~). In watercourses with braided channels or alluvial fans, the ordinary high  
2 water mark shall be determined so as to include the entire stream feature.

3 b. When a pipe or culvert connecting Type S, F, Np and Ns waters per  
4 WAC 222-16-030 and 222-16-031 that have fish habitat downstream and upstream from the pipe  
5 or culvert is daylighted, the waters formerly in the pipe or culvert will be regulated as a riparian  
6 watercourse, and the area adjacent to that watercourse will be regulated as a riparian  
7 management area, as defined in subsection 25.09.020.D.5. This subsection 25.09.020.D.5.b does  
8 not apply when the pipe or culvert is removed to provide a (~~publicly owned~~)publicly owned  
9 facility designed primarily for water quality treatment, flow control, or stormwater conveyance.

10 6. Priority habitat areas as regulated in Sections 23.60A.156 and 23.60A.160 and  
11 setbacks as regulated in Sections 23.60A.156 and 23.60A.167, except that in the UI and UM  
12 shoreline environments the portion of the setback that is an environmental critical area, as  
13 regulated in Sections 23.60A.156 and 23.60A.167, is the setback measured from the ordinary  
14 high water mark landward 15 feet.

15 E. Abandoned (~~(L)~~)landfills. Abandoned landfills include those abandoned solid waste  
16 landfills identified by the Seattle-King County Health Department in their 1986 Abandoned  
17 Landfill Toxicity/Hazard Assessment Project, additional sites identified by public or historical  
18 research, and areas within (~~(one thousand feet (1,000'))~~)1,000 feet of methane-producing  
19 landfills.

20 Section 5. Section 25.09.030 of the Seattle Municipal Code, last amended by Ordinance  
21 124447, is amended as follows:

22 **25.09.030 Location of environmentally critical areas and buffers**

23 A. Environmentally critical areas are defined in Section 25.09.020, and buffers are  
24 described in Sections 25.09.160 and 25.09.180. Environmentally critical areas are mapped  
25 whenever possible. These maps are advisory except for the maps adopted as designations for  
26 geologically hazardous areas in subsections 25.09.020.A.5, 25.09.020.A.6, and 25.09.020.A.7,  
27 the FEMA maps showing areas of special flood hazard defined in subsection 25.06.030.B, and

1 areas mapped or designated by the Washington (~~(State)~~) Department of Fish and Wildlife  
2 (WDFW) in subsections 25.09.020.D.1 and 25.09.020.D.2. The Director may update or amend  
3 the maps by Director's Rule.

4 B. Determination of environmentally critical area or buffer location

5 1. The Director shall determine whether a parcel contains an environmentally  
6 critical area or buffer before other provisions of this Chapter 25.09 are applied to a development  
7 proposal.

8 2. If an application for development is proposed on a (~~(site)~~)parcel that the  
9 Director believes contains (~~(a)~~)an environmentally critical area or (~~(critical area)~~)buffer, as part  
10 of the application for development an applicant may request a specific determination that(~~(a~~  
11 ~~specific))the parcel (~~(of property)~~)does not contain (~~(a)~~)an environmentally critical area or  
12 (~~(critical area)~~)buffer or that (~~(the critical area or buffer)~~)it is located differently, including  
13 whether (~~(a)~~)an environmentally critical area map should be changed(~~(, by applying for an~~  
14 ~~exemption pursuant to subsection 25.09.045.D.1))~~. In making the (~~(exemption)~~)determination,  
15 the Director may consider the factors set out in subsection 25.09.030.B.4. The applicant may  
16 appeal this determination through the land use interpretation process set forth in Section  
17 23.88.020.~~

18 3. If no application for development is proposed, a request for a formal  
19 determination whether a specific parcel contains (~~(a)~~)an environmentally critical area or (~~(critical~~  
20 ~~area)~~)buffer or of (~~(the)~~)its location(~~(of a critical area or critical area buffer)~~), including whether  
21 (~~(a)~~)an environmentally critical area map should be amended, shall be made by applying for an  
22 interpretation pursuant to the provisions of Section 23.88.020. Interpretation decisions are not  
23 binding on subsequent applications for development if the facts supporting the interpretation or  
24 the designation criteria for (~~(a)~~)an environmentally critical area or (~~(critical area)~~)buffer have  
25 changed. In making the interpretation, the Director (~~(may)~~)shall consider the factors set out in  
26 subsection 25.09.030.B.4.

1                   4. Factors considered. In determining whether a parcel contains an  
2 environmentally critical area or buffer, the Director may consider the environmentally critical  
3 areas maps, site surveys, topographic maps, technical environmental analysis, and any other  
4 information the Director determines necessary. In determining whether development is subject to  
5 regulation under Section 25.09.110, the Director ~~((may))~~ shall consider only whether the  
6 development will occur within an area delineated pursuant to subsection ~~((25.09.020-~~  
7 ~~A.5))~~ 25.09.020.A.5.

8                   5. Development on a parcel the Director determines is not within an  
9 environmentally critical area or buffer is not subject to the provisions of this Chapter 25.09.

10                 Section 6. Section 25.09.040 of the Seattle Municipal Code, last amended by Ordinance  
11 124447, is amended as follows:

12 **25.09.040 Permits and approvals required**

13                 A. Prior to undertaking development or platting on a parcel containing an  
14 environmentally critical area or buffer, the applicant shall:

15                   ~~((1))~~ 1. submit an application that either:

16                   a. complies~~((ying))~~ with the provisions of Section 25.09.330, or

17                   b. if ~~((unless the applicant applies))~~ the application contains a request for  
18 an approval under the provisions of Sections 25.09.045~~((, 25.09.055,))~~ or 25.09.320~~((;))~~ or  
19 subsections 25.09.080.H, 25.09.160.F, 25.09.180.E, or 25.09.200.A.4 complies with the  
20 provisions of the applicable section or subsection and include a request for modification to the  
21 submittal requirements of Section 25.09.330; and

22                   ~~((2))~~ 2. obtain the Director's approval of the application. ~~((An application that~~  
23 ~~includes a request for an exemption under subsection 25.09.045.D, or Sections 25.09.055 or~~  
24 ~~25.09.320, shall include a request for modification to the submittal requirements of Section~~  
25 ~~25.09.330.~~

26                 ~~B. Prior to undertaking actions under Section 25.09.045, 25.09.055, or subsection~~  
27 ~~25.09.200.A.4, the applicant shall obtain the Director's approval of the application under the~~

1 ~~applicable section. The applicant shall also obtain approval of a modification to the submittal~~  
2 ~~requirements of Section 25.09.330 as part of compliance with subsection 25.09.045.D or~~  
3 ~~Sections 25.09.055 or 25.09.320.~~

4 ~~€))B. Prior to altering vegetation, trees, or habitat protected by this Chapter 25.09 the~~  
5 ~~applicant((person responsible)) shall comply with the provisions of Section 25.09.320, unless the~~  
6 ~~work has been approved under((that person complies with)) Section 25.09.045 or subsections~~  
7 ~~25.09.080.H, 25.09.160.E, or 25.09.180.E((25.09.055)).~~

8 Section 7. Section 25.09.045 of the Seattle Municipal Code, last amended by Ordinance  
9 124447, is amended as follows:

#### 10 **25.09.045 Exemptions**

##### 11 A.

12 1. When the Director determines that criteria in subsections 25.09.045.D to ((~~F~~  
13 ~~below~~))25.09.045.K are met, those activities are exempt from the provisions of this ((~~€~~))Chapter  
14 25.09, except Section((~~s~~)) 25.09.017, ((~~and 030B~~))subsection 25.09.030.B, Section 25.09.320,  
15 and as otherwise provided in this ((~~s~~))Section 25.09.045.

16 2. An application for an exemption may be made only as a component of a  
17 specific proposed development.

##### 18 3. Applications

19 a. The applicant for an exemption shall provide all information requested  
20 by the Director and demonstrate that the work qualifies for the exemption. The application shall  
21 include all portions of the proposed development, including utilities. The Director shall  
22 determine whether work is exempt and may impose conditions on the work to protect  
23 environmentally critical areas and buffers or other property.

24 b. City agencies taking the action under any subsection of this ((~~s~~))Section  
25 25.09.045 and ((~~the~~))a public agency taking the action under subsection 25.09.045.J do not need  
26 to make an application to the Director, provided that, if no application is made, they shall comply  
27 with all provisions of this Section 25.09.045, make all determinations required to be made by the

1 Director, including required conditions, and ~~((shall-))~~ maintain records documenting compliance  
2 with all provisions.

3 B. All exempt activities shall be undertaken using best management practices~~((;+))~~. The  
4 applicant shall maintain records documenting compliance with this subsection 25.09.045.B.

5 C. The enforcement provisions of this ~~((e))~~ Chapter 25.09 apply to all activities exempted  
6 under this ~~((s))~~ Section 25.09.045. The Director's determination that a violation exists is not  
7 limited by determinations made by other City agencies or public agencies under subsection  
8 ~~((A3b, above))~~ 25.09.045.A.3.b.

9 D. ~~((Development not within an environmentally critical area))~~ New development and  
10 maintenance and replacement of existing development

11 1. ~~((Development on property the Director determines is not within an~~  
12 ~~environmentally critical area or buffer is exempt from the provisions of this Chapter 25.09))~~ New  
13 development. Development where there is no existing development is exempt from the  
14 provisions of this Chapter 25.09 if it does not temporarily or permanently encroach within, alter,  
15 or increase the impact to the environmentally critical area or buffer on the parcel where the  
16 development occurs.

17 2. ~~((Development that does not temporarily or permanently encroach within, alter,~~  
18 ~~or increase the impact to the environmentally critical area or buffer on the parcel where the~~  
19 ~~development occurs is exempt from the provisions of this Chapter 25.09; if existing development~~  
20 ~~that encroaches within or impacts the environmentally critical area or buffer is removed, then~~  
21 ~~new development that encroaches within, alters or impacts the environmentally critical area or~~  
22 ~~buffer is not exempt.))~~ Existing development. Maintenance, repair, renovation, or structural  
23 alteration of existing development is exempt from the provisions of Chapter 25.09 if:

24 a. It does not increase the size of the development; and

25 b. It does the impact to, encroach further within, or further alter an  
26 environmentally critical area or buffer.

27 3. Rebuilding or replacing structures is allowed subject to Section 25.09.052.

1           E. Emergency work

2                   1. Work that meets the following criteria is exempt if the work directly  
3 relates~~((d))~~ to ending a condition ~~((that))~~and:

4                           ~~((1))~~a. is an immediate threat to the public health, safety, and welfare~~((;))~~  
5 or creates an immediate risk of damage to public or private property; and

6                           ~~((2))~~b. requires remedial or preventive action in a timeframe too short to  
7 allow compliance with the application provisions of this ~~((e))~~Chapter 25.09 is exempt from those  
8 provisions, provided that the work is the minimum work necessary to end the condition and the  
9 work is consistent with the development standards of this ~~((e))~~Chapter 25.09 to the extent  
10 practicable.

11                   2. Once the Director determines that the condition no longer meets these criteria,  
12 all work is subject to the provisions of this ~~((e))~~Chapter 25.09, including but not limited to its  
13 application requirements, its development standards, and any requirements for technical reports  
14 and reviews for work that was exempt at the time it was performed.

15           F. ~~((Maintenance, repair, renovation, or structural alteration of an existing structure that~~  
16 ~~does not increase the impact to, or encroach further within, or further alter an environmentally~~  
17 ~~critical area or buffer is exempt from the provisions of this chapter.~~

18           G. ~~Rebuilding or replacing structures that are destroyed by an act of nature is exempt~~  
19 ~~from the provisions of this Chapter 25.09, provided that action toward the rebuilding or~~  
20 ~~replacement is commenced within one year of the act of nature, that the rebuilding or~~  
21 ~~replacement is diligently pursued, and that the new construction or related activity does not~~  
22 ~~further encroach into, or increase the impact to, or further alter an environmentally critical area~~  
23 ~~or buffer and complies with applicable requirements of Chapter 25.06, Floodplain Development.~~

24           H.))

25                   1. The activities identified in subsection 25.09.045.~~((H))~~F.3 ~~((below))~~ are exempt  
26 from the provisions of this Chapter 25.09 if the applicant demonstrates:

27                           a. The work is not a prerequisite to other development;

1 b. No practicable alternative to the work with less impact on the  
2 environmentally critical area or buffer exists pursuant to subsection 25.09.325.B.1.a; and

3 c. The work does not pose an unreasonable threat to the public health,  
4 safety, or welfare or to the environment, on or off the property.

5 2. The Director's decision shall:

6 a. ~~((i))~~ Include the approved location and limits of the work; ~~((and))~~

7 b. ~~((f))~~ Require the application of mitigation sequencing as set out in  
8 Section 25.09.325 and include specific mitigation measures for all impacts to ~~((all~~  
9 ~~))~~ environmentally critical areas and ~~((their))~~ buffers before, during, and after construction; and

10 c. require special inspection at the Director's discretion.

11 3. The provisions of this subsection 25.09.045. ~~((H))~~ F apply to the following  
12 activities:

13 a. Relocation of electric facilities, lines, equipment, or appurtenances, not  
14 including substations, with an associated voltage of 55,000 volts or less only when required by a  
15 governmental agency;

16 b. Relocation of natural gas, cable communications, gas, telephone  
17 facilities, and public utility lines, pipes, mains, equipment, or appurtenances only when required  
18 by a governmental agency;

19 c. Installation or construction in improved public road rights-of-way, and  
20 replacement, operation, or alteration, of all electric facilities, lines, equipment, or appurtenances,  
21 not including substations, with an associated voltage of 55,000 volts or less;

22 d. Installation or construction in improved public road rights-of-way, and  
23 replacement, operation, repair, or alteration of all natural gas, cable communications, telephone  
24 facilities, and public utility lines, pipes, mains, equipment, or appurtenances;

25 e. Public or private projects designed exclusively ~~((to enhance ecological~~  
26 ~~function in the Shoreline District or))~~ to enhance riparian corridors, ~~((and))~~ wetlands, and  
27 wetland ~~((their))~~ buffers, including stormwater-related functions, that require either a Hydraulic

1 Project Approval from the Washington Department of Fish and Wildlife or a Section 404 permit  
2 under the federal Clean Water Act from the United States Army Corps of Engineers, or any  
3 project funded by the Aquatic Habitat Matching Grant program, established by City Council  
4 Resolution 30719((7)); and

5 f. Public projects if the purpose for the intrusion into the environmentally  
6 critical area or buffer is to benefit((s)) the public's enjoyment of the environmentally critical  
7 area, such as walking trails providing access to a creek or wetland area, when located and  
8 designed to ~~((keep))~~minimize environmental disturbance ~~((to a minimum))~~and impact to the  
9 environmentally critical area and buffer. The applicant shall protect vegetation and trees pursuant  
10 to a tree and vegetation plan consistent with best management practices. The plan shall be  
11 prepared by a qualified expert with experience related to the type of environmentally critical area  
12 or buffer where work will occur. In landslide-prone areas the plan shall also be approved by a  
13 geotechnical engineer or geologist licensed in the State of Washington with experience in  
14 analyzing geological hazards related to slope stability and vegetation removal on steep slopes.

15 G((I)). ~~((Normal and routine (e)))~~Operation, maintenance, remodeling, repair, and removal  
16 of existing public facilities and utilities, if these activities are normal and routine in nature, are((  
17 is)) exempt from the provisions of this ((e))Chapter 25.09 ((when))if these activities do not result  
18 in substantial disturbance of environmentally critical areas or buffers.

19 H((J)). ~~((Normal and routine (a-p)))~~Pruning,((-(b))) tree and vegetation maintenance and  
20 management, and ((e-))revegetation, if these activities are normal and routine in nature, are  
21 exempt from the provisions of this ((e))Chapter 25.09 ((when ))if they do not result in substantial  
22 disturbance of environmentally critical areas or buffers and when they are carried out in parks,  
23 public utility ((right of ways))rights-of-way, and publicly owned open spaces by the public  
24 agencies, including City agencies, that are responsible for them.

25 I((K)). Site investigative work. Minor site investigative work, such as surveys, soil logs,  
26 percolation test, and other related activities, is exempt from the provisions of this Chapter 25.09  
27 if ((such activities do ))it does not exceed grading that is exempt under the Grading Code,

1 Chapter 22.170. In every case, impacts to the environmentally critical area and buffer shall be  
2 minimized, and disturbed areas shall be immediately restored.

3 Section 8. Section 25.09.050 of the Seattle Municipal Code, enacted by Ordinance  
4 122050, is renumbered 25.09.042 and further amended to read as follows:

5 **25.09.0((50))42 City projects((-))**

6 "City project" means all work described in Section 25.09.015 that is undertaken by a City  
7 agency. A City project shall comply with all provisions of this ((c))Chapter 25.09 unless the  
8 project is exempt under Section 25.09.045.

9 Section 9. A new Section 25.09.052 of the Seattle Municipal Code is added as follows:

10 **25.09.052 Rebuilding or replacing structures**

11 A. Rebuilding or replacing structures destroyed by acts of nature

12 1. Rebuilding or replacing structures destroyed by fire, act of nature, or other  
13 causes beyond the control of the owner is allowed if it complies with the provisions of subsection  
14 25.09.052.B or:

15 a. The rebuilding or replacement is located within the same footprint as  
16 and does not exceed the height of the destroyed structure;

17 b. The rebuilding or replacement does not increase the impact to or further  
18 alter an environmentally critical area or buffer;

19 c. Action toward the rebuilding or replacement is commenced within one  
20 year of the destruction of the structure; and

21 d. The rebuilding or replacement is diligently pursued.

22 2. A structure that is rebuilt or replaced and activities related to rebuilding or  
23 replacing the structure shall:

24 a. Comply with restrictions on flood hazard areas reconstruction, if the  
25 structure is located in a flood-prone area; and

26 b. Comply with the development standards for the environmentally critical  
27 area in which it is located to the maximum extent possible, including requirements for access.

1           B. Rebuilding or replacing a single-family residence voluntarily

2                   1. Rebuilding or replacing a single-family residence is allowed if:

3                           a. The area of the footprint of the rebuilt or replaced residence does not  
4 exceed that of the current residence and access does not exceed the width and length of current  
5 access, unless more access is needed to comply with subsection 25.09.052.B.1.c.; and

6                           b. The lot does not have sufficient area entirely outside of the  
7 environmentally critical area, environmentally critical area buffer, or riparian management area  
8 as required by the regulations of this Chapter 25.09 to site a residence with the same footprint  
9 and access as existed on the effective date of this Ordinance; or

10                          c. For single family residences located over a watercourse or in a wetland  
11 the rebuilt or replaced residence meets buffer or riparian management area requirements to the  
12 greatest extent possible; and

13                          d. The site for the residence, access, and utilities has the least impact on  
14 the functions and values of the environmentally critical area or, if it is a landslide-prone area, all  
15 portions of the site that are disturbed or affected by rebuilding or replacing the residence and  
16 related activities are completely stabilized as specified in subsection 25.09.080.B.1.

17                   2. Rebuilding or replacing a single-family residence and activities related to  
18 rebuilding or replacing the structure shall:

19                           a. Comply with restrictions on flood hazard areas reconstruction, if the  
20 structure is located in a flood-prone area;

21                           b. Comply with the development standards for the environmentally critical  
22 area in which it is located to the maximum extent possible; and

23                           c. Mitigate all impacts to the functions and values of the environmentally  
24 critical area, including any impacts caused by removing the residence from its original location,  
25 such as runoff from impervious surfaces and/or replacing or rebuilding any portion of the  
26 residence within the environmentally critical area.

