

# Seattle Permits

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

## Environmentally Critical Areas Exceptions— Application Instructions and Submittal Requirements

Updated May 16, 2017

City of Seattle regulations for environmentally critical areas (ECAs) (Seattle Municipal Code (SMC) Chap- ter 25.09) affect geologic hazard areas, steep slope erosion hazard areas, flood-prone areas, wetlands, fish and wildlife habitat conservation areas, and abandoned landfills.

An applicant may request the Director of the Seattle Department of Construction and Inspections (SDCI) to modify ECA development standards. This Tip describes the circumstances and submittal requirements under which an exception application can be considered, and includes an application form. A Tip is only a guideline and not a substitute for the City's legal requirements. Specific requirements for exceptions to ECA development standards can be found in Section 25.09.300 of the City's Municipal Code, and other code sections cited in this Tip. For proposals in ECA areas that are within a shoreline district (generally the land within 200 feet of the shoreline), ECA Exceptions must be requested as a Shoreline Variance. (See Tip 209, [Application Requirements for Shoreline Permits](#).)

### GENERAL DISCUSSION

The Director of SDCI may modify ECA development standards or other requirements when the applicant provides information sufficient to demonstrate that the ECA regulations deny reasonable use of the property, that the modification will allow reasonable use of the property, and that the modification is the minimum necessary change to the development

standard(s) to grant relief and minimize injurious effects to

the environment.

An ECA exception request will only be considered after all other administrative remedies in the ECA regulations and SMC Title 23 have been exhausted.

The applicant must demonstrate that if the modification is granted it would not cause significant injury to occupiers of the land, to other properties, to public resources, or to the environment.

An ECA development standard, or yard or setback standards, may be modified only to the extent necessary to make the standard reasonable in light of all the facts and circumstances of a particular case. In modifying a development standard the Director may impose reasonable conditions that prevent or mitigate the same harm that the modified regulation was intended to prevent or mitigate.

It should be noted that an ECA Exception can only modify certain development standards specifically contained within the ECA ordinance or in the Land Use Code. There may be other codes that regulate environmentally critical areas that cannot be modified with an ECA exception. For example, the Floodplain Ordinance, the Seattle Building Code and the Seattle Residential Code each regulate development in flood- plains, but cannot be modified with an ECA exception.

### WHAT SHOULD YOUR APPLICATION INCLUDE?

Before you submit your application, please review the following requirements and make sure your application includes this information.

#### Effects of Other Administrative Remedies

Per Seattle Municipal Code (SMC) Section 25.09.300.B.1.a: An applicant must provide the Director with information showing that there are no other administrative measures that will provide the relief requested. The applicant's preferred proposal, as well as the alternative plans, should show the effect of all administrative remedies that may apply, other than the exception. For example, other administrative measures that the appli-

[www.seattle.gov/sdci](http://www.seattle.gov/sdci)



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cant should consider include, but are not limited to, ECA exemptions, ECA yard and setback variances, an ECA steep slope erosion hazard area variance, an ECA administrative conditional use, ECA buffer adjustments, or other administrative processes in SMC Title 23.

### Technical Studies and Data

Per SMC Section 25.09.300.B.1.b and c: If the exception is granted, the applicant may develop without following the usual development standards for critical areas. The applicant must provide technical studies and data showing that the proposed development will not cause any greater risk to the environment, as defined in Chapter 25.09, than if the development standards were followed.

### Alternative Proposals and Explanation

Per SMC Section 25.09.300.B.1.d and e: In addition to the applicant's preferred proposal, the exception application should include alternative proposals showing how the property can be developed if all standards are followed; that is, if the exception is not granted.

The application should also include a written explanation. The written explanation should analyze (1) how the alternative plans comply with all provisions of the ECA regulations and Title 23, (2) whether a different use would be a reasonable use; (3) the effect of other administrative remedies on the alternative plans, and (4) how the alternative plans would preclude a reasonable use of the property. Alternative proposals must be laid out according to the standards in Tip 103B, [Environmentally Critical Area Site Plan Requirements](#), including a site plan and preliminary elevations.

Specific information required by these code sections includes the date the applicant purchased the property or obtained the right to develop or use it; the price the applicant paid for the rights to develop or use the property; and any existing restrictions or conditions on use of the property that attached to the property when the applicant acquired those rights.

### TECHNICAL REPORTS

Per Section: 25.09.300.B.2 and 3: After reviewing the information provided, the Director may require further information, as part of the application review process. Examples of other technical reports that the Director may require include:

- a. Vegetation and Revegetation Report
- b. Soils Report
- c. Geology Report
- d. Hydrology Report
- e. Wetlands/Riparian Corridor Report

The standard for submitting scientific information is set out in the Washington Administrative Code at WAC 365-195-905 (4) and (5).

### ECA EXCEPTION APPLICATION REVIEW PROCESS

For assistance on fees and procedural requirements, applicants should visit the SDCI Applicant Services