1 Section 10. Section 25.09.055 of the Seattle Municipal Code, last amended by Ordinance  
2 124447, is repealed:

3 ~~((25.09.055 Small project waiver~~

4 ~~A. The Director may approve new accessory structures or additions to existing structures~~  
5 ~~in the environmentally critical areas and buffers listed in subsection 25.09.055.A.2, if no~~  
6 ~~construction occurs over or in a water course, water body, or wetland, and if the applicant~~  
7 ~~demonstrates the proposal meets the following criteria:~~

8 ~~1. The new accessory structure or addition to an existing structure is on a lot that~~  
9 ~~has been in existence as a legal building site prior to October 31, 1992.~~

10 ~~2. The development does not exceed 150 square feet in riparian management~~  
11 ~~areas or in wetland buffers, 300 square feet in steep slope areas or buffers, or 750 square feet in~~  
12 ~~landslide prone (except steep slope) areas, all calculated cumulatively from October 31, 1992.~~  
13 ~~When the new accessory structure or addition to an existing structure is on a lot that is or has~~  
14 ~~been held in common ownership with a contiguous lot and the lots are or have been used for a~~  
15 ~~single principal use or for a principal use and accessory use, the limitation applies to the entire~~  
16 ~~site.~~

17 ~~3. It is not possible to build the accessory structure or addition to an existing~~  
18 ~~structure for the intended purpose out of the environmentally critical area or buffer.~~

19 ~~4. The location of the accessory structure or addition to an existing structure keeps~~  
20 ~~impact on the environmentally critical area and buffer to a minimum.~~

21 ~~5. In landslide prone areas the Director may require a soils report prepared by a~~  
22 ~~qualified geotechnical engineer or geologist licensed by the State of Washington demonstrates~~  
23 ~~that it is safe to construct the new accessory structure or the addition to an existing structure.~~

24 ~~6. In steep slope areas or buffers, and in all other landslide prone areas, the new~~  
25 ~~accessory structure or addition to an existing structure subject to waiver under this Section~~  
26 ~~25.09.055 shall not include retaining walls or drainage features.~~

27 ~~B. Director's decision~~

1                   1. ~~The Director shall require the use of fencing with a highly durable protective~~  
2 ~~barrier during the construction to protect the remainder of the environmentally critical area~~  
3 ~~and/or buffer.~~

4                   2. ~~The Director shall require planting native vegetation in an area equal in size to~~  
5 ~~the area of any native vegetation in a riparian corridor, wetland buffer, steep slope, or steep slope~~  
6 ~~buffer that is removed or adversely impacted by the development. Any invasive species shall be~~  
7 ~~removed from the planting area. The planting area shall be on site and, whenever possible, in the~~  
8 ~~same environmentally critical area or buffer. When this is not possible, the Director shall~~  
9 ~~authorize all or a portion of the planting to be outside the environmentally critical area or buffer~~  
10 ~~or on another parcel, when the Director determines this will mitigate the impact.~~

11                   3. ~~The Director shall require additional measures to protect the remainder of the~~  
12 ~~environmentally critical area and/or buffer.))~~

13                   Section 11. Section 25.09.060 of the Seattle Municipal Code, last amended by Ordinance  
14 124447, is amended as follows:

15 **25.09.060 General development standards**

16                   The following general development standards apply to development on parcels  
17 containing environmentally critical areas or ~~((their))~~ buffers, except in liquefaction-prone areas,  
18 in peat settlement-prone areas, and as specifically provided in this Chapter 25.09:

19                   A. Any required non-disturbance area shall be legibly shown and described on the site  
20 plan, and a covenant shall be required as set out in Section 25.09.335.

21                   B. The project shall avoid adverse impacts from development on environmentally critical  
22 areas and buffers~~((, and t))~~. The Director shall restrict developmental coverage and construction  
23 activity areas to the most environmentally suitable, naturally stable, and least sensitive portion of  
24 the site in order to protect the ecological functions and values of wetlands and fish and wildlife  
25 habitat areas, prevent erosion from development on steep slope areas, and protect the public  
26 health, safety, and welfare in landslide-prone, liquefaction-prone, and flood-prone areas. Grading

1 activities and impervious surfaces that may impact environmentally critical areas or buffers shall  
2 be kept to a minimum and ~~((limited to))~~ occur only in areas approved by the Director.

3 C. Driveways and utility corridors that may impact environmentally critical areas or  
4 buffers shall be kept to a minimum through the use of common access drives and corridors where  
5 feasible. Roads, walkways, and parking areas should be designed parallel to topographic  
6 contours with consideration given to maintaining consolidated areas of natural topography and  
7 vegetation. Access shall be located in a way that keeps impacts to environmentally critical areas  
8 and buffers to a minimum.

9 D. All buffers and designated non-disturbance areas shall be fenced with a highly visible  
10 and durable protective barrier during construction to prevent access and to protect  
11 environmentally critical areas.

12 E. All site clearing on the lot that may impact environmentally critical areas or buffers  
13 shall be carried out in stages just prior to construction, and cleared areas shall be kept to the  
14 minimum for construction. Revegetation shall occur after the particular phase of construction is  
15 completed and shall comply with Sections 25.09.320 and 25.09.325. When required by the  
16 Director, a tree and revegetation plan shall establish a staged vegetation removal and  
17 replacement program that keeps the amount of exposed soil during and after construction to a  
18 minimum, amends the soils in the areas to be replanted to improve vegetation survival and  
19 complies with Sections 25.09.320 and 25.09.325. In drier months, temporary surface irrigation or  
20 temporary installation of intermediate plantings may be required until weather or seasonal  
21 conditions permit installation of the permanent plantings.

22 F. Construction activity on the lot that may impact environmentally critical areas or  
23 buffers shall adhere to a prepared schedule and mitigation plan as set out in subsection  
24 25.09.325.D approved by the Director prior to the start of construction. This schedule and  
25 mitigation plan shall include, but not be limited to, a schedule for compliance with project  
26 conditions, limits of construction and work activities, equipment to be used, start and duration of

1 each phase, work sequencing, and shall include the design, implementation, maintenance, and  
2 monitoring of mitigation requirements to prevent erosion, siltation, and destruction of vegetation.

3 G. All grading in environmentally critical areas shall be completed or stabilized by  
4 October 31(~~st~~) of each year unless the applicant demonstrates to the satisfaction of the Director  
5 based on approved technical analysis that no environmental harm or safety problems would  
6 result from grading between October 31(~~st~~) and April 1(~~st~~). This provision does not apply to  
7 grading in liquefaction-prone areas and abandoned landfills (~~environmentally critical areas~~  
8 ))unless the parcel contains another environmentally critical area.

9 H. Best management practices shall be used for all construction activity on parcels with  
10 or adjacent to (~~environmentally critical areas or buffers~~)riparian corridor watercourses, other  
11 fish and wildlife habitat conservation areas, wetlands, or wetland buffers to prevent sediment and  
12 other pollutants from entering (~~the riparian corridor watercourses or other fish and wildlife~~  
13 ~~habitat conservation areas~~)any of these environmentally critical areas or buffers on or off the  
14 property. Best management practices include, but are not limited to, installation of siltation  
15 barriers, diversion measures, slope drains, and structural, vegetative stabilization techniques and  
16 other methods prescribed in Chapters 22.800 through 22.808, the Stormwater Code.

17 I. The Director may require an erosion control plan and a tree and revegetation plan when  
18 erosion potential is severe. The erosion control plan shall be consistent with best management  
19 practices, and best management practices shall be followed in implementing it. The tree and  
20 revegetation plan shall be prepared by a qualified professional with landscaping, plant ecology(  
21 ~~and~~), or botany education and experience and shall comply with Sections 25.09.320 and  
22 25.09.325. All revegetation shall consist of native vegetation.

23 J. The site, including developmental coverage and construction activity areas, shall be  
24 managed in a manner sufficient to control stormwater and prevent erosion during construction,  
25 and shall be revegetated to promote stormwater control and prevent erosion after construction,  
26 consistent with Chapters 22.800 through 22.808, the Stormwater Code, including all Director's  
27 Rules.

1 K. When calculating detention requirements, all disturbed areas on the site shall be  
2 calculated as developmental coverage, including revegetated areas, excluding enhanced or  
3 restored areas as approved by the Director.

4 L. ~~((Pesticides and))~~ Application of pesticides, herbicides, and fertilizers

5 1. Application of pesticides, herbicides, and synthetic fertilizers ~~((shall not be~~  
6 ~~applied within (50) feet of))~~ is prohibited in a riparian corridor ~~((watercourse))~~, wetland, or  
7 ~~((shoreline))~~ wetland buffer except as allowed by the Director for the following circumstances  
8 and when allowed pesticide, herbicide, and synthetic fertilizer applications will be done by a  
9 licensed applicator:

10 ((1))a. The state or local Health Department recommends or directs their  
11 use to address a threat to public health ~~((, or))~~;

12 ((2))b. A county, state, or federal agency with jurisdiction directs their use  
13 for control of a state listed noxious weed or plant pests covered by the Washington State  
14 Department of Agriculture plant pest program, and ~~((when))~~ non-chemical alternatives have been  
15 evaluated ~~((, or))~~;

16 ((3))c. ~~((When))~~ If the Director determines the applicant has demonstrated  
17 that the use will have no adverse impact to fish and wildlife. Such a determination may be in the  
18 form of concurring that the applicant has developed best management practices or an integrated  
19 pest management plan consistent with standards developed by the Director ~~((, or))~~;

20 ((4))d. ~~((When))~~ If the Director ~~((has determined))~~ determines that use of a  
21 pesticide to control invasive plants would have less overall adverse environmental impact than  
22 other control strategies ~~((, or))~~; or

23 ((5))e. ~~((When))~~ If the Director determines there is a serious threat to  
24 public safety, health, or the environment.

25 2. Application of organic fertilizers shall follow best management practices for  
26 use of fertilizers within a riparian corridor, wetland, or wetland buffer, including limiting the use

1 of the fertilizers, hand mixing the fertilizer with ingredients that do not dissolve quickly, and  
2 using composted dry grass clippings, leaves, and saw dust as fertilizer.

3 M. The Director may require a development proposal's design to account for a ~~((one~~  
4 ~~hundred-))100((+)) year seismic and ~~((one hundred-))100((+)) year flood event, unless a design~~  
5 for a greater event is required by other applicable codes.~~

6 N. The Director may require additional construction practices and methods and  
7 requirements, including, but not limited to best management practices as outlined in federal,  
8 state, and Seattle manuals, and limitations on construction equipment permitted on the site, to  
9 protect environmentally critical areas and buffers on and off the property.

10 O. No provision of this ~~((e))~~Chapter 25.09 shall be construed to require putting new or  
11 existing power lines underground.

12 Section 12. Section 25.09.080 of the Seattle Municipal Code, last amended by Ordinance  
13 122050, is amended as follows:

14 **25.09.080 Landslide-prone ~~((critical-))~~areas~~((+))~~**

15 A. This ~~((s))~~Section 25.09.080 applies to all parcels in or containing a landslide-prone  
16 ~~((critical-))~~area.

17 B. Site~~((+))~~

18 1. Complete stabilization of all portions of a site that are disturbed or affected by  
19 the proposed development, including all developmental coverage and construction activity areas,  
20 is required. Complete stabilization of all portions of a site refers to the process and actions  
21 necessary to stabilize proposed site improvements, and all on-site areas and adjacent properties,  
22 including adjacent public and private rights-of-way, that are disturbed or affected.

23 2. The proposed development shall be limited and controlled to avoid adverse  
24 impacts ~~((and))~~to the landslide-prone area, prevent potential harm, and ~~((to-))~~provide safe~~((+))~~  
25 and stable~~((-and-compatible))~~ development appropriate to site conditions. ~~((Other))~~The Director  
26 may require other reasonable and appropriate solutions to provide site stability~~((may be required~~

1 ~~by the Director. This may include~~), including imposing conditions (~~(concerning)~~)on the type and  
2 method of construction that reflect the specific constraints of the site.

3           3. Removal of, clearing of, or any action detrimental to trees or vegetation in  
4 landslide(~~(-)~~)-prone (~~(critical)~~) areas is prohibited, except as provided in this (~~(s)~~)Section  
5 25.09.080 and Section 25.09.320.

6           C. Third-~~(P)~~party (~~(R)~~)review. In addition to requiring the information provided  
7 pursuant to Section 25.09.330 and to Director's Rules, the Director may require third-party  
8 review when the professional opinions of the applicant's representative and the Department's  
9 reviewers cannot be reconciled. Third-party review requires the applicant's geotechnical and/or  
10 additional technical studies to be reviewed by an independent third party, paid for by the  
11 applicant but hired by the Director. Third-party review shall be conducted by a qualified  
12 engineering consultant.

13           D. Bonds and (~~(F)~~)insurance. The Director may require adequate bonds and/or insurance  
14 to cover potential claims for property damage that may arise from or be related to excavation or  
15 fill within a landslide-prone area when the depth of the proposed excavation exceeds (~~(four feet~~  
16 ~~(4'))~~)4 feet and the bottom of the proposed excavation is below the (~~(one hundred)~~)100 percent  
17 (~~((100%))~~)slope line (~~((forty-five(-))~~)45(~~(°)~~) degrees from a horizontal line) from the property  
18 line. The Director may require such bonds and insurance in other circumstances where the  
19 Director determines that there is a potential for significant harm to an environmentally critical  
20 area or buffer during the construction process.

21           E. Permit (~~(R)~~)renewals. In addition to complying with the permit renewal standards in  
22 Chapter 23.76, applications for permit renewal shall comply with the following standards(~~(-)~~):

23           1. The Director may renew a permit for development that is in conformance with  
24 applicable regulations in effect at the time the renewal is sought.

25           2. An applicant seeking to renew a permit for new development in a landslide-  
26 prone area must submit a letter of certification from the current project geotechnical engineer of

1 record as described in subsection 25.09.080.G.2. If the applicant does not submit such a letter of  
2 certification(~~(is not submitted)~~), the permit shall not be renewed.

3           3. The Director may renew a permit for development in a landslide-prone area if,  
4 after considering the information submitted in conformance with subsection(~~(s)~~) 25.09.080.G,  
5 (~~(he or she)~~)the Director determines that there is no increased risk of damage to the proposed  
6 development, to neighboring properties, or to the drainage basin. In making such a determination  
7 the Director may impose new conditions or require the submittal of revised plans.

8           4. An applicant for renewal (~~(also)~~) must demonstrate that any required bond or  
9 insurance will be in effect during the renewal period(~~(;)~~) and that the amount of such bond or  
10 insurance still is appropriate. The Director may require a bond or insurance as a condition of  
11 renewal even if (~~(such)~~) a bond or insurance was not required previously.

12           F. Issued permits in landslide-prone areas. If the Director has reasonable grounds to  
13 believe that an emergency exists because significant changes in conditions at a project site or in  
14 the surrounding area may have occurred since a permit was issued, increasing the risk of damage  
15 to the proposed development, to neighboring properties, or to the drainage basin, the Director  
16 may (~~(by letter or other reasonable means of notification)~~) suspend the permit by letter or other  
17 reasonable means of notification until the applicant has submitted a letter of certification as  
18 described in subsection 25.09.080.G.2 and (~~(has)~~) satisfied the standards of that subsection  
19 25.09.080.G.2.

20           G. Letter of (~~(€)~~) certification(~~(;)~~)

21           1. The Director may require a letter of certification based on such factors as the  
22 presence of known slides, indications of changed conditions at the site or in the surrounding area,  
23 or other indications of unstable soils.

24           2. The letter of certification shall be from the current project geotechnical  
25 engineer of record stating that a geotechnical engineer has inspected the site and area  
26 surrounding the proposed development within the (~~(sixty-€)~~) 60(;) days preceding submittal of  
27 the letter. The letter of certification shall state(~~(; and)~~) that:

1 a. In the project geotechnical engineer's professional opinion no  
2 significant changes in conditions at the site or surrounding area have occurred that render invalid  
3 or out-of-date the analysis and recommendations contained in the technical reports and other  
4 application materials previously submitted to the Department as part of the application for the  
5 permit; or that

6 b. In the project geotechnical engineer's professional opinion changes in  
7 conditions at the site or surrounding area have occurred that require revision to project criteria,  
8 and that in the project geotechnical engineer's professional opinion all technical reports and any  
9 necessary revised drawings that account for the changed conditions have been prepared and  
10 submitted.

11 H. Small project waiver

12 1. The Director may approve new accessory structures or additions to existing  
13 structures in a landslide-prone area if no construction occurs over or in a water course, water  
14 body, or wetland, and if the applicant demonstrates the proposal meets the following criteria:

15 a. The new accessory structure or addition to an existing structure is on a  
16 lot that has been in existence as a legal building site prior to October 31, 1992;

17 b. The development is not in a steep slope area;

18 c. The development does not exceed 750 square feet calculated  
19 cumulatively from October 31, 1992. When the new accessory structure or addition to an  
20 existing structure is on a lot that is or has been held in common ownership with a contiguous lot  
21 and the lots are or have been used for a single principal use or for a principal use and accessory  
22 use, the limitation applies to the entire site;

23 d. It is not possible to build the accessory structure or addition to an  
24 existing structure for the intended purpose outside of the landslide-prone area;

25 e. The location of the accessory structure or addition to an existing  
26 structure minimizes the impact on the landslide-prone area; and

1                                    f. The new accessory structure or addition to an existing structure subject  
2 to waiver under this subsection 25.09.080.H shall not include retaining walls or drainage  
3 features.

4                                    2. The Director may require a soils report prepared by a qualified geotechnical  
5 engineer or geologist licensed by the State of Washington demonstrates that it is safe to construct  
6 the new accessory structure or the addition to an existing structure.

7                                    3. Director's decision

8                                    a. The Director shall require the use of fencing with a highly durable  
9 protective barrier during the construction to protect the remainder of the landslide-prone area.

10                                   b. The Director shall require planting native vegetation in an area equal in  
11 size to the area of any native vegetation in the landslide-prone area that is removed or adversely  
12 affected by the development. Any invasive species shall be removed from the planting area. The  
13 planting area shall be on site and, whenever possible, in the landslide-prone area. When this is  
14 not possible, the Director shall authorize all or a portion of the planting to be outside the  
15 landslide-prone area or on another parcel, when the Director determines this will mitigate the  
16 impact.

17                                   c. The Director shall require additional measures to protect the remainder  
18 of the landslide-prone area.

19                                   Section 13. Section 25.09.100 of the Seattle Municipal Code, last amended by Ordinance  
20 122050, is amended as follows:

21 **25.09.100 Development standards for liquefaction-prone areas((-))**

22                                   A. The general development standards set out in ((SMC))Section 25.09.060 do not apply  
23 to ((liquefaction-prone))liquefaction-prone areas.

24                                   B. Soils engineering studies may be required for development in liquefaction-prone areas  
25 to determine the physical properties of the surficial soils, especially the thickness of  
26 unconsolidated deposits, and their liquefaction potential, as set out in Title 22, Subtitle I.

1 C. If it is determined that the site is ~~((subject))~~prone to liquefaction, the Director may  
2 impose mitigation measures ~~((may be imposed))~~ pursuant to Title 22, Subtitle I, in addition to  
3 other applicable codes or regulations pertaining to development in liquefaction-prone areas.

4 Section 14. Section 25.09.110 of the Seattle Municipal Code, enacted by  
5 Ordinance 122738, is amended as follows:

6 **25.09.110 Development standards for peat settlement-prone areas~~(( ))~~**

7 A. The general development standards set out in Section 25.09.060 do not apply to peat  
8 settlement-prone areas.

9 B. A geotechnical study detailing the location of the annual high static groundwater level  
10 is required for development in peat settlement-prone areas that involves excavation more than  
11 ~~((thirty ))~~30~~(( ))~~ inches below the existing grade.

12 C. No development shall occur within a peat settlement-prone area below the annual high  
13 static groundwater level except to the minimum extent the Director deems necessary to allow the  
14 following:

- 15 1. Structural components required under Title 22, Subtitle I and IA, the Building  
16 Code and Residential Code;
- 17 2. Utility lines, including but not limited to drainage and sanitary side sewers and  
18 stormwater conveyance facilities, but excluding groundwater collection systems;
- 19 3. Geotechnical testing;
- 20 4. Maintenance, repair, renovation, or structural alteration of an existing structure  
21 if that activity, even though it might involve construction activity below the annual high static  
22 groundwater level, does not increase the extent of the structure below the annual high static  
23 groundwater level;
- 24 5. Aquatic habitat restoration;
- 25 6. Infiltration facilities or other development designed primarily to encourage  
26 recharge or infiltration of water to the groundwater;



1                   1. Projects involving concurrent removal of all peat contained in an entire peat  
2 settlement-prone area;

3                   2. Concurrent development or redevelopment of the entire peat settlement-prone  
4 area that is designed to minimize modification of the groundwater table and avoid impacts of  
5 future settlement through design of new structures; or

6                   3. Projects that are designed to minimize modification of the groundwater regime  
7 and that avoid potential adverse, off-site settlement impacts by retrofitting existing structures on  
8 off-site parcels within the entire peat settlement-prone area.

9                   J. Standards for height and floor area ratio may be modified on lots containing a peat  
10 settlement-prone environmentally critical area as provided in Sections 23.47A.012 and  
11 23.47A.013.

12                   K. Nothing in this ~~((s))~~ Section 25.09.110, ~~((c))~~ including but not limited to subsection  
13 25.09.110.I, ~~((t))~~ limits the authority of the Director ~~((pursuant to other applicable codes or~~  
14 ~~regulations (including but not limited to Title 22, Subtitles I and IA, the Building Code and~~  
15 ~~Residential Code))~~ to require additional studies or impose additional conditions to address  
16 project-related risks arising in peat settlement-prone areas pursuant to other applicable codes or  
17 regulations, including but not limited to Title 22, Subtitles I and IA, the Building Code, and the  
18 Residential Code.

19                   Section 15. Section 25.09.120 of the Seattle Municipal Code, last amended by Ordinance  
20 124447, is amended as follows:

21 **25.09.120 Development standards for flood-prone areas**

22                   All development shall meet the applicable requirements of Chapter 25.06, Seattle  
23 Floodplain Development Ordinance; Chapter 22.100, Seattle Building Code; Chapter 22.150,  
24 Seattle Residential Code; Chapter 22.170, Seattle Grading Code; and Chapter 22.800, Seattle  
25 Stormwater Code.

26                   Section 16. Section 25.09.160 of the Seattle Municipal Code, last amended by Ordinance  
27 124447, is amended as follows:

1 **25.09.160 Development standards for wetlands**

2 A. Wetlands are rated according to the Washington State Wetland Rating System for  
3 Western Washington, (Ecology Publication #~~((04-06-25))~~14-06-029) or as revised. Illegal  
4 grading, filling, draining, or other development will not result in a change to that wetland's  
5 rating. Wetlands constructed for mitigation or replacement purposes are subject to the provisions  
6 of this Chapter 25.09.

7 B. Impacts to wetlands

8 1. Development, including but not limited to grading, filling, or draining, or any  
9 action detrimental to habitat, trees, or other vegetation is prohibited within or over:

- 10 a. Category I, II, or III wetlands greater than 100 square feet;  
11 b. Category IV wetlands 1,000 square feet or greater;  
12 c. A wetland of any category or size that is part of a larger wetland system  
13 or abuts any Type S, F, Np and Ns water per WAC 222-16-030 and 222-16-031.

14 2. Development may occur within or over Category IV wetlands less than 1,000  
15 square feet ~~((, other than those wetlands described in subsection 25.09.160.B.1.c, in accordance~~  
16 ~~with subsection 25.09.160.C.3))~~ unless the Category IV wetland abuts any Type S, F, Np, or Ns  
17 water per WAC 222-16-030 and 222-16-031.

18 3. When development is authorized on a parcel containing a wetland:

19 a. Development shall comply with subsection 22.805.020.G and all other  
20 applicable sections of the ~~((Storm Water))~~ Stormwater Code; and

21 b. ~~((Direct lighting shall be directed away from the wetland and its~~  
22 ~~buffer))~~ Development shall minimize and mitigate identifiable impacts to all sized wetlands and  
23 wetland buffers caused by the development. If a development includes activities listed in column  
24 I of Table A for 25.09.160, then the best management practices listed in column II of Table A for  
25 25.09.160 are required to eliminate the impacts to the greatest extent feasible.

**Table A for 25.09.160**

**Best management practices to minimize development impacts on wetlands and wetland buffers**

<b><u>Disturbance type</u></b>	<b><u>Measures to minimize impacts</u></b>
<u>Lights</u>	<u>Direct lights away from wetland</u>
<u>Noise</u>	<u>Locate activity that generates noise away from wetland</u>
<u>Toxic runoff</u>	<u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u> <u>Establish covenants limiting use of pesticides within 150 feet of wetland</u> <u>Apply integrated pest management</u>
<u>Stormwater runoff</u>	<u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u> <u>Prevent channelized flow from lawns that directly enters the buffer</u>
<u>Change in water regime and presence of impervious surface</u>	<u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</u>
<u>Pets and human disturbance</u>	<u>Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract</u>
<u>Dust</u>	<u>Use best management practices to control dust</u>
<u>Lights</u>	<u>Direct lights away from wetland</u>

**Table A for 25.09.160**

**Best management practices to minimize development impacts on wetlands and wetland buffers**

<b><u>Disturbance type</u></b>	<b><u>Measures to minimize impacts</u></b>
<u>Noise</u>	<u>Locate activity that generates noise away from wetland</u>
<u>Toxic runoff</u>	<u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u> <u>Establish covenants limiting use of pesticides within 150 feet of wetland</u> <u>Apply integrated pest management</u>
<u>Stormwater runoff</u>	<u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u> <u>Prevent channelized flow from lawns that directly enters the buffer</u>
<u>Change in water regime and presence of impervious surface</u>	<u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</u>
<u>Pets and human disturbance</u>	<u>Use privacy fencing; plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; place wetland and its buffer in a separate tract</u>
<u>Dust</u>	<u>Use best management practices to control dust</u>

- 1
  - 2
  - 3
  - 4
4. In a wetland of any category or size, any action detrimental to habitat, trees or vegetation, including but not limited to clearing or removal, is prohibited, except as provided in Sections 23.60A.190, 25.09.045, 25.09.300, and 25.09.320.

1                    5. Altering existing wetlands by enlarging them and/or increasing the ecological  
 2 function of the wetland is allowed pursuant to subsection 25.09.160.E.

3                    C. Wetland buffers and mitigation

4                    1. Establishment of buffers((-))

5                    a. The wetland buffer is measured horizontally (~~(from)~~)and perpendicular  
 6 to the edge of the wetland.

7                    b. (~~(Wetlands have the following buffers:))~~The size of wetland buffers is  
 8 set out in Table B for 25.09.160 and is based on the size, category, and habitat function of the  
 9 wetland.

10                    c. The habitat function of a wetland shall be determined according to  
 11 Washington State Ecology’s Publication #14-06-029 or as revised.

**Table B for 25.09.160**

**Wetland buffer requirements**

Category I and II wetlands over 100 square feet in total size or of any size <u>that about any Type S, F, Np, or Ns water per WAC 222-16-030 and 222-16-031</u> ( <del>(with the characteristics described in subsection 25.09.160.B.1.c above)</del> )	100 feet  110 feet for moderate level habitat function  200 feet for high level of habitat function
---	---

<u>Estuarine, interdunal, and coastal lagoon wetlands</u>	<u>200 feet</u>
---	-----------------

Category III wetlands over 100 square feet in total size or of any size <u>that about any Type S, F, Np, or Ns water per WAC 222-16-030 and 222-16-031</u> ( <del>(with the characteristics described in subsection</del>	60 feet  <del>((85))</del> 110 feet for moderate or greater level habitat function
---	--

**Table B for 25.09.160**

**Wetland buffer requirements**

<del>25.09.160.B.1.e above))</del>	
Category IV wetlands 1,000 square feet or more in total size or of any size <u>that abut any Type S, F, Np, or Ns water per WAC 222-16-030 and 222-16-031</u> <del>((with the characteristics described in subsection 25.09.160.B.1.e above))</del>	50 feet
Category IV wetlands under 1,000 square feet in total size that do not <u>abut any Type S, F, Np, or Ns water per WAC 222-16-030 and 222-16-031</u> <del>((have the characteristics described in subsection 25.09.160.B.1.e above))</del>	No buffer. Use mitigation under subsection 25.09.160.C.3.

1  
 2 ~~((A wetland with a moderate level of function is one that scores 20 to 28 points for habitat~~  
 3 ~~function when rated according to Washington State Ecology publication #04-06-025. A wetland~~  
 4 ~~with a high level of function for habitat is one that scores of 29 to 36 points for habitat function~~  
 5 ~~when rated according to Washington State Ecology publication #04-06-025)).~~

6 ((e))d. Wetlands constructed in upland areas or non-wetland areas by any  
 7 person for stormwater control, biofiltration, or aesthetic purposes are not subject to the wetland  
 8 buffer requirements of this ((e))Chapter 25.09. Maintenance activities are not restricted in these  
 9 types of wetlands.

1                   2. Development is prohibited in wetland buffers, except as ~~((approved by the~~  
2 ~~Director under subsection 25.09.160.D))~~ provided in this subsection 25.09.160.C, subsections  
3 25.09.160.D, 25.09.160.F, and 25.09.160.F and Sections 25.09.045, 25.09.300, and 25.09.320.

4                   3. Altering existing wetlands buffers by enlarging them and/or increasing the  
5 ecological function of the wetland buffer is allowed pursuant to subsection 25.09.160.E.

6                   4. The Director may authorize development in a Category IV wetland under 1,000  
7 square feet that does not abut any Type S, F, Np, or Ns water per WAC 222-16-030 and 222-16-  
8 031~~((have the characteristics described in subsection 25.09.160.B.1.c above))~~, when the Director  
9 finds that one or more of the following measures, which must occur on site, will mitigate all  
10 wetland functions lost by development:

11                   a. Construct a wetland of equal function to the lost wetland function.

12                   b. Plant an area of native vegetation equal or greater in size to the area of  
13 the developed wetland, and remove invasive species in the area to be planted.

14                   c. Construct a bioengineered/infiltration facility, such as a bioretention cell  
15 or bioretention planter, that replicates the hydrologic and/or water quality benefit of the  
16 developed wetland. This facility shall be designed according to the requirements of Chapters  
17 22.800 through 22.808, Stormwater Code and associated Director's Rules.

18                   ~~((d. Construct a green roof or roof garden that replicates the hydrologic~~  
19 ~~and/or water quality benefit of the developed wetland. These facilities shall be designed~~  
20 ~~according to the requirements of Chapters 22.800 through 22.808, Stormwater Code and~~  
21 ~~associated Director's Rules.))~~

22                   ~~((4))~~5. Buffer vegetation

23                   a. In the wetland buffer, any action detrimental to habitat, trees or  
24 vegetation, including but not limited to clearing or removal, is prohibited, except as provided in  
25 subsections 25.09.160.D, 25.09.160.E and 25.09.160.F and in Sections 23.60A.190, ~~((25.09.055,~~  
26 ~~))~~25.09.300, and 25.09.320.



1 d. Reduction of the buffer more than 75 percent of the standard buffer is  
2 allowed if such a reduction would create an undeveloped, vegetated corridor between the site  
3 wetland and another wetland or other protected natural area.

4 2. Buffer ~~((R))~~reductions~~((:))~~

5 a. The Director may reduce a wetland buffer width by 80 percent if a  
6 vegetated corridor at least 100 feet wide is protected between the wetland and any other priority  
7 habitats as defined by the Washington Department of Fish and Wildlife. The corridor must be:

8 1) Legally protected by a conservation easement or equivalent; and  
9 2) Undisturbed except for minimal intrusion to offer passive  
10 recreational walking trails.

11 b. The Director may reduce a Category IV wetland buffer when the  
12 applicant qualifies for a variance by demonstrating that:

13 ~~((f))~~1) the lot where the buffer is located was in existence before  
14 October 31, 1992;

15 ~~((f))~~2) the proposed development otherwise meets the criteria for  
16 granting a variance under ~~((S))~~subsection ~~((25.09.280 B))~~25.09.280.B, except that reducing the  
17 front or rear yard or setbacks will not both mitigate the hardship and maintain the full buffer; and

18 ~~((f))~~3) either the site does not meet the criteria for buffer  
19 averaging under subsection 25.09.160.D.1 or such averaging does not relieve the hardship that  
20 was found under subsection ~~((25.09.280 B2))~~25.09.280.B.2.

21 ~~((b))~~c. If any buffer reduction is authorized by a variance under subsection  
22 25.09.160.D.2.a, the Director shall:

23 ~~((f))~~1) require that the Category IV wetland ~~((tø))~~be restored on  
24 site in a manner that improves water quality, hydrology, and habitat functions. Restoration must  
25 comply with subsections ~~((F))~~25.09.160.H and ~~((G below))~~25.09.160.I and with the Department  
26 of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals,  
27 1994 (#94-29); and

1 ((f))2 determine the amount of wetland buffer to reduce by  
2 applying the buffer averaging to the extent possible under subsection 25.09.160.D.1 and reducing  
3 the yards and setbacks before reducing the wetland buffer, unless reducing the yards or setbacks  
4 is injurious to safety. The wetland buffer shall be reduced by the minimum amount to mitigate  
5 the hardship, but never to less than (~~(thirty five)~~)35 feet (~~((35'))~~); and

6 ((f))3 impose additional conditions on the location and other  
7 features of a proposed development as necessary to carry out the purpose of this ((e))Chapter  
8 25.09 and to mitigate the loss or reduction of the yard, setback, or buffer.

9 ((e))d. The process and procedure for a variance under this subsection  
10 25.09.160.D.2 shall be as prescribed for Type II land use decisions in Chapter 23.76.

11 E. Wetland and wetland buffer improvements

12 1. The size and ecological function of a wetland may be increased if the project  
13 uses the methods described in the Department of Ecology's Interagency Wetland Mitigation  
14 Guidance.

15 2. The size and ecological function if a wetland buffers may be increased if the  
16 project uses the methods described in the Department of Ecology's Interagency Wetland  
17 Mitigation Guidance.

18 F. Small project waiver

19 1. The Director may approve new accessory structures or additions to existing  
20 structures in a wetland buffer if no construction occurs over or in a watercourse, water body, or  
21 wetland and if the applicant demonstrates that the proposal meets the following criteria:

22 a. The new accessory structure or addition to an existing structure is on a  
23 lot that has been in existence as a legal building site prior to October 31, 1992;

24 b. The development does not exceed 150 square feet calculated  
25 cumulatively from October 31, 1992. When the new accessory structure or addition to an  
26 existing structure is on a lot that is or has been held in common ownership with a contiguous lot

1 and the lots are or have been used for a single principal use or for a principle use and accessory  
2 use, the limitation applies to the entire site;

3 c. It is not possible to build the accessory structure or addition to an  
4 existing structure for the intended purpose outside of the wetland buffer; and

5 d. The location of the accessory structure or addition to an existing  
6 structure minimizes the impact on the wetland and wetland buffer.

7 2. Director's decision

8 a. The Director shall require the use of fencing with a highly durable  
9 protective barrier during the construction to protect the wetland and remainder of the wetland  
10 buffer.

11 b. The Director shall require planting native vegetation in an area equal in  
12 size to the area of any native vegetation in the wetland buffer that is removed or adversely  
13 affected by the development. Any invasive species shall be removed from the planting area. The  
14 planting area shall be on site and, whenever possible, in the wetland buffer. When this is not  
15 possible, the Director shall authorize all or a portion of the planting to be outside the wetland  
16 buffer or on another parcel, when the Director determines this will mitigate the impact.

17 c. The Director shall require additional measures to protect the remainder  
18 of the wetland and wetland buffer.

19 G. Avoidance and mitigation standards

20 1. If an exception to the standards of this Section 25.09.160 is approved under  
21 Section 25.09.300, the Director shall require application of ~~((the following standards for wetland~~  
22 ~~mitigation in the following order of priority:))~~mitigation sequencing pursuant to subsection  
23 25.09.325.B. This subsection 25.09.160.G and subsections 25.090.160.H and 25.09.160.I shall  
24 be used to comply with subsections 25.09.325.B.1.e and 25.09.325.B.1.f, Steps F and G of  
25 mitigation sequencing.

26 ~~((a. avoid the impact to the extent practicable by not taking all or part of~~  
27 ~~an action;~~

1                                    ~~b. keep the impact to a minimum by limiting the degree or magnitude of~~  
2 ~~the action and its implementation, and by taking affirmative actions to mitigate the impact over~~  
3 ~~time; and~~

4                                    ~~e. mitigate unavoidable impacts to the designated uses of a wetland by~~  
5 ~~replacement, enhancement, or other approved compensation methods.))~~

6                                    2. Mitigation for grading, filling, or draining wetlands shall achieve the equivalent  
7 or better biologic functions of the existing wetland. Mitigation plans shall be consistent with  
8 Washington State Department of Ecology Publication #06-06-011b, Wetland Mitigation in  
9 Washington State - Part 2: Developing Mitigation Plans (Version 1), or the most current  
10 Department of Ecology publication addressing wetland mitigation.

11                                    3. Wetland mitigation actions shall not result in a net loss of wetland area unless  
12 the following criteria are met as determined by a site-specific function assessment:

13                                    a. The lost wetland area provides only minimal functions and the  
14 mitigation action(s) results in a net gain in wetland functions; or

15                                    b. The lost wetland area provides only minimal functions and other  
16 replacement areas provide greater benefits to the functioning of the watershed, such as riparian  
17 habitat restoration and enhancement.

18                                    4. Mitigation actions that require compensation by replacing, enhancing, or  
19 substitution, shall occur in the following order of preference:

20                                    a. Restoring wetlands on sites that were formerly wetlands.

21                                    b. Creating wetlands on disturbed sites, such as those with vegetative  
22 cover consisting primarily of exotic introduced species.

23                                    c. Enhancing wetlands and/or wetland buffers with significantly degraded  
24 functions and values. The amount of required enhancement is dependent on the wetland  
25 classification in subsection 25.09.160.F.5.

26                                    5. Wetland restoration, creation, and enhancement ratios

1 a. The ~~((following))~~ ratios set out in Table C for 25.09.160 are required for  
2 the restoration, creation, or enhancement of wetlands for authorized alterations, except as  
3 provided in subsections 25.09.160.G.5.b, 25.09.160.G.5.c, and 25.09.160.G.6. As determined by  
4 the Director, wetland mitigation may include the preservation and enhancement of wetland  
5 habitat if it provides greater ecological function than the existing wetland. The first number  
6 specifies the area of replacement wetlands, and the second specifies the area of wetlands altered:

**Table C for 25.06.160**

**Wetland restoration, creation, and enhancement ratios**

	<b>Restoration or <del>((C))</del>creation <del>((R))</del>ratios</b>	<b>Enhancement <del>((R))</del>ratios</b>
Category I	6:1	16:1
Category II	3:1	16:1
Category III	2:1	8:1
Category IV	1.5:1	6:1

7  
8 b. ~~((Replacement))~~ Restoration, creation, and enhancement ratios may be  
9 increased under the following circumstances to achieve the equivalent wetland function of the  
10 wetland that is altered:

11 ~~((1))~~1) Uncertainty exists as to the probable success of the  
12 proposed restoration or creation; or

13 ~~((2))~~2) A significant period of time will elapse between impact and  
14 establishment of wetland functions at the mitigation site; or

15 ~~((3))~~3) Proposed mitigation will result in a lower category wetland  
16 or reduced functions relative to the wetland being impacted.

1 c. ~~((Replacement))~~Restoration, creation, and enhancement ratios may be  
2 decreased when the proposed mitigation actions are conducted in advance of the impact and  
3 result in no net loss in wetland functions.

4 6. If the applicant demonstrates by clear and convincing evidence that the  
5 avoidance and mitigation standards required in subsection 25.09.160.~~((E))~~G.5.a will deprive the  
6 applicant of reasonable use of the applicant's property, the Director may waive or modify the  
7 standards to the extent necessary to allow reasonable use as part of the exception under Section  
8 25.09.300. Notwithstanding such demonstration, the Director may deny the waiver if the  
9 Director determines that not applying these standards would cause significant injury to occupiers  
10 of the land, to other properties, to public resources, or to the environment.

11 ~~((F))~~H. Mitigation ~~((T))~~timing. Any restoration, creation, or enhancement of wetlands  
12 that is required as mitigation shall be completed prior to issuance of the certificate of occupancy  
13 for the displacing use. If that has not occurred or if no certificate of occupancy is needed, the  
14 applicant shall submit plans that establish a specific schedule for completion, which must be  
15 approved by the Director, and shall provide a bond of at least ~~((one hundred and fifty))~~150  
16 percent ~~((150%))~~ of the cost of installation, in addition to the monitoring plan and bond  
17 required under subsection ~~((G))~~25.09.160.H. If the required mitigation can be completed for less  
18 than ~~((five thousand dollars-))~~\$5,000(()), no bond is required under subsections  
19 ~~((F))~~25.09.160.H or ~~((G))~~25.09.160.I.

20 ~~((G))~~I. A monitoring plan shall be prepared to monitor successful re-establishment of the  
21 wetland for a period of five growing seasons or the period required to achieve the performance  
22 standards of the plan, whichever is earlier. The applicant shall provide a bond in an amount of at  
23 least ~~((one hundred fifty))~~150 percent ~~((150%))~~ of the cost to retain a qualified wetlands  
24 scientist to assess the wetland and submit a report to the City at least twice yearly, prior to and  
25 near the end of each growing season and shall also provide a bond in an amount sufficient to  
26 implement additional restoration measures if the replacement wetland does not equal the  
27 functions of the wetland displaced at the end of five growing seasons.

1           ~~((H))~~J. Other ~~((A))~~agency ~~((R))~~regulations. Review of projects subject to the wetland  
2 provisions of this ~~((e))~~Chapter 25.09 shall be coordinated by the applicant with the appropriate  
3 state and federal agencies. The applicant should make early contact with these agencies to ensure  
4 compliance with local, state, and federal regulations.

5           ~~((I))~~K. In addition the information provided pursuant to Section 25.09.330 and to  
6 Director's Rule, the Director may require third-party review when the professional opinions of  
7 the applicant's representative and the Department's reviewers cannot be reconciled. The third  
8 party review will be conducted by a qualified wetland consultant hired by the Director and paid  
9 for by the applicant.

10           Section 17. Section 25.09.180 of the Seattle Municipal Code, last amended by Ordinance  
11 124447, is amended as follows:

12 **25.09.180 Development standards for steep slope areas**

13           A. This Section 25.09.180 and Section 25.09.080 apply to parcels containing a steep  
14 slope area or buffer.

15           B. Impacts on steep slope areas

16                   1. Development is prohibited on steep slope areas, unless the applicant  
17 demonstrates that the provisions of subsections 25.09.180.B.2, ~~((or))~~25.09.180.E, or 25.09.180.F  
18 apply.

19                   2. Provided that all the provisions of this Chapter 25.09 and all applicable  
20 provisions of Title 23 and Chapters 22.800 through 22.808 are met, subsection 25.09.180.B.1  
21 does not apply when the applicant demonstrates the development meets one of the following  
22 criteria. In determining whether these criteria are met, the Director may require a geotechnical  
23 report to verify site conditions and to evaluate the impacts of the development in the steep slope  
24 area and shall require such a report for criteria in subsections 25.09.180.B.2.c and  
25 25.09.180.B.2.d. The geotechnical report is subject to the provisions for third party review in  
26 subsection 25.09.080.C.

1 a. Development is located (~~(where)~~)within the footprint of existing  
2 ~~((development is located, if the impact on the steep slope area is not altered or increased;~~  
3 ~~or))~~legal structures or within areas lawfully disturbed in constructing such structures where the  
4 disturbed area's natural erosion control has not been reestablished and the Director determines  
5 that:

6 1) No adverse impact on the stability of the steep slope area will  
7 result;

8 2) Changes to topography, excluding underground basements,  
9 would not result or would be the minimum necessary to create a more gradual incline within the  
10 former footprint or disturbed area; and

11 3) The activity does not result in a reduction in the existing erosion  
12 control capacity of the site, including vegetation and water infiltration potential;

13 b. Development is located on steep slope areas that have been created  
14 through previous legal grading activities, including rockeries or retaining walls resulting from  
15 ~~((rights-of-way))~~rights-of-way improvements, ((if))and the Director determines that no adverse  
16 impact on the stability of the steep slope area will result; or

17 c. Development is located on steep slope areas that are less than 20 feet in  
18 vertical rise and that are 30 feet or more from other steep slope areas~~((,if ))~~and the Director  
19 determines that no adverse impact on the stability of the steep slope area will result; or

20 d. Development is ~~((located on steep slope areas where the Director~~  
21 ~~determines that application of subsection 25.09.180.B.1 would prevent necessary stabilization of~~  
22 ~~a landslide prone area.))~~a stabilization measure to mitigate a landslide hazard posed by active  
23 slope movement on the applicant's lot or an abutting lot. Such development is allowed if:

24 1) The Director determines that:

25 a) The stabilization is the minimum necessary to mitigate  
26 the landslide hazard; and

1 b) Changes to topography and reductions in the natural  
2 erosion control capacity of the site, including vegetation and water infiltration potential, are the  
3 minimum necessary to allow stabilization. Changes to topography may be measured from  
4 existing conditions or a grade established by survey that existed prior to a landslide that occurred  
5 within 5 years, whichever would allow the least amount of disturbance.

6 2) The applicant uses the least intrusive option available to  
7 mitigate the landslide hazard.

8 3) The applicant fully mitigates the impact to the natural erosion  
9 control capacity of the site in order to restore the erosion control capacity of the site.

10 3. The following activities do not constitute “development” or “disturbance” for  
11 the purposes of applying of any of the provisions of subsection 25.09.180.B.2:

12 a. Clearing vegetation or any type of vegetation and site restoration  
13 management authorized under this Chapter 25.09(~~is not “development” for purposes of~~  
14 ~~applying any of the provisions of subsection 25.09.180.B.2).~~

15 b. Stabilization measures to mitigate a landslide hazard authorized  
16 under subsection 25.09.180.B.2.d.

17 C. Buffers(~~(-)~~)

18 1. Steep slopes have (~~(fifteen-foot (15'))~~)15-foot buffers from the top and toe of a  
19 slope unless the Director determines that a greater or lesser buffer is required based on the  
20 following considerations:

21 a. Proposed construction method and its effect on the stability of the slope  
22 and erosion potential;

23 b. Techniques used to keep the disruption of existing topography and  
24 vegetation to a minimum; and

25 c. Preparation of technical reports and plans to address and propose  
26 remedies regarding soils and hydrology site constraints.

1                   2. Development is prohibited ~~((on))~~in steep slope ~~((area))~~buffers, except as  
2 authorized in subsection 25.09.180.B.2, or to provide the minimum necessary access to such an  
3 area, ~~((which shall be kept to a minimum, and except))~~or as provided in subsection 25.09.180.E.

4                   D. Vegetation ~~((R))~~removal and ~~((R))~~replanting. ~~((If ))~~Any removal of trees or vegetation  
5 in a steep slope area ~~((and its ))~~or buffer that is authorized as part of approved development~~((, it))~~  
6 shall be kept to a minimum, and shall be carried out pursuant to a tree and revegetation plan  
7 described in ~~((s))~~Section 25.09.320. Other removal of, clearing of, or any action detrimental to  
8 trees or vegetation in a steep slope area or buffer is prohibited, except as provided in Section  
9 25.09.320. In addition to complying with Section 25.09.320, any replanting that occurs shall  
10 consist of native vegetation.

11                   E. Small project waiver

12                   1. ~~((Steep Slope Area Variance. The Director may reduce the steep slope area~~  
13 ~~buffer and may authorize limited intrusion into the steep slope area and steep slope buffer to the~~  
14 ~~extent allowed in subsection E2 only when the applicant qualifies for a variance by~~  
15 ~~demonstrating that:~~

16                                   a. ~~the lot where the steep slope or steep slope buffer is located was in~~  
17 ~~existence before October 31, 1992; and~~

18                                   b. ~~the proposed development otherwise meets the criteria for granting a~~  
19 ~~variance under Section 25.09.280B, except that reducing the front or rear yard or setbacks will~~  
20 ~~not both mitigate the hardship and maintain the full steep slope area buffer.~~

21                   2. ~~If any buffer reduction or development in the critical area is authorized by a~~  
22 ~~variance under subsection E1, it shall be the minimum to afford relief from the hardship and~~  
23 ~~shall be in the following sequence of priority:~~

24                                   a. ~~reduce the yards and setbacks, to the extent reducing the yards or~~  
25 ~~setbacks is not injurious to safety;~~

26                                   b. ~~reduce the steep slope area buffer;~~

1 e. allow an intrusion into not more than thirty percent (30%) of the steep  
2 slope area.

3 ~~3. The Director may impose additional conditions on the location and other~~  
4 ~~features of the proposed development as necessary to carry out the purpose of this chapter and~~  
5 ~~mitigate the reduction or loss of the yard, setback, or steep slope area or buffer.~~

6 ~~4. The process and procedures for a variance under this subsection E shall be as~~  
7 ~~prescribed for Type II land use decisions in Chapter 23.76.))~~

8 The Director may approve new accessory structures or additions to existing  
9 structures in a steep slope area or buffer if no construction occurs over or in a water course,  
10 water body, or wetland and if the applicant demonstrates that the proposal meets the following  
11 criteria:

12 a. The new accessory structure or addition to an existing structure is on a  
13 lot that has been in existence as a legal building site prior to October 31, 1992;

14 b. The development does not exceed 300 square feet calculated  
15 cumulatively from October 31, 1992. When the new accessory structure or addition to an  
16 existing structure is on a lot that is or has been held in common ownership with a contiguous lot  
17 and the lots are or have been used for a single principal use or for a principle use and accessory  
18 use, the limitation applies to the entire site;

19 c. It is not possible to build the accessory structure or addition to an  
20 existing structure for the intended purpose outside of the steep slope area or buffer; and

21 d. The location of the accessory structure or addition to an existing  
22 structure minimizes the impact on the steep slope area and/or buffer.

23 2. Director's decision

24 a. The Director shall require the use of fencing with a highly durable  
25 protective barrier during the construction to protect the remainder of the steep slope area and  
26 buffer.

1                    b. The Director shall require mitigation of all impacts to the natural  
2 erosion capacity of the disturbed area, including planting native vegetation in an area equal in  
3 size to the area of any native vegetation in the steep slope area and/or buffer that is removed or  
4 adversely affected by the development. Any invasive species shall be removed from the planting  
5 area. The planting area shall be on site and, whenever possible, in the steep slope area or buffer.  
6 When this is not possible, the Director shall authorize all or a portion of the planting to be  
7 outside the steep slope area or buffer or on another parcel, when the Director determines this will  
8 mitigate the impact.

9                    c. The Director shall require additional measures to protect the remainder  
10 of the steep slope area and buffer.

11                    F. A variance may be allowed from the standards of subsection 25.09.180.B.1 if the  
12 property meets the standards of Section 25.09.290.

13                    Section 18. Section 25.09.200 of the Seattle Municipal Code, last amended by Ordinance  
14 124447, is amended as follows:

15 **25.09.200 Development standards for fish and wildlife habitat conservation areas**

16                    A. Development standards for parcels with riparian corridors

17                    1. Riparian corridors

18                    a. The provisions of this subsection 25.09.200.A apply to all development  
19 on parcels containing riparian corridors as defined in subsection 25.09.020.D.5. In addition, the  
20 provisions of subsection 25.09.200.C apply to these parcels, except subsection 25.09.200.C.2  
21 with respect to fish. In the event of an irreconcilable conflict between the provisions of  
22 subsection 25.09.200.C and this subsection 25.09.200.A, the most restrictive provision applies.

23                    b. It is the long term goal of the City to restore the City's riparian corridors  
24 and to protect salmon passage in such corridors where scientifically justified. The City has  
25 determined that best available science supports protecting these riparian corridors as described in  
26 this Chapter 25.09. Where past development has encroached into riparian corridors,  
27 redevelopment shall be regulated subject to the provisions in ~~((S))~~ subsection 25.09.045.D.

1                                   2. Riparian watercourse

2                                   a. Development is prohibited within or over the watercourse, except as  
3 provided in this subsection 25.09.200.A.2.a or subsection 25.09.200.A.2.b. If no other access is  
4 available to the property, the Director may approve access over the watercourse, provided that it  
5 maintains the natural channel and floodway of the watercourse and that disturbance of the  
6 riparian management area is kept to a minimum.

7                                   b. On Haller and Bitter Lakes, piers are regulated pursuant to the  
8 development standards for similar structures in the Seattle Shoreline ((District))Master Program,  
9 Chapter 23.60A, Subchapter XV, The Urban Residential Environment, Sections 23.60A.152, and  
10 23.60A.187. If a pier is allowed, access to it through the riparian management area is also  
11 allowed, provided the impact on the naturally functioning condition of the riparian management  
12 area from the pier's location, method of construction, and construction materials is kept to a  
13 minimum.

14                                  c. In the riparian watercourse any action detrimental to habitat, trees, or  
15 vegetation, including but not limited to clearing or removal, is prohibited, except as provided in  
16 Section 25.09.320.

17                                   3. Riparian management area

18                                  a. The riparian management area is defined in subsection 25.09.020.D.5.  
19 Existing public or private streets are excluded from the regulations for the riparian management  
20 area unless the provisions of Chapters 22.800 through 22.808, the Stormwater Code apply, in  
21 which case the Director shall require adequate stormwater detention to prevent harm from the  
22 street to habitat on the parcel and downstream and to ~~((keep))~~minimize degradation of water  
23 quality for habitat~~((to a minimum))~~.

24                                  b. Activities in the riparian management area

25                                   1) Development is prohibited in the riparian management area,  
26 except to provide access to development approved under subsection 25.09.200.A.2 and except  
27 under subsections ~~2((2))~~5.09.200.A.3.b.2, 25.09.200.A.3.c, and 25.09.200.A.3.d.





1                                   ((f))2 ((t))The ecological functions of the daylighted waters and  
2 adjacent area are improved so the new riparian corridor area is compatible with and protects the  
3 ecological functions of the existing riparian corridor upstream and downstream and does not  
4 contribute to flooding; ecological functions include preventing erosion, protecting water quality,  
5 and providing diverse habitat; and

6                                   ((f))3 ((t))If the plan proposes daylighting the pipe or culvert in a  
7 different location on the parcel from its current location or off the parcel, the ecological functions  
8 required in subsection 25.09.200.A.4.b.2~~((2) above~~) are provided as effectively as they would  
9 be without the relocation.

10                                   c. If the Director finds the conditions in subsection 25.09.200.A.4.b are  
11 met, the Director may modify the following development standards. The modification shall be  
12 the minimum to provide sufficient area to meet the standards in subsection 25.09.200.A.4.b and  
13 shall be in the following order of priority:

14                                   ((f))1) Yard and/or setback requirements on the property may be  
15 reduced, unless reducing them is injurious to safety.

16                                   ((f))2) The riparian corridor watercourse and adjacent area  
17 maintained as a riparian management area under the approved plan may count toward open space  
18 requirements for all multifamily or commercial zone requirements.

19                                   ((f))3) Required parking may be reduced up to ~~((twenty five))~~25  
20 percent~~((25%))~~.

21                                   ((f))4) The riparian management area may be reduced.

22                                   d. Nothing in this subsection 25.09.200.A.4 alters the rights of the owner  
23 of the pipe or culvert, if that person is not an applicant for a permit.

24                                   5. Other ~~((A))~~agency ~~((R))~~regulations. Review of projects subject to the riparian  
25 corridor provisions of this ~~((e))~~Chapter 25.09 shall be coordinated with the Washington ~~((State~~  
26 ~~))~~Department of Fish and Wildlife (WDFW) when hydraulic project approval is required, and the  
27 U.S. Army Corps of Engineers when they have jurisdiction under Section 404 of the ~~((F))~~federal

1 Clean Water Act. The applicant is encouraged to make early contact with these agencies to  
2 ensure compliance with local, state, and federal riparian corridor regulations.

3 B.

4 1. Development on parcels containing fish and wildlife habitat conservation areas  
5 shall comply with any species habitat management plan set out in a Director's Rule. The Director  
6 may establish by rule a species habitat management plan to protect any priority species identified  
7 by ~~((the Washington State Department of Fish and Wildlife))~~ WDFW or to protect species of  
8 local importance.

9 2. Any person proposing development on a parcel containing fish and wildlife  
10 habitat conservation areas shall consult with ~~((the Washington State Department of Fish and  
11 Wildlife))~~ a qualified wildlife biologist and WDFW and comply with any requirements of that  
12 agency, except as limited in subsections 25.09.200.A and 25.09.200.B.

13 C. Based on the information provided by a qualified wildlife biologist and WDFW, as set  
14 out in subsection 25.09.200.B, the Director may condition development on parcels containing  
15 fish and wildlife habitat ~~((or corridors))~~ conservation areas defined in subsection  
16 25.09.020.D~~((3))~~ to protect fish or wildlife habitat ~~((corridors))~~ conservation areas. Conditions  
17 may include, but are not limited to:

- 18 1. Establishment of buffer zones;
- 19 2. Preservation of important vegetation and habitat features;
- 20 3. Limitation of access to habitat areas;
- 21 4. Seasonal restriction of construction activities;
- 22 5. Preservation of the ability for fish to pass between fish habitat in Type S, F, Np<sub>2</sub>

23 and Ns waters upstream and downstream of the parcel. The application requirements and general  
24 conditions of this Chapter 25.09~~((7))~~ and Sections 25.09.330 and 25.09.060~~((7))~~ do not apply if  
25 the person responsible for development of the parcel has either a Hydraulic Project Approval  
26 from ~~((the Washington State Department of Fish and Wildlife))~~ WDFW or a Section 404 permit  
27 under the federal Clean Water Act from the United States Army Corps of Engineers. Nothing in

1 this subsection 25.09.200.C alters the rights of the owner of the pipe or culvert, if that person is  
2 not an applicant for a permit.

3           6. Requiring the developer to daylight a pipe or culvert defined in subsection  
4 25.09.020.D.3.c, when the conditions in subsection 25.09.200.C.6.a (~~(below)~~) are met. When  
5 requiring daylighting, the Director is authorized to modify the conditions set out in subsection  
6 25.09.200.C.6.b. Nothing in this subsection 25.09.200.C.6 alters the rights of the owner of the  
7 pipe or culvert, if that person is not an applicant for a permit.

8           a. The Director may require daylighting under the following conditions:

9                           1) (~~When~~) The existing pipe or culvert cannot remain in its  
10 current location and provide an effective passage for anadromous fish due to the development.

11                           2) Other methods for preserving fish passage such as pipe or  
12 culvert placement or site engineering are not feasible.

13           b. If daylighting is required, ~~(then)~~ the applicant ~~(must)~~ shall prepare a  
14 plan that demonstrates the following:

15                           1) The ecological functions of the daylighted waters and resulting  
16 new riparian management area are compatible with and protect the functions of pipes and  
17 culverts upstream and downstream and the ecological functions of the existing riparian corridor  
18 upstream and downstream. ~~(and)~~

19                           2) The daylighted waters do not contribute to flooding.

20                           ~~(2)~~ 3) The ecological functions of the daylighted waters and  
21 resulting new riparian management area include preventing erosion, protecting water quality, and  
22 providing diverse habitat.

23           c. The Director shall determine ~~(s that)~~ whether daylighting the pipe or  
24 culvert and the impacts from the development to fish passage on the parcel are roughly  
25 proportionate.

26           d. When requiring daylighting, the Director is authorized to modify the  
27 following conditions:

1                                   1) Yard and/or setback requirements on the property may be  
2 reduced to provide sufficient area for daylighting and creating a riparian management area,  
3 unless reducing them is injurious to safety.

4                                   2) The riparian corridor watercourse and riparian management area  
5 may count toward open space requirements for all multifamily or commercial zone requirements.

6                                   3) Required parking may be reduced up to 25 percent.

7                                   4) The riparian management area may be reduced to the extent  
8 needed to provide sufficient area for the plan described in subsection 25.09.200.C.6.b((~~a.2~~  
9 ~~above~~)).

10                   D. Designating species of local importance and their habitat

11                                   1. The Director on an annual basis shall accept and consider nominations for  
12 species of wildlife and their habitat to be designated as locally important. The designation of a  
13 species of local importance and its habitat shall require an amendment to this Chapter 25.09.

14                                   2. Species or habitat to be designated shall exhibit the following characteristics:

15   a. Local populations of native species are in danger of extinction based on  
16 existing trends:

17   1) Local populations of native species that are likely to become  
18 endangered; or

19   2) Local populations of native species that are vulnerable or  
20 declining;

21   b. The species has recreational, commercial, game, tribal, or other special  
22 value;

23   c. Long-term persistence of a species is dependent on the protection,  
24 maintenance, and/or restoration of the nominated habitat;

25   d. Protection by other county, state, or federal policies, laws, regulations,  
26 or nonregulatory tools is not adequate to prevent degradation of the species or habitat in Seattle;

1 e. Areas nominated to protect a particular habitat or species have either  
2 high-quality habitat or habitat with a high potential to recover to a suitable quality, and the  
3 habitat is limited in quantity, highly vulnerable to alteration, or connects habitats.

4 3. Species and habitats may be nominated for designation by any person.  
5 Nominations shall be in writing, address the characteristics listed in subsection 25.09.200.D.2,  
6 and state whether specific habitat features are being nominated (for example, ~~((next))~~nest sites,  
7 breeding areas, and nurseries)~~((;))~~ or whether the habitat or ecosystem is being nominated in its  
8 entirety. Where restoration of habitat is proposed, a specific plan for restoration shall be provided  
9 with the application, or the nomination shall include management strategies for the species or  
10 habitats. Restoration plans and management strategies shall be supported by the best available  
11 science.

12 4. The Director shall determine whether the nomination proposal is complete, and  
13 if complete, shall evaluate it under the criteria in subsection 25.09.200.D.2 and make a  
14 recommendation to the Mayor and Council based on that information. If the nomination is  
15 adopted, the Director may establish habitat restoration plans and habitat and species management  
16 strategies by Director's ~~((#))~~Rule.

17 5. The designated species of local importance includes Great Blue Heron.

18 Section 19. Section 25.09.220 of the Seattle Municipal Code, last amended by Ordinance  
19 123106, is amended as follows:

20 **25.09.220 Development standards for abandoned landfills**

21 A. Regulation of ~~((D))~~development on ~~((A))~~abandoned ~~((L))~~landfills. Development on  
22 abandoned landfills is subject to Seattle-King County Health Department requirements for the  
23 applicant to submit an excavation and development work plan, prepared by a licensed engineer  
24 with experience in landfill construction and/or management, and comply with other applicable  
25 requirements to prevent damage from methane gas buildup, subsidence, and earthquake~~((-))~~-  
26 induced ground shaking, as contained in Chapter 22.170, Grading Code, Title 22, Subtitle I,  
27 Building Code, and regulations pertaining to development on abandoned landfill sites. Technical

1 studies shall be required to indicate whether these areas pose a threat to development on an  
2 abandoned landfill site.

3 B. Areas within 1,000 feet of ~~((M))~~methane-producing ~~((L))~~landfills. Areas within 1,000  
4 feet of methane-producing landfills may be susceptible to accumulations of hazardous levels of  
5 methane gas in enclosed spaces. Methane barriers or appropriate ventilation may be required in  
6 these areas as specified in Title 22, Subtitle I, Building Code, and Seattle-King County Health  
7 Department regulations.

8 C. All utility lines leaving an abandoned landfill shall be sealed to prevent the trench  
9 bedding from becoming a preferential pathway for gas migration.

10 Section 20. Section 25.09.240 of the Seattle Municipal Code, last amended by Ordinance  
11 124105, is amended as follows:

12 **25.09.240 Short subdivisions and subdivisions**

13 A. This Section 25.09.240 applies to all applications for short subdivisions and  
14 subdivisions, excluding unit lot subdivisions, on parcels containing any part of a riparian  
15 corridor, wetlands, wetland buffers, or steep slope areas in addition to the standards in Title 23.

16 B. Requirements. Parcels shall be divided so that each lot contains an area outside all  
17 environmentally critical areas and buffers identified in subsection 25.09.240.A for the principal  
18 structure, all accessory structures, ~~((and))~~utilities, necessary walkways, and ~~((for))~~access to this  
19 area, ~~((that are outside all environmentally critical areas and buffers identified in subsection~~  
20 ~~25.09.240.A-))~~except as follows:

21 1. The required area and access may be located in the footprint of an existing  
22 lawful principal structure used for residential use that encroaches into an environmentally critical  
23 area or buffer identified in subsection 25.09.240.A, provided it does not further alter or increase  
24 the impact to the environmentally critical area or buffer.

25 2. Access may be provided by a bridge over a riparian corridor when the Director  
26 determines that:

27 a. no other access is available;~~((and))~~

1                   ~~((a))~~b. access is provided by a freestanding structure that maintains the  
2 natural channel and floodway of the watercourse;~~((and))~~

3                   ~~((b))~~c. the disturbance of the riparian corridor and any other adjacent  
4 environmentally critical area or buffer is kept to a minimum and

5                   d. the material used to construct the bridge is durable and non-toxic unless  
6 it is unreasonable to use such material. Wood treated with pentachlorophenol, creosote, chromate  
7 copper arsenate, or comparably toxic compounds is prohibited. Treated wood and other material  
8 shall be the least toxic according to industry standards and shall be applied and used in  
9 accordance with the American Wood Preserver Association standards for aquatic use.

10                   3. Development may encroach into that portion of a steep slope area or ~~((its~~  
11 ~~))~~buffer for which the Director has determined that criteria in subsection 25.09.180.B.2.a,  
12 25.09.180.B.2.b, or 25.09.180.B.2.c are met for the particular short subdivision~~((;))~~ or  
13 subdivision under consideration.

14                   C. Development standards for new lots in Single-family zones. If new lots are created in  
15 Single-family zones by short subdivision or subdivision, the following development standards  
16 apply based on the area of each new lot that is outside the environmentally critical areas listed in  
17 subsection 25.09.240.A, except for environmentally critical areas in which development is  
18 allowed pursuant to subsections 25.09.240.B.1, 25.09.240.B.2, and 25.09.240.B.3:

19                   1. Lot coverage and lot coverage exceptions according to subsections 23.44.010.C  
20 and 23.44.010.D.

21                   2. Height limits according to Section 23.44.012, including the requirements of  
22 subsection 23.44.012.A.3 if the area of the largest rectangle or other quadrilateral that can be  
23 drawn within the lot lines of the new lot outside the environmentally critical areas is less than  
24 3,200 square feet.

25                   3. Yard standards and exceptions according to Section 23.44.014.

26                   D. Lots shall be configured to preserve the environmentally critical areas and ~~((their~~  
27 ~~))~~buffers identified in subsection 25.09.240.A by:

1                   1. Establishing a separate buffer tract or lot with each owner having an undivided  
2 interest; or

3                   2. Establishing non-disturbance areas on individual lots.

4                   ~~((D))~~E. The environmentally critical areas and buffers identified in subsection  
5 25.09.240.A~~((above))~~, except for areas qualifying for development under subsection  
6 25.09.240.B.1~~(( ))~~ through 25.09.240.B.4, shall be designated non-disturbance areas on the final  
7 plat. A notice that these non-disturbance areas are located on the lots, including the definition of  
8 "non-disturbance area," shall be recorded in the King County Office of Records and Elections  
9 along with the final plat in a form approved by the Director. At the same time, a covenant  
10 protecting non-disturbance areas shall be recorded as set out in Section 25.09.335.

11                   ~~((E))~~F. In computing the number of lots a parcel in a single-family zone may contain, the  
12 Director shall exclude the following areas:

13                   1. Easements and/or fee simple property used for shared vehicular access to  
14 proposed lots that are required under Section 23.53.005.

15                   2. The ~~((area of the))~~ environmentally critical areas and buffers identified in  
16 subsection 25.09.240.A, unless~~((they are on a lot that meets one of the following standards))~~:

17                   a. The environmentally critical areas and buffers are on a lot that meets the  
18 provisions of subsection 25.09.240.B; or

19                   b. The applicant obtains an ~~((A))~~ administrative ~~((C))~~ conditional ~~((U))~~ use  
20 ~~((is obtained))~~ under Section 25.09.260, if it is not practicable to meet the requirements of  
21 subsection 25.09.240.B considering the parcel as a whole.

22                   ~~((F))~~G. Application ~~((S))~~ submittal ~~((R))~~ requirements. All short subdivision and  
23 subdivision applications, in addition to the application submission requirements included in Title  
24 23, shall meet the applicable application submittal requirements of this ~~((e))~~ Chapter 25.09~~(( ))~~  
25 and Section 25.09.330~~(( ))~~ and shall include on the surveyed site plan the information ~~((contained~~  
26 ~~in))~~ required by this ~~((subs))~~ Section 25.09.240 and Section 25.09.260, as applicable~~((on the~~  
27 ~~surveyed site plan))~~.

1 Section 21. Section 25.09.260 of the Seattle Municipal Code, last amended by Ordinance  
2 124447, is amended as follows:

3 **25.09.260 Environmentally critical areas administrative conditional use**

4 A. Application procedure. ~~((1-))~~An application for an environmentally critical areas  
5 administrative conditional use may be submitted under ~~((either))~~one of the following  
6 circumstances:

7 ~~((a))~~1. If an applicant demonstrates it is not practicable to comply with the  
8 requirements of subsection 25.09.240.B considering the parcel as a whole, the applicant may  
9 apply for an administrative conditional use permit, authorized under Section 23.42.042, under  
10 this Section 25.09.260 to allow the Director to count environmentally critical areas and/or ~~((their~~  
11 ~~))~~buffers that would otherwise be excluded in calculating the maximum number of lots and units  
12 allowed on the parcel under subsection 25.09.240.~~((E))~~F.

13 ~~((b))~~2. An applicant may also apply for an administrative conditional use permit  
14 to allow the Director to approve smaller than required lot sizes and yards~~((, and/or more than one~~  
15 ~~dwelling unit per lot))~~. If smaller than required lot sizes are proposed, the proposed lots shall be  
16 at least 2,500 square feet. If smaller than required yards are proposed, the yards shall meet the  
17 development standards of subsection 25.09.260.B.3.b.2.

18 ~~((2))~~3. If an administrative conditional use application includes an application to  
19 authorize development in an environmentally critical area or buffer, then the application is not  
20 required to include an application for the variances allowed under ~~((subs))~~Sections ~~((25.09.180.E~~  
21 ~~or Section-))~~25.09.280 or 25.09.290, but the application shall address the criteria listed in  
22 subsection 25.09.260.B.1.c.

23 B. Standards. ~~((The applicant))~~An application under this Section 25.09.260 shall provide  
24 information sufficient to demonstrate that the proposal meets the following criteria:

25 1. Environmental impacts on environmentally critical areas

- 26 a. No development is in a riparian corridor, wetland, or wetland buffer.  
27 b. No riparian management area~~((,))~~ or wetland buffer is reduced.

1 c. No development is on a steep slope area or its buffer unless the property  
2 ~~((being divided or, if no property is being divided, the property that is the subject of the~~  
3 ~~administrative conditional use permit))~~ is predominantly characterized by steep slope areas or  
4 unless the proposed development meets the criteria of ~~((approved by the Director under~~  
5 ~~))~~ subsections 25.09.180.B.2.a, 25.09.180.B.2.b, or 25.09.180.B.2.c. If the property is  
6 predominantly characterized by steep slope areas, the property is a lot in existence as a legal  
7 building site prior to October 31, 1992, and the criteria of subsections 25.09.180.B.2.a,  
8 25.09.180.B.2.b, or 25.09.180.B.2.c are not met, then the application shall demonstrate  
9 compliance with the following criteria:

10 1) ~~((The preference is to cluster units))~~ All proposed development  
11 shall be located away from steep slope areas and buffers to the maximum extent feasible.

12 2) The Director shall require clear and convincing evidence that  
13 the provisions of this subsection 25.09.260.B are met if ~~((units are clustered))~~ development is  
14 located on steep slope areas and ~~((steep slope area-))~~ buffers with these characteristics:

15 a) ~~((a))~~ A wetland over 1,500 square feet in size or a  
16 watercourse designated part of a riparian corridor;~~((or))~~

17 b) ~~((an))~~ An undeveloped area over 5 acres characterized by  
18 steep slopes; or

19 c) ~~((a))~~ Areas designated by the Washington Department of  
20 Fish and Wildlife (WDFW) as ~~((urban natural open space habitat areas))~~ Biodiversity Areas and  
21 Corridors, or areas identified by the Director with significant tree cover or other vegetation  
22 providing ~~((valuable-))~~ wildlife habitat.

23 3) If the application includes a proposal to develop in a steep slope  
24 area or buffer, then the development in the steep slope area or buffer shall be the minimum  
25 necessary to achieve the number of units allowed on the parcel under subsection 25.09.240.F in  
26 the following order of priority:

1 a) The proposal reduces the front and/or rear yards pursuant  
2 to subsection 25.09.260.B.3.b.2;

3 b) The proposal reduces lot size;

4 c) The proposal reduces the steep slope buffer; and

5 d) The proposal intrudes into not more than 30 percent of  
6 the steep slope area.

7 4) If it is not possible to demonstrate that the maximum number of  
8 units allowed on the parcel under subsection 25.09.240.F can be developed under the criteria of  
9 subsection 25.09.260.B.1.c.3, then the Director may grant a conditional use approval for fewer  
10 units.

11 d. The proposal protects ~~((Washington State Department of Fish and~~  
12 ~~Wildlife))~~WDFW priority species and maintains wildlife habitat.

13 e. The open water area of a ~~((shoreline habitat,))~~wetland or riparian  
14 corridor shall not be counted in determining the permitted number of lots.

15 f. The proposal does not result in unmitigated negative environmental  
16 impacts, including drainage and water quality, erosion, loss of wildlife habitat, and slope stability  
17 on the identified environmentally critical area and ~~((its))~~buffer.

18 g. The proposal promotes expansion, restoration, or enhancement of the  
19 identified environmentally critical area and buffer.

20 2. General environmental impacts and site characteristics~~((:-))~~

21 a. The proposal ~~((keeps))~~minimizes potential negative effects of the  
22 development on the undeveloped portion of the site ~~((to a minimum ))~~and preserves topographic  
23 features.

24 b. The proposal retains and protects vegetation on designated non-  
25 disturbance areas, protects stands of mature trees, ~~((keeps))~~minimizes tree removal~~((to a~~  
26 ~~minimum))~~, removes noxious weeds, and protects the visual continuity of vegetated areas and  
27 tree canopy.

1                   3. ~~((Neighborhood compatibility.))~~Development standards

2                   a. The total number of lots ~~((permitted on-site shall not be increased~~  
3 ~~beyond that permitted))~~exceed the number allowed by subdividing the property according to the  
4 requirements of Chapter 23.22, Chapter 23.24, and the development standards of the underlying  
5 single-family zone.

6                   b. ~~((Where dwelling units are proposed to be attached, they do not exceed~~  
7 ~~the height, bulk and other applicable development standards of the Lowrise 1 (LR1) zone.~~

8                   c. ~~The development is reasonably compatible with and keeps the negative~~  
9 ~~impact on the surrounding neighborhood to a minimum. This includes, but is not limited to,~~  
10 ~~concerns such as neighborhood character, land use, design, height, bulk, scale, yards, pedestrian~~  
11 ~~environment, and preservation of the tree canopy and other vegetation.))~~Single-family dwelling  
12 units shall meet the following standards, as applicable:

13                                 1) The general development standards, height limits, and lot  
14 requirements of Sections 23.44.008 and 23.44.012 and subsection 23.44.010.B.3;

15                                 2) The yard and setback requirements of Section 23.44.014, except  
16 that the front and rear yards may be reduced to no less than 10 feet each and 30 feet in sum if  
17 such a reduction would reduce the intrusion into the environmentally critical area or required  
18 buffer; and

19                                 3) The lot coverage requirements of subsections 23.44.010.C and  
20 23.44.010.D, except that the following limit applies: The maximum lot coverage is calculated  
21 based sum of the area of the parent lot outside the environmentally critical area and the area of  
22 intrusion into the environmentally critical area or required buffer authorized under subsection  
23 25.09.260.B.1.c.3; and

24                   c. The design maximizes preservation of the tree canopy and other  
25 vegetation.

26                   C. Conditions

1                   1. In authorizing an administrative conditional use, mitigation sequencing  
2 pursuant to Section 25.09.325 shall apply (~~the Director shall mitigate adverse negative impacts~~  
3 ~~by imposing requirements and conditions necessary~~) to protect and mitigate all negative impacts  
4 to riparian corridors, wetlands, ~~(and their)~~ wetland buffers, and steep slope areas and ~~(their~~  
5 ~~) buffers, and the Director may impose additional conditions to protect other properties in the~~  
6 zone or vicinity in which the property is located.

7                   2. In addition to any conditions imposed under subsection 25.09.260.C.1, the  
8 following conditions apply to all administrative conditional uses approved under this Section  
9 25.09.260:

10                   a. Replacement and establishment of native vegetation shall be required  
11 where it is not possible to save trees or vegetation.

12                   b. Where new lots are created, the following standards apply:

13                   1) The development as a whole shall meet development standards  
14 under Title 23 and this Chapter 25.09 applicable at the time the application is vested.

15                   2) ~~(If new)~~ A short subdivision or subdivision proposal shall be  
16 included as part of the critical areas conditional use application to ensure that the development  
17 standards of subsection 25.09.260.B.3 are implemented for each new structure proposed. New  
18 lots ~~(are)~~ created under this Section ~~(s 25.09.240 and)~~ 25.09.260 ~~(s)~~ shall be approved  
19 through the unit lot subdivision regulations of Sections 23.22.062 and 23.24.045, except that the  
20 development standards of subsection 25.09.260.B.3 shall apply separately to each proposed new  
21 unit lot. ~~(d)~~ Development on individual unit lots, except as otherwise set forth in this Section  
22 25.09.260, may be nonconforming as to some or all of the development standards of Title 23 and  
23 Chapter 25.09 ~~(, except that private usable open space or private amenity areas for each dwelling~~  
24 unit shall be provided on the same lot as the dwelling unit it serves).

25                   3) Subsequent platting actions or additions or modifications to  
26 structures may not create or increase any nonconformity of the development as a whole to this

1 Chapter 25.09, and this shall be noted on the document creating the new unit lots that is recorded  
2 with the Director of the King County Department of Records and Elections.

3 4) Access easements and joint use and maintenance agreements  
4 shall be executed for use of common garage or parking areas, common open space, and other  
5 similar features and be recorded with the Director of the King County Department of Records  
6 and Elections.

7 ~~((5) The plat documents, as recorded with the Director of the King~~  
8 ~~County Department of Records and Elections, shall include a notation that each lot approved by~~  
9 ~~an environmentally critical areas conditional use permit is not a separate buildable lot, and that~~  
10 ~~additional development of the each individual lot may be limited as a result of the application of~~  
11 ~~development standards to the original lot.))~~

12 D. The Director shall issue written findings of fact and conclusions to support the  
13 Director's decision. The process and procedures for notice of decision and appeal of this  
14 administrative conditional use shall be as prescribed for Type II land use decisions in Chapter  
15 23.76.

16 Section 22. Section 25.09.280 of the Seattle Municipal Code, last amended by Ordinance  
17 122050, is amended as follows:

18 **25.09.280 Yard and setback reduction and variance to preserve ECA buffers and riparian**  
19 **corridor management areas((~~∅~~))**

20 A. The Director may authorize a ~~((twenty-five))~~25 percent ~~((25%))~~ reduction, up to a  
21 maximum of ~~((five feet (5')))~~5 feet, in yard or setback requirements for front or rear yards on a  
22 lot in existence as a legal building site prior to October 31, 1992, in order to maintain the full  
23 width of ~~((the))~~a riparian management area~~((and of))~~2 wetland buffer, or ~~((steep slope~~  
24 ~~area))~~steep slope buffer~~((s))~~.

25 B. The Director may approve a yard or setback reduction greater than ~~((five feet (5')))~~5  
26 feet in order to maintain the full width of ~~((the))~~a riparian management area, wetland buffer<sub>2</sub> or

1 ~~((steep slope area))~~steep slope buffer through an environmentally critical areas yard or setback  
2 reduction variance when the following facts and conditions exist:

3 1. The lot has been in existence as a legal building site prior to October 31,  
4 1992;~~((:))~~

5 2. Because of the location of the ~~((subject property))~~lot in or abutting an  
6 environmentally critical area or areas and the size and extent of any required environmentally  
7 critical areas buffer, the strict application of the applicable yard or setback requirements of Title  
8 23 would cause unnecessary hardship;~~((and))~~

9 3. The requested variance does not go beyond the minimum to stay out of the full  
10 width of the riparian management area or required buffer and to afford relief;~~((and))~~

11 4. The granting of the variance will not be injurious to safety or to the property or  
12 improvements in the zone or vicinity in which the property is located when all codes are  
13 implemented;~~((and))~~

14 5. The yard or setback reduction will not result in a development that ~~((is~~  
15 ~~materially detrimental to the character, design, and streetscape of the surrounding~~  
16 ~~neighborhood))~~has adverse environmental impacts or potential harm to existing development in  
17 the same vicinity and in the same zone, considering such factors as height, bulk, scale, yards,  
18 pedestrian environment, and amount of vegetation remaining; and

19 6. The requested variance would be consistent with the spirit and purpose of the  
20 environmentally critical areas policies and regulations.

21 C. When an environmentally critical areas variance is authorized, the Director may attach  
22 conditions regarding the location, character, and other features of a proposed development to  
23 carry out the spirit and purpose of this ~~((e))~~Chapter 25.09.

24 D. The process and procedures of an environmentally critical areas yard or setback  
25 reduction variance shall be as prescribed for Type II land use decisions in Chapter 23.76.

26 Section 23. A new Section 25.09.290 of the Seattle Municipal Code is added as follows:

1 **25.09.290 Steep Slope Area Variance**

2 The Director may reduce the steep slope buffer and may authorize limited intrusion into  
3 the steep slope area and buffer if the Director finds all the facts and conditions below exist:

4 A. The lot where the steep slope area or buffer is located was in existence before October  
5 31, 1992;

6 B. Because of the location of the lot in or abutting a steep slope area and the size and  
7 extent of any required steep slope buffer, the strict application of the development standard of  
8 subsection 25.09.180.B.1 would cause unnecessary hardship;

9 C. Granting the variance will not be injurious to safety or to the property or  
10 improvements in the zone or vicinity in which the property is located; and

11 D. If any buffer reduction or development in the steep slope critical area is authorized by  
12 a variance under this Section 25.09.290, it shall be the minimum to afford relief from the  
13 hardship and shall be in the following order of priority:

14 1. Reduce the yards and setbacks, to the extent reducing the yards or setbacks is  
15 not injurious to safety;

16 2. Reduce the steep slope buffer;

17 3. Allow intrusion into the entire steep slope buffer; and

18 4. Allow an intrusion into not more than 30 percent of the steep slope area.

19 E. The requested variance would be consistent with the spirit and purpose of the  
20 environmentally critical policies and regulations.

21 F. All impacts to the natural erosion capacity of the disturbed steep slope area are  
22 mitigated.

23 G. The Director may impose additional conditions on the location and other features of  
24 the proposed development as necessary to carry out the purpose of this Chapter 25.09 and  
25 mitigate the reduction or loss of the yard, setback, or steep slope area or buffer.

1 H. The process and procedures for a variance under this subsection 25.09.290.D shall be  
2 as prescribed for Type II land use decisions in Chapter 23.76.

3 Section 24. Section 25.09.300 of the Seattle Municipal Code, last amended by Ordinance  
4 124447, is amended as follows:

5 **25.09.300 Environmentally critical area exception**

6 A. Types of exceptions

7 1. General. An applicant for a City permit to develop real property that is located  
8 in an environmentally critical area or buffer may apply to the Director for an exception to modify  
9 environmentally critical area development standards, provided that an applicant cannot apply for  
10 an exception (~~((cannot be applied for-))~~) to allow development or to obtain development credit  
11 under subsection 25.09.240.~~((E))~~F or to relocate lot lines under Section 23.28.030. An applicant  
12 seeking relief under this Section 25.09.300 shall demonstrate that no other applicable  
13 administrative remedies in Chapter 25.09 or Title 23 will provide sufficient relief.

14 2. Public projects. If development in an environmentally critical area or buffer is  
15 necessary to accommodate a public facility or public utility, the public facility or public utility  
16 may be permitted according to the following criteria in lieu of subsections 25.09.300.C and  
17 25.09.300.D:

18 a. No reasonable alternative location will accommodate the facility or  
19 utility, as demonstrated by an analysis of appropriate alternative location~~((s))~~s provided by  
20 the applicant or the Director;

21 b. Mitigation sequencing as set out in Section 25.09.325 is applied to the  
22 siting, design, and construction of the facility or utility;~~((The facility or utility is located,~~  
23 ~~designed, and constructed:~~

24 1) ~~to avoid adverse impacts to the extent feasible by not taking all~~  
25 ~~or part of an action;~~

26 2) ~~to minimize adverse impacts; and~~



1 subsection ~~((d))~~25.09.300.B.1.d would not permit any reasonable use of the property,  
2 including, but not limited to, submission of the following evidence:

3 ((e))1) The date the applicant purchased the property or obtained  
4 the right to develop or use it;

5 ((e))2) The price the applicant paid for the rights described in  
6 subsection ~~((f))~~25.09.300.B.1.e.1; and

7 ((e))3) Restrictions or conditions on use or development in  
8 existence when the applicant acquired the rights described in subsection ~~((f))~~25.09.300.B.1.e.1.

9 2. The Director may require the applicant to provide additional information  
10 prepared by qualified persons on the topics described in subsection 25.09.300.B.1.

11 3. All technical studies and data shall be accompanied by sufficiently detailed  
12 information to allow the Director to evaluate it under the standards for scientific information set  
13 out in ~~((Washington Administrative Code))~~WAC~~((s))~~ 365-195-905.

14 C. The Director may modify or waive an environmentally critical areas development  
15 standard and/or the yard and setback standard for front or rear yards when an applicant  
16 demonstrates by clear and convincing evidence that strict application of the development  
17 standards would not permit any reasonable use of the property and that development undertaken  
18 pursuant to the modified or waived standards would not cause significant injury to occupiers of  
19 the land, to other properties, and to public resources, or to the environment.

20 D. The relief granted by reduction, waiver, or other modification of an environmentally  
21 critical areas development standard and of the yard and setback standards for front or rear yards  
22 shall be the minimum to allow reasonable use of the property. Preference shall be given to  
23 modifying or waiving the yard and setback standards for front or rear yards. In modifying a  
24 regulation, the Director may impose reasonable conditions that prevent or mitigate the same  
25 harm that the modified or waived regulation was intended to prevent or mitigate. In granting an  
26 exception to the development standards in Section 25.09.160, ~~((Wetlands,))~~the Director shall

1 apply the ~~((avoidance and-))~~mitigation sequencing standards in subsection 25.09.325.B in  
2 accordance with subsection 25.09.160.((E))F.1when imposing any conditions.

3 E. The Director's decision must be consistent with the scientific approach used by the  
4 City in developing the environmentally critical area development standard at issue.

5 F. Decision

6 1. The process and procedures for notice of decision and appeal of an  
7 environmentally critical areas exception shall be provided in the manner prescribed for Type II  
8 land use decisions in Chapter 23.76.

9 2. The Director's decision shall be affirmed unless found to be clearly erroneous,  
10 and the burden of proof of justifying the environmentally critical areas exception shall be on the  
11 applicant.

12 Section 25. Section 25.09.320 of the Seattle Municipal Code, last amended by Ordinance  
13 124447, is amended as follows:

14 **25.09.320 ((Trees and vegetation))Standards for vegetation and impervious surface**  
15 **management**

16 ~~((A-~~

17 1. ~~Any action detrimental to habitat, vegetation or trees, including but not limited~~  
18 ~~to clearing or removal, is prohibited, except as provided below, within the following areas:~~  
19 ~~landslide prone critical areas, (including steep slopes), steep slope buffers, riparian corridors,~~  
20 ~~wetlands, and wetland buffers.~~

21 2. ~~Tree topping is prohibited.~~

22 3. ~~The vegetation and tree removal and revegetation activities listed in subsections~~  
23 ~~3.a — d are allowed. The application submittal requirements and general development standards~~  
24 ~~in Sections 25.09.330 and 25.09.060 do not apply to actions under subsections a, b(1), c(2)(a) or~~  
25 ~~d, provided that no other development is carried out for which a permit is required.~~

26 a. ~~Normal and routine pruning and maintenance of:~~

1 (1) up to seven hundred fifty (750) square feet of trees and  
2 vegetative cover lawfully maintained prior to the effective date of Ordinance 122050<sup>\*</sup>;

3 (2) trees and vegetation approved by permit prior to the effective  
4 date of Ordinance 122050, provided the conditions of the permit are complied with;

5 (3) lawns, paths and landscaping lawfully maintained prior to the  
6 effective date of Ordinance 122050 that were not in a environmentally critical area or buffer  
7 listed in subsection A1 above prior to the effective date of Ordinance 122050, but are in a listed  
8 area or buffer under this ordinance [chapter];

9 (4) steep slope areas described in subsection 25.09.180B2a — c;

10 (5) other trees and vegetative cover, provided that when the area of  
11 work is over seven hundred fifty (750) square feet in area, a plan is filed with the Department  
12 that complies with subsections B2 and 3.

13 b. Removing trees or vegetation as part of an issued building or grading  
14 permit consistent with a tree and revegetation plan, provided that

15 (1) when the area of work is under one thousand five hundred  
16 (1,500) square feet in area, a plan is filed with the Department that complies with subsections B1  
17 and 2; or

18 (2) when the area of work is one thousand five hundred (1,500)  
19 square feet or more in area, a plan that complies with subsections B2 and 3 is filed with the  
20 Department, the plan keeps significant environmental impact to a minimum, the Director  
21 approves the plan before any disturbance occurs, and the work is performed by or under the  
22 direction of a qualified professional.

23 c. Restoring or improving vegetation and trees, including removing non-  
24 native vegetation or invasive plants and noxious weeds by hand, to promote maintenance or  
25 creation of a naturally functioning condition that prevents erosion, protects water quality, or  
26 provides diverse habitat when



1 \* **Editor's note** Ordinance 122050 became effective May 9, 2006.)

2 A. Planting, disturbing, or removing vegetation and adding, altering, or removing  
3 impervious surface shall comply with the provisions of this Chapter 25.09, unless provided  
4 otherwise in this Section 25.09.320.

5 B. Application and plans

6 1. An application and a plan are required for all actions allowed under this Section  
7 25.09.320, unless specifically provided otherwise in this Section 25.09.320.

8 2. Applications shall be made on the form approved by the Director.

9 3. Plans prepared under this Section 25.09.320 shall be consistent with the  
10 standards promulgated by the Director and with best management practices.

11 4. Plans prepared under this Section 25.09.320 shall be prepared by a qualified  
12 professional with training and experience related to the type of ecological environment in which  
13 the work will occur.

14 5. Plans shall identify:

15 a. The location and size of all disturbance areas;

16 b. The type and area of the existing ground surface coverage, including the  
17 size, species, and location of existing trees; and

18 c. The type and area of final proposed ground surface coverage, including  
19 the species and location of vegetation and trees.

20 6. Plans shall display the vegetation areas and improvements that are provided as  
21 mitigation for project impacts.

22 C. Vegetation and impervious surface management. Vegetation and impervious surface  
23 management activities are prohibited within landslide-prone areas, steep slopes areas and  
24 buffers, riparian corridors, wetlands and wetland buffers, and wildlife habitat and corridors,  
25 except as follows or as otherwise provided in this Section 25.09.320 or this Chapter 25.09:

26 1. In the following areas, normal and routine pruning and maintenance that  
27 promotes the health and vigor of trees and shrubs and normal and routine maintenance of

1 existing impervious surface are allowed as established in this subsection 25.09.320.C.1 without  
2 submitting an application and without complying with subsection 25.09.320.D and Section  
3 25.09.325 unless a violation has occurred:

4 a. Up to 750 square feet of trees and vegetative cover lawfully maintained  
5 prior to May 9, 2006;

6 b. Lawns, paths, and landscaping lawfully maintained prior to May 9,  
7 2006, that were not in an environmentally critical area or buffer prior to May 9, 2006, but are in  
8 an environmentally critical area or buffer as a result of the passage of Ordinance 122050  
9 enacting regulations for environmentally critical areas;

10 c. Steep slope areas created through previous legal grading activities,  
11 including rockeries or retaining walls resulting from right-of-way improvements, if no adverse  
12 impact on the steep slope or shoreline area will result;

13 d. Trees and vegetation specifically approved by permit prior to May 9,  
14 2006, if the conditions of that permit are complied with;

15 e. Removing trees or vegetation as part of an issued building or grading  
16 permit with a tree and revegetation plan pursuant to Section 25.09.320 before the effective date  
17 of this Ordinance; and

18 f. Vegetation and tree planting and removal approved by the Director and  
19 shown on a plan filed with the Department of Planning and Development in compliance with  
20 Section 25.09.320 before the effective date of this ordinance.

21 2. Actions taken under subsections 25.09.320.C.1.d, 25.09.320.C.1.e and  
22 25.09.320.C.1.f shall comply with the conditions on such permit or plans.

23 3. Replacing up to 300 square feet per year of vegetation or ground surface  
24 coverage by planting native vegetation is allowed without submitting an application only if:

25 a. No new impervious surface is created;

26 b. Land disturbance is minimized and kept within the planting area;

27 c. No native trees are removed;

1 d. No native shrubs are removed unless replaced with native trees or  
2 shrubs; and

3 e. No nonnative species are planted.

4 4. Removing trees is allowed if the Director determines the tree is a threat to  
5 health or safety based on a report prepared by a qualified professional with a Tree Risk Assessor  
6 certification as established by the Pacific Northwest Chapter of the International Society of  
7 Arboriculture (ISA) or equivalent experience and training and the removal is performed by or  
8 under the direction of a qualified professional.

9 5. Permits authorizing development may authorize disturbance areas and land  
10 clearing using mitigation standards according to subsection 25.09.320.D and Section 25.09.325,  
11 providing such land disturbance or clearing complies with the following criteria:

12 a. Any surface disturbed or cleared of vegetation and not to be used for  
13 development shall be planted with native vegetation; and

14 b. Mitigation required to compensate for loss of ecological function  
15 pursuant to subsection 25.09.325.B.1.e shall include:

16 1) A plan identifying the vegetation areas and ecological  
17 improvements required for project impacts; and

18 2) Compensation for any reduction in the contribution of woody  
19 debris into the aquatic environment resulting from removal of trees adjacent to aquatic  
20 environments.

21 6. Mitigation approved to offset negative impacts to the ecological functions of an  
22 area is allowed.

23 7. Impervious surface management activities that are allowed as part of a  
24 development pursuant to this Chapter 25.09 are prohibited within landslide-prone critical areas,  
25 steep slope areas and buffers, riparian corridors, wetlands, wetland buffers, and wildlife habitat  
26 and corridors, except as provided in Sections 25.09.080, 25.09.160, 25.09.180, 25.09.200 and  
27 25.09.300 and as follows:

1                   a. If no vegetation is removed, the amount of impervious surface is not  
2 increased, and no surface that is permeable by water at the time of the application is covered with  
3 an impervious surface, no mitigation is required for these impervious surface management  
4 activities except to address impacts from runoff;

5                   b. If vegetation is removed or impervious surface is increased, and that  
6 action negatively impacts ecological functions, those impacts shall be mitigated as set out in  
7 subsection 25.09.320.D and Section 25.09.325.

8                   D. Mitigation for vegetation alteration and increase in impervious surface

9                   1. If vegetation is lawfully altered or removed other than as allowed in  
10 subsections 25.09.320.C.1, 25.09.320.C.3, and 25.09.320.C.7, or if there is an increase in  
11 impervious surface that is required for work authorized pursuant to this Chapter 25.09, the  
12 applicant shall address adverse impacts to ecological functions by applying mitigation  
13 sequencing pursuant to Section 25.09.325. Adverse impacts on ecological functions to be  
14 addressed include but are not limited to:

15                   a. loss of shading to aquatic habitat;

16                   b. loss of organic inputs critical for aquatic life;

17                   c. loss of habitat for amphibian, avian, and terrestrial species;

18                   d. loss of woody debris inputs to the aquatic system;

19                   e. loss of soil stabilization functions; and

20                   f. loss of stormwater filtering, detention, and infiltration.

21                   2. Mitigation to offset the impacts of vegetation and impervious surface  
22 management shall meet the following criteria, unless the applicant demonstrates that doing so is  
23 inapplicable or that a different approach will be more effective in mitigating impacts:

24                   a. Plantings provided for mitigation purposes shall be sited as close as  
25 possible to other vegetated areas and to any water body.

26                   b. If vegetation and impervious surface management results in the removal  
27 of trees, shrubs, or vegetated groundcover, or a change from mature vegetation to new

1 vegetation, the plantings that provide mitigation shall at the time they are installed replicate the  
2 pre-disturbance level of ecological function provided by the vegetation that is replaced.

3 c. Mitigation plantings shall be native species suited to specific site  
4 conditions.

5 d. Areas that have been cleared, graded, or compacted shall be amended  
6 with organic matter prior to planting.

7 e. If vegetation and impervious surface management results in a loss of  
8 pervious surfaces, mitigation shall create new pervious surfaces or replicate the functions of  
9 removed pervious surfaces according to the standards in Volume 3 of the Stormwater Manual  
10 Director's Rule 17-2009.

11 f. Vegetation and impervious surface management actions requiring soil  
12 disturbance shall use appropriate best management practices to prevent sediment runoff.

13 g. Maintenance is required to ensure 80 percent survival of the new  
14 vegetation planted at the end of five years.

15 E. Vegetation monitoring. Vegetation monitoring is required for vegetation planted  
16 pursuant to this Section 25.09.320 that requires submittal of an application under this Section  
17 25.09.320. If vegetation monitoring is required, a monitoring plan shall be developed pursuant to  
18 Section 25.09.325 and submitted to the Department for approval.

19 Section 26. A new Section 25.09.325 of the Seattle Municipal Code is added as follows:

20 **25.09.325 Standards for mitigation**

21 A. Regulations set out in this Chapter 25.09 are minimum requirements that shall be  
22 supplemented by mitigation sequencing in this Section 25.09.325 when needed to protect the  
23 ecological functions of the environmentally critical areas.

24 B. Mitigation sequencing

25 1. The mitigation sequence below shall be undertaken in the following priority:

26 a. Avoid the impact altogether by not taking a certain action or parts of an  
27 action;

1                                   b. Minimize impacts by limiting the degree or magnitude of the action and  
2 its implementation by using appropriate technology or by taking affirmative steps to avoid or  
3 reduce impacts;

4                                   c. Rectify the impact by repairing, rehabilitating, or restoring the affected  
5 environment;

6                                   d. Reduce or eliminate the impact over time by preservation and  
7 maintenance operations;

8                                   e. Compensate for the impact by replacing, enhancing, or providing  
9 substitute resources or environments; and

10                                  f. Monitor the impact and the compensation projects and take appropriate  
11 corrective measures.

12                                  2. Lower priority measures shall be applied only if the higher priority measure is  
13 infeasible or inapplicable.

14                                  C. Mitigation and monitoring plan

15                                  1. As part of any application for approval of development that requires mitigation  
16 under subsections 25.09.325.B.1.b through 25.09.325.B.1.f, the applicant shall submit a  
17 mitigation and monitoring plan that meets the standards set out in this subsection 25.09.325.C  
18 unless the applicant demonstrates based on competent scientific evidence that no impact to the  
19 ecological functions of the environmentally critical area or areas will occur as the result of the  
20 development or its use, construction, or management.

21                                  2. The Director shall determine the level of detail required in the mitigation and  
22 monitoring plans and the length of time required for monitoring after considering the location,  
23 size, and type of the proposed development and/or the use and type of mitigation proposed,  
24 unless a specific timeframe is stated.

25                                  3. The mitigation and monitoring plan shall include the following information:

26                                   a. An inventory of the existing ecological functions where the impact will  
27 occur;

1                                   b. An analysis of the project’s impacts on the existing ecological functions  
2 necessary to support existing environmentally critical area resources;

3                                   c. Management recommendations received from federal, state, or local  
4 agencies that have been developed for to protect the ecological functions of environmentally  
5 critical areas including protection of avian, terrestrial, wetlands, or aquatic species and habitat on  
6 the site and their applicability to the proposal;

7                                   d. Proposed management practices to protect the ecological functions of  
8 environmentally critical areas both during construction and during the management of the site;

9                                   e. Measures to avoid and minimize impacts to preserve existing habitats  
10 and the ecological functions of environmentally critical areas;

11                                  f. Proposed measures to compensate for the remaining project impacts  
12 after applying avoidance and minimization measures, to ensure protection of the ecological  
13 functions of environmentally critical areas;

14                                  g. Plans including vegetation shall include:

15                                       1) Vegetation species, planting, and soil specifications meeting the  
16 standards in Section 25.09.320;

17                                       2) Five years of monitoring that ensures 80 percent survival of the  
18 new vegetation planted at the end of five years;

19                                       3) Annual inspections of the plants;

20                                       4) Replacement of failed plants;

21                                       5) Removal of exotic invasive species that have become  
22 established; and

23                                       6) Photographic documentation of planting success.

24                                  h. Criteria for determining if mitigation is successful and for evaluation  
25 the effectiveness of mitigation to ensure protection of the ecological functions of  
26 environmentally critical areas;

1 i. Contingency actions to be taken if the mitigation fails to meet  
2 established success criteria in subsection 25.09.325.C.3.h; contingency actions should include  
3 additional monitoring if the mitigation fails;

4 j. Performance bonds not to exceed a term of five years that may be  
5 required to ensure compliance with the conditions, except for public agencies; and

6 k. Any additional information that the Director requires to determine the  
7 impacts of a proposal and mitigation of the impacts.

8 Section 27. Section 25.09.330 of the Seattle Municipal Code, last amended by Ordinance  
9 124105, is amended as follows:

10 **25.09.330 Application submittal requirements**

11 All activities identified in Section 25.09.015 and not exempt from permit application  
12 requirements under Section((s)) 25.09.045(~~(, 25.09.055,)~~) and subsections 25.09.080.H,  
13 25.09.160.E, 25.09.180.E, 25.09.200.A.4, and 25.09.320.A.3 shall meet the following  
14 application submittal requirements in addition to the application submittal requirements specified  
15 in other codes:

16 A. Topographic ~~((S))~~survey. A topographic site plan, prepared and stamped by a State of  
17 Washington licensed surveyor, is required for sites that include landslide-prone areas, flood-  
18 prone areas, riparian corridors, wetlands or ~~((its))~~wetland buffers, and steep slope areas ~~((or  
19 ~~their))~~and buffers. The topographic site plan shall include the following existing physical  
20 elements:~~

21 1. Existing topography at ~~((two-foot (2')))~~2-foot contour intervals ~~((one-site))~~on  
22 site, on adjacent lands within ~~((twenty-five feet (25')))~~25 feet of the site's property lines, and on  
23 the full width of abutting public and private rights-of-way and easements;

24 2. Terrain and stormwater-flow characteristics within the site, on adjacent sites  
25 within ~~((twenty-five feet (25')))~~25 feet of the site's property lines, and on the full width of  
26 abutting public and private rights-of-way and easements;

1                   3. Location of areas with significant amounts of vegetation, and specific location  
2 and description of all trees with trunks (~~((six inches (6"))~~)6 inches or greater in diameter  
3 measured (~~((four feet, six inches (4'6"))~~)4 feet, 6 inches above the ground, and noting their  
4 species;

5                   4. Location and boundaries of all existing site improvements on the site, on  
6 adjacent lands within (~~((twenty five feet (25'))~~)25 feet of the site's property lines, and on the full  
7 width of abutting public and private rights-of-way and easements. This shall include the amounts  
8 of developmental coverage, including all impervious surfaces (noting total square footage and  
9 percentage of site occupied);

10                  5. Location of all grading activities in progress, and all natural and artificial  
11 drainage control facilities or systems in existence or on adjacent lands on the site, within  
12 (~~((twenty five feet (25'))~~)25 feet of the site's property lines(~~(;)~~) and in the full width of abutting  
13 public and private rights-of-way and easements;

14                  6. Location of all existing utilities (water, sewer, gas, electric, phone, cable, etc.),  
15 both above and below ground, on the site, on adjacent lands within (~~((twenty five feet (25'))~~)25  
16 feet of the site's property lines, and in the full width of abutting public rights-of-way; and

17                  7. Such additional existing physical elements information for the site and  
18 surrounding area as required by the Director to complete review of a project subject to the  
19 standards of Chapter 25.09.

20                  B. Additional (~~(S)~~)site (~~(P)~~)plan (~~(I)~~)information. The following site plan information  
21 shall also be required for sites that include landslide-prone areas, flood-prone areas, riparian  
22 corridors, wetlands and wetland buffers, and steep slope areas (~~((or their))~~)and buffers.

23 Information related to the location and boundaries of environmentally critical areas and required  
24 buffer delineations shall be prepared by qualified professionals with training and experience in  
25 their respective area of expertise as demonstrated to the satisfaction of the Director.

1                   1. Location and boundaries of all environmentally critical areas on the site and on  
2 adjacent lands within (~~(twenty-five feet (25'))~~) 25 feet of the site's property lines, noting both total  
3 square footage and percentage of site;

4                   2. Location and identification of all riparian corridors and wetlands within (~~(one~~  
5 ~~hundred feet (100'))~~) 100 feet of the site's property lines;

6                   3. Location and boundaries of non-disturbance areas on the site that have been  
7 required by previous approvals(~~(-)~~);

8                   4. Proposed location and boundaries of all required undisturbed fenced areas and  
9 buffers on the site and on adjacent lands within (~~(twenty-five feet (25'))~~) 25 feet of the site's  
10 property lines;

11                   5. Location and boundaries of all proposed site improvements on the site, on  
12 adjacent lands within (~~(twenty-five feet (25'))~~) 25 feet of the site's property lines, and on the full  
13 width of abutting public and private rights-of-way and easements. This shall include the amount  
14 of proposed land disturbing activities, including amounts of developmental coverage, impervious  
15 surfaces, and construction activity areas (noting total square footage and percentage of site  
16 occupied);

17                   6. Location of all proposed grading activities and all proposed drainage control  
18 facilities or systems on the site, (~~(or)~~) on adjacent lands within (~~(twenty-five feet (25'))~~) 25 feet of  
19 the site's property lines, and on the full width of abutting public and private rights-of-way and  
20 easements;

21                   7. Location of all proposed utilities (water, sewer, gas, electric, phone, cable,  
22 etc.), both above and below ground, on the site, on adjacent lands within (~~(twenty-five feet~~  
23 ~~(25'))~~) 25 feet of the site's property lines, and in the full width of abutting public rights-of-  
24 way(~~(-)~~); (~~(and)~~) any proposed extension required to connect to existing utilities(~~(-)~~); and  
25 proposed methods and locations for the proposed development to hook-up to these services; and

1                   8. ~~((Such))~~Any additional site plan information related to the proposed  
2 development ~~((as required by))~~that the Director requires to complete review of a project subject  
3 to the standards of this ~~((e))~~Chapter 25.09.

4                   C. Technical ~~((R))~~reports. Technical reports and other studies and submittals shall be  
5 prepared as required by the Director detailing soils, geological, hydrological, drainage, plant  
6 ecology and botany, and other pertinent site information. The reports, studies, and submittals  
7 shall be used to condition development to protect and prevent potential harm ~~((and))~~to ~~((protect~~  
8 ~~))~~the environmentally critical nature of the site, adjacent properties, and the drainage basin.

9                   Section 28. Section 25.09.335 of the Seattle Municipal Code, last amended by Ordinance  
10 122050, is amended as follows:

11 **25.09.335 Posting, covenants, and recording conditions~~((r))~~**

12                   A. During construction, the Director may require conditions to be posted on the site that  
13 are visible from public rights-of-way.

14                   B. The Director shall require that a permanent covenant, and a survey~~((r))~~ if ~~((a~~  
15 ~~survey))~~one has been prepared, be recorded in the King County Office of Records and Elections  
16 that describes and delineates all required non-disturbance areas, that prohibits development on  
17 and any disturbance of them, and that prohibits considering them for development credit in  
18 future plats or development proposals.

19                   C.

20                   1. The Director shall require the boundaries of the following environmentally  
21 critical areas ~~((or their))~~ buffers and any permanent conditions imposed be legibly shown  
22 and described in a permanent covenant with the property, which shall be recorded in the King  
23 County Office of Records and Elections:

- 24                   a. Fish and wildlife habitat conservation areas;
- 25                   b. Wetlands ~~((critical areas and their))~~and wetland buffers; and
- 26                   c. Steep slope areas and ~~((their))~~ buffers.

1                   2. The covenant may be combined with the covenant required under subsection  
2 25.09.335.B, if ~~((that subsection applies))~~ applicable. The covenant shall be recorded prior to the  
3 issuance of any permit or at the time a plat is recorded.

4                   D. The Director may require placement of small permanent visible markers to delineate  
5 the areas described in subsections 25.09.335.B and 25.09.335.C. The location of the markers  
6 shall be legibly shown and described in the permanent covenant.

7                   Section 29. Section 25.09.360 of the Seattle Municipal Code, last amended by Ordinance  
8 122050, is amended as follows:

9 **25.09.360 State Environmental Policy Act((=))**

10                   This ~~((e))~~Chapter 25.09 establishes minimum standards to be applied to specific land use  
11 and platting actions in order to prevent further degradation of environmentally critical areas in  
12 the City, and is not intended to limit the application of the State Environmental Policy Act  
13 (SEPA). Projects subject to SEPA shall be reviewed and may also be conditioned or denied  
14 pursuant to Chapter 25.05.

15                   Section 30. Section 25.09.380 of the Seattle Municipal Code, last amended by Ordinance  
16 122050, is amended as follows:

17 **25.09.380 Compliance with environmentally critical areas regulations((=))**

18                   Notwithstanding the provisions of Chapter 23.76 authorizing issuance of Master Use  
19 Permits and Council Land Use Decisions upon compliance with the criteria and procedures of  
20 that ~~((e))~~Chapter 23.76, no permit for a development proposal or for actions described in Section  
21 25.09.015 shall be issued unless it also complies with the regulations of this ~~((e))~~Chapter 25.09.

22                   Section 31. Section 25.09.400 of the Seattle Municipal Code, last amended by Ordinance  
23 122050, is amended as follows:

24 **25.09.400 Violations((=))**

25                   A. It is a violation of this ~~((e))~~Chapter 25.09 to fail to comply with any provision of this  
26 ~~((e))~~Chapter 25.09 or with any term of any permit condition or approval issued pursuant to this  
27 ~~((e))~~Chapter 25.09.

1 B. It is a violation of this ((e))Chapter 25.09 to fail to comply with any order issued  
2 pursuant to this ((e))Chapter 25.09 or to remove or deface any sign, notice, complaint, or order  
3 required by or posted in accordance with this ((e))Chapter 25.09.

4 C. It is a violation of this ((e))Chapter 25.09 to misrepresent any material fact in any  
5 application, on plans, or in any other information submitted to obtain any determination,  
6 authorization, permit condition, or approval under this ((e))Chapter 25.09.

7 D. It is a violation of this ((e))Chapter 25.09 to aid and abet, counsel, encourage, hire,  
8 command, induce, or otherwise procure another to violate or fail to comply with this ((e))Chapter  
9 25.09.

10 Section 32. Section 25.09.410 of the Seattle Municipal Code, enacted by Ordinance  
11 122050, is amended as follows:

12 **25.09.410 Authority to enforce((-))**

13 A. The Director is authorized to enforce this ((e))Chapter 25.09 and may call upon other  
14 appropriate City departments to assist in enforcement.

15 B. The Director may, with the consent of the owner or occupier of any land, premises,  
16 building, or structure, or pursuant to a lawfully issued inspection warrant, enter at reasonable  
17 times any land, watercourse, premises, building, or structure subject to the consent or warrant.

18 C. It is the intent of this ((e))Chapter 25.09 to place the obligation of complying with its  
19 requirements upon the owner, occupier, or other person responsible for the condition of the  
20 vegetation, land, watercourse, premises, building, or structure within the scope of this  
21 ((e))Chapter 25.09.

22 D. No provision of or term used in this ((e))Chapter 25.09 is intended to impose any duty  
23 upon the City or any of its officers or employees that would subject them to damages in a civil  
24 action.

25 Section 33. Section 25.09.420 of the Seattle Municipal Code, enacted by Ordinance  
26 122050, is amended as follows:

27 **25.09.420 Investigation and notice of violation((-))**

1           A. The Director is authorized to investigate the condition of any vegetation, land,  
2 watercourse, premises, building, structure, activity, or use that the Director reasonably believes  
3 does not comply with the provisions of this ~~((e))~~Chapter 25.09. The Director's investigation and  
4 determination that a violation exists is not limited by ~~((determinations made by))~~determinations  
5 ~~((made by))~~that other City agencies have made.

6           B. If after investigation the Director determines that any provision of this ~~((e))~~Chapter  
7 25.09 has been violated, the Director may serve a notice of violation upon any person that the  
8 Director believes is responsible for the violation. The notice of violation may identify the  
9 violation by code section; and may state what corrective action (including restoration), if any, is  
10 necessary to comply with the provisions of this ~~((e))~~Chapter 25.09, set a reasonable time for  
11 compliance; and state the penalty for violating this ~~((e))~~Chapter 25.09. The Director may require  
12 that the restoration plan be prepared by a qualified professional, at the violator's expense.  
13 Wetland mitigation shall be consistent with Section 25.09.160 and Section 25.09.325.

14           C. Any notice issued pursuant to subsection 25.09.420.B shall be served upon the owner,  
15 occupier, or other person responsible for the violation by personal service in the manner set forth  
16 in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last  
17 known address of such person(s). Service is complete at the time of personal service~~((;))~~ or, if  
18 mailed, three ~~((3))~~days following the date of mailing. If a notice of violation sent by first class  
19 mail is returned as undeliverable, then service of the notice upon such person or persons may be  
20 made by posting the notice at a conspicuous place on the property where the violation occurred.

21           D. If a notice of violation or order is recorded with the King County Department of  
22 Records and Elections, a notice of violation or order for the same violation need not be served  
23 upon a new owner. If a new notice of violation or order is not issued and served upon a new  
24 owner, the Director may grant the new owner the same number of days to comply as was given  
25 the previous owner, starting on the date that the conveyance is completed.

26           E. Nothing in this ~~((s))~~Section 25.09.420 shall be deemed to limit or preclude any action  
27 or proceeding pursuant to Sections 25.09.430 and 25.09.450 of this ~~((e))~~Chapter 25.09, and

1 nothing in this ~~((s))~~Section 25.09.420 requires the Director to issue a notice of violation prior to  
2 the imposition of civil or criminal penalties.

3 Section 34. Section 25.09.430 of the Seattle Municipal Code, enacted by Ordinance  
4 122050, is amended as follows:

5 **25.09.430 Stop-work order~~((s))~~**

6 A. The Director may issue a stop-work order whenever any use, activity, work, or  
7 development

8 ~~((f))1~~((s))~~~~ is being done without a permit, determination, or authorization  
9 required by this ~~((e))~~Chapter~~((s))~~ 25.09;

10 ~~((f))2~~((s))~~~~ is being done contrary to any determination, authorization, permit, or  
11 approval of DPD, and the use, activity, work, or development will ~~((immediately))~~have an  
12 immediate adverse impact on an environmentally critical area or materially impair the Director's  
13 ability to secure compliance with this ~~((e))~~Chapter~~((s))~~ 25.09; or

14 ~~((f))3~~((s))~~~~ immediately threatens the public health, safety, and welfare with  
15 respect to the interests protected under this ~~((s))~~Section 25.09.430.

16 B. The stop-work order shall describe the violation in writing and be posted on the  
17 premises or served on any person responsible for the violation. Except for emergency work  
18 necessary to stabilize the site that may be required by the Director, it is unlawful for any work on  
19 the property to be done after the posting or service of a stop-work order until the Director gives  
20 authorization to proceed~~((is given by the Director))~~.

21 C. The stop-work order may require that vegetation, land, watercourse, premises,  
22 building, structure, or portion thereof~~((s))~~ be vacated within a reasonable time, depending on the  
23 degree of danger~~((s))~~ specified in the order. No person shall occupy the vegetation, land,  
24 premises, building, structure, or portion thereof after the date ~~((on))~~by which it is required to be  
25 vacated until the vegetation, land, watercourse, premises, building, structure, or portion  
26 thereof~~((s))~~ is restored to a safe condition as determined by the Director.

1 Section 35. Section 25.09.450 of the Seattle Municipal Code, enacted by Ordinance  
2 122050, is amended as follows:

3 **25.09.450 Review by the Director**~~((=))~~

4 A. Any person significantly affected by a notice of violation or stop-work order issued by  
5 the Director pursuant to this ~~((e))~~Chapter 25.09 may obtain an administrative review of the  
6 notice or order by requesting such review in writing to the Director within ten ~~((40))~~days of  
7 the date of the notice or order. When the last day of the period so computed is a Saturday,  
8 Sunday, or federal or City holiday, the period shall run until ~~((five-))~~5:00~~((+))~~ p.m. on the next  
9 business day. A request for administrative review is an administrative remedy that must be  
10 exhausted before judicial review of the notice or order may be sought.

11 B. Upon receipt of the request, the Director shall notify by mail any persons served  
12 within the notice or order and any person requesting review, advising them of the request for  
13 review, of the date of the review, and of the deadline for submitting additional written  
14 information for consideration. The deadline for submitting additional written information shall  
15 be ten ~~((40))~~days from the date the notice of administrative review is mailed, unless otherwise  
16 agreed to by all persons served with the notice or order. The Director and all persons served with  
17 the notice or order may also agree to review the matter within a shorter period ~~((e))~~of time that  
18 shall not be less than three ~~((3))~~days from the date the notice or order was issued.

19 C. The Director shall conduct the administrative review and issue a decision on the  
20 request for administrative review in the form of an Order of the Director. The Director shall  
21 review all written information received by the submission deadline and any additional evidence  
22 or information available to DPD staff and placed in the case file. The Director may also request  
23 clarification of information received and a site visit. After review of the case file and of the  
24 additional written information and/or after a site visit, the Director shall issue an Order of  
25 Director that may:

- 26 1. Sustain the notice or order;
- 27 2. Withdraw the notice or order;

1                   3. Continue the review to a date certain for receipt of additional information; or

2                   4. Modify the notice or order, which may include an extension of the compliance  
3 date, if any.

4                   D. The Director shall issue the Order of the Director no later than ten (~~((40))~~) days from  
5 the deadline for submitting additional information. The Order of the Director is mailed by first  
6 class mail to the person or persons named on the notice of violation or order and to any person  
7 who requested the administrative review. If the original notice or order was recorded with the  
8 King County Department of Records and Elections the Order of the Director shall also be  
9 recorded.

10                  Section 36. Section 25.09.460 of the Seattle Municipal Code, enacted by Ordinance  
11 122050, is amended as follows:

12 **25.09.460 Civil penalty(~~(\*)~~)**

13                  A. Any person who violates or fails to comply with any provision of this (~~((€))~~) Chapter  
14 25.09 is subject to a civil penalty (~~((in an amount not to exceed Five Hundred Dollars-))~~) of at  
15 most \$500(~~(\*)~~) per day for each violation, and in the event of a continuing violation shall be  
16 subject to a cumulative civil penalty of \$500 per day for each violation from the time the  
17 violation occurs or begins until compliance is achieved. In cases where the Director has issued a  
18 notice of violation with a compliance date, the violation is deemed to begin, for purposes of  
19 determining the number of days of violation, on the date compliance is required by the notice of  
20 violation. For removing, clearing, or taking any action detrimental to a tree over six inches in  
21 caliper an additional civil penalty of (~~((Five Thousand Dollars-))~~) \$5,000(~~(\*)~~) shall be assessed.

22                  B. Violations causing significant damage may be assessed an additional penalty in an  
23 amount reasonably determined to be equivalent to the economic benefit that the violation derived  
24 from the violation, measured as the greater of, the resulting increase in market value of the  
25 property, the value received by the violator, or the savings of construction costs realized.

26                  C. The penalty imposed by this (~~((§))~~) Section 25.09.460 may be collected by civil action  
27 brought in the name of the City. The Director notifies the City Attorney in writing of the name of

1 any person subject to the penalty, and the City Attorney, with the assistance of the Director,  
2 takes appropriate action to collect the penalty. In any civil action for a penalty, the City has the  
3 burden of proving by a preponderance of the evidence that a violation exists or existed; the  
4 issuance of a notice of violation or of an Order following an administrative review by the  
5 Director is not itself evidence that a violation exists.

6 Section 37. Section 25.09.470 of the Seattle Municipal Code, enacted by Ordinance  
7 122050, is amended as follows:

8 **25.09.470 Alternative criminal penalty((=))**

9 Any person who violates or fails to comply with this ((=))Chapter 25.09 shall be guilty of  
10 a gross misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04, except that  
11 absolute liability shall be imposed for such a violation or failure to comply and none of the  
12 mental states described in Section 12A.04.030 need be proved. The Director may request the  
13 City Attorney prosecute such violations criminally as an alternative to the civil penalty provision  
14 outlined in this ((=))Chapter 25.09. Each day that a person continues to violate or fail to comply  
15 with the provisions of this ((=))Chapter 25.09 and each occurrence of a prohibited activity  
16 constitutes a separate offense.

17 Section 38. Section 25.09.480 of the Seattle Municipal Code, enacted by Ordinance  
18 122050, is amended as follows:

19 **25.09.480 Additional relief((=))**

20 The Director may seek legal or equitable relief to enjoin any acts or practices and abate  
21 any condition that constitutes or will constitute a violation of this ((=))Chapter 25.09.

22 Section 39. Section 25.09.520 of the Seattle Municipal Code, last amended by Ordinance  
23 124447, is amended as follows:

24 **25.09.520 Definitions**

25 "Annual high static groundwater level" means the highest elevation where the soil is  
26 saturated with the main body of groundwater during any part of the year.

27 "Best management practices" means

1                   ((a))1. ((b))The practices defined in Section 22.801.030 of the Stormwater Code;  
2 and

3                   ((b))2. ((c))Structural, nonstructural, and managerial techniques identified by the  
4 Director, or by the director of a City agency when that agency is making determinations under  
5 this Chapter 25.09, as the most effective and practical means in an urban environment to mitigate  
6 adverse environmental effects on environmentally critical areas and buffers and their functions.

7           "Biologist" means a person who has earned a degree in biological sciences from an  
8 accredited college or university, or a professional who has equivalent educational training and  
9 has experience as a practicing biologist.

10           "Buffer" means a designated area adjacent to and/or a part of an environmentally critical  
11 area and intended to protect the environmentally critical area.

12           "City agency" means The City of Seattle or any of its subdivisions, including but not  
13 limited to, any City board, commission, committee, officer, or department.

14           "Construction activity area" means all areas of land disturbing activity within a site or on  
15 adjacent sites or rights-of-way used during construction including, but not limited to,  
16 development coverage areas and construction access and storage areas.

17           "Contaminated soils" is defined in Section 21.36.012, of the Solid Waste Code.

18           "Detention" is defined in Section 22.801.050 of the Stormwater Code.

19           "Development" means all components and activities related to construction or  
20 disturbance of a site, including but not limited to land disturbing activities.

21           "Development standard" means a regulation establishing a limit on development.

22           "Director" means the Director of the Department of Planning and Development or his or  
23 her designee.

24           "Downtown zones" means all Downtown Office Core, Downtown Retail Core,  
25 Downtown Mixed Commercial, Downtown Mixed Residential, Downtown Harbor Front,  
26 International District Mixed, International District Residential, Pike Market Mixed, and Pioneer  
27 Square Mixed, as defined in Chapter 23.30.

1 "Drainage-control facility" is defined in Section 22.801.050 of the Stormwater Code.

2 "Drainage-control system" is defined in Section 22.801.050 of the Stormwater Code.

3 "Ecological ~~((F))~~function" means the work performed or role played individually or  
4 collectively by the physical, chemical, and biological processes that contribute to the  
5 maintenance of the aquatic and terrestrial environments that constitute the natural environment.

6 "Exception" ~~((refers to))~~means the environmentally critical areas exception, Section  
7 25.09.300.

8 "Exemption" means to release a project either fully or partially from compliance with the  
9 environmentally critical areas regulations, or from specific development standards of this  
10 ~~((e))~~Chapter 25.09, as provided in Section 25.09.045.

11 "Fish habitat" means and refers to wildlife habitat that supports fish at any life stage at  
12 any time of the year, including off-channel habitat and potential habitat that is likely to be used  
13 by fish and could be restored.

14 "Geologist" means a person who has earned a degree in geology from an accredited  
15 college or university and has at least five ~~((5))~~years' experience as a practicing geologist or  
16 four ~~((4))~~years of experience and at least two ~~((2))~~years of postgraduate study, research, or  
17 teaching. The practical experience shall include at least three ~~((3))~~years of work in applied  
18 geology and evaluation, in close association with qualified practicing geologists or  
19 geotechnical/civil engineers.

20 "Geotechnical/civil engineer" means a practicing geotechnical/civil engineer licensed as a  
21 professional civil engineer by the State of Washington who has at least four ~~((4))~~years of  
22 professional experience as a geotechnical engineer including experience with landslide  
23 evaluation.

24 "Groundwater regime" means the amount, distribution, and seasonal variation of water  
25 below the surface of the land.

26 "Impervious surface" is defined in Section 22.801.100 of the Stormwater Code.

1 "Improved public road right-of-way" means a right-of-way (~~(which)~~)that either contains  
2 utilities or is paved.

3 "Infiltration facility" is defined in Section 22.801.100, of the Stormwater, Grading and  
4 Drainage Control Code.

5 "Invasive plants" means the plants listed for Western Washington in Washington State  
6 Department of Ecology Publication (~~(#04-06-025)~~)#04-06-025.

7 "Land disturbing activity" means any activity that results in a movement of earth, or a  
8 change in the existing soil cover (both vegetative and nonvegetative) or the existing topography.  
9 Land disturbing activities include, but are not limited to, clearing, grubbing, grading, filling,  
10 excavation, draining water from a site, or addition or replacement of impervious surface.

11 "Lot" means a platted or unplatted parcel or parcels of land abutting upon and accessible  
12 from a private or public street sufficiently improved for vehicle travel or abutting upon and  
13 accessible from an exclusive, unobstructed permanent access easement. A lot may not be divided  
14 by a street or alley.

15 "Native fish" means a species of fish identified by the United States Fish and Wildlife  
16 Service as occurring in the Puget Sound area as part of its indigenous fresh water or marine  
17 aquatic fauna.

18 "Native vegetation" means vegetation, including trees, comprised of plant species that are  
19 indigenous and noninvasive, naturalized to the Puget Sound region and that reasonably can be  
20 expected to naturally occur on a site. Native vegetation does not include noxious weeds.

21 "Non-disturbance areas" means areas where development is not to be allowed.

22 "Normal pruning and maintenance" means for trees, shrubs, and other woody plants  
23 compliance with American National Standards Institute A300 pruning standards.

24 "Noxious weeds" means weeds listed by the King County Noxious Weed Control Board.

25 "Ordinary high water mark" means, on all lakes, streams, and tidal water, that mark that  
26 will be found by examining the bed and banks and ascertaining where the presence and action of  
27 waters are so common and usual, and so long continued in all ordinary years, as to mark upon the

1 soil a character distinct from that of the abutting upland, in respect to vegetation as that condition  
2 exists on June 1, 1971, or as it may naturally change thereafter or as it may change thereafter in  
3 accordance with permits issued by the Director of the Department of Ecology; provided that in  
4 any area where the ordinary high water mark cannot be found, the ordinary high water mark  
5 adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark  
6 adjoining fresh water shall be the line of mean high water.

7 "Parcel" means a lot, unplatted property, or combination thereof, whether public or  
8 private property, in the City of Seattle, including City ~~((right-of-way))~~right-of-way.

9 "Person" means any individual, receiver, administrator, executor, assignee, trustee in  
10 bankruptcy, trust, estate, firm, partnership, co-partnership, joint venture, club, company, joint  
11 stock company, business trust, municipal corporation, political subdivision of the State of  
12 Washington, corporation, limited liability company, association, society, or any group of  
13 individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, the  
14 United States or any instrumentality thereof, and any entity of whatever type.

15 "Pesticide" means, but is not limited to:

16 ~~((a))~~1. Any substance or mixture of substances intended to prevent, destroy,  
17 control, repeal, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of  
18 plant or animal life or virus, except virus on or in a living person or other animal ~~((which))~~that is  
19 normally considered to be a pest or ~~((which))~~that the Director may declare to be a pest;

20 ~~((b))~~2. Any substance or mixture of substances intended to be used as a plant  
21 regulator, defoliant, or desiccant; and

22 ~~((c))~~3. Any spray adjuvant.

23 "Provisions of this chapter" means all sections of this ~~((e))~~Chapter 25.09.

24 "Reasonable alternative location" means a location that can accommodate the proposal's  
25 objectives at the lowest level of impact to ecological function in consideration of the  
26 environmental, social, and economic impacts on the public and the cost to the applicant.

1 "Retaining structure" means any improvement built up or composed of parts joined  
2 together in some definite manner and affixed to the ground for the purposes of retaining earth or  
3 rocks, including but not limited to concrete retaining walls, mechanically stabilized earth  
4 systems, soil nails, terracing, or flower bed frames.

5 "Riparian watercourse" means a channel through which water flows as defined in  
6 subsection ~~((25.09.020-D5))~~25.09.020.D.5.

7 "Short subdivision" means the division or redivision of land into nine ~~((9))~~ or fewer  
8 lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, development, or financing,  
9 and shall include all resubdivision of previously platted land and properties divided for the  
10 purpose of sale or lease of townhouse units.

11 "Site" means the unit of land for which an applicant is receiving permission to carry out  
12 development.

13 "Species of local importance" means those species of wildlife designated under  
14 ~~((S))~~subsection 25.09.200~~((E))~~.D.

15 "Stabilize" means to possess permanent characteristics, either naturally or by manmade  
16 improvements, which can be shown to have sufficient resistance to forces normally expected to  
17 occur, and those forces that may occur as a result of a one ~~((1))~~ in ~~((one hundred (100)))~~  
18 year event.

19 "Steep slopes" means slopes of ~~((forty))~~40 percent ~~((40%))~~ inclination or more within a  
20 vertical elevation change of at least ~~((ten feet (10')))~~10 feet. For the purpose of this definition, a  
21 slope is delineated by establishing its toe and top and is measured by averaging the inclination  
22 over at least ~~((ten feet (10')))~~10 feet of elevation difference. Also for the purpose of this  
23 definition:

24 ~~((a))~~1. The "toe" of a slope means a distinct topographic break in slope that  
25 separates slopes inclined at less than ~~((forty))~~40 percent ~~((40%))~~ from slopes inclined at  
26 ~~((forty))~~40 percent ~~((40%))~~ or more. Where no distinct break exists, the "toe" of a slope is the

1 lower most limit of the area where the ground surface drops (~~(ten feet (10'))~~)10 feet or more  
2 vertically within a horizontal distance of (~~(twenty five feet (25'))~~)25 feet; and

3 ~~((b))~~2. The "top" of a slope is a distinct topographic break in slope that separates  
4 slopes inclined at less than (~~(forty)~~)40 percent (~~((40%))~~) from slopes inclined at (~~(forty)~~)40  
5 percent (~~((40%))~~) or more. Where no distinct break exists, the "top" of a slope is the upper most  
6 limit of the area where the ground surface drops (~~(ten feet (10'))~~)10 feet or more vertically within  
7 a horizontal distance of (~~(twenty five feet (25'))~~)25 feet.

8 "Steep slope area" means an area described in subsection (~~(25.09.020 A~~  
9 ~~3))~~25.09.020.A.3.

10 "Street" means a right-of-way (~~(which))~~that is intended to provide or (~~(which))~~that  
11 provides a roadway for general vehicular circulation, is the principal means of vehicular access  
12 to abutting properties and includes space for utilities, pedestrian walkways, sidewalks, and  
13 drainage.

14 "Subdivision" means the division or redivision of land into ten (~~((10))~~) or more lots,  
15 tracts, parcels, sites, or divisions for the purpose of sale, lease, (~~(and))~~or transfer of ownership.

16 "Utility lines" means pipes, cables, or other linear conveyance systems used to transport  
17 power, water, gas, oil, wastewater, or similar items.

18 "Vegetation" means any and all organic plant life growing on, below, or above the soil  
19 surface.

20 "Watercourse" is defined in Section 22.801.240 of the Stormwater Code.

21 "Wetland (~~(C))~~creation" means the creation of a wetland within an upland area.

22 "Wetland (~~(R))~~restoration" means the manipulation of the physical, chemical, or  
23 biological characteristics of a site with the goal of returning natural or historic functions to a  
24 former or degraded wetland.

25 "Wildlife" means all species of the animal kingdom as defined in RCW 77.08.010.

26 "Wildlife habitat" means and refers to those areas that support individual or populations  
27 of animals defined as wildlife for all or part of an annual cycle.

1           Section 40. Section 25.09.530 of the Seattle Municipal Code, last amended by Ordinance  
2 122050, is amended as follows:

3 **25.09.530 Construction((e))**

4           In any case where the provisions of this ((e))Chapter 25.09 conflict with the provisions of  
5 the underlying zoning or the Seattle Shoreline Master Program<sup>\*</sup>, the provisions of this  
6 ((e))Chapter 25.09 apply. For purposes of this ((e))Chapter 25.09, the singular includes the plural  
7 and vice versa, and the masculine gender includes the feminine and neutral genders.  
8

9 \* **Editor's Note:** Provisions of the Seattle Shoreline Master Program are set out at Chapter  
10 23.60A of this Code.

11

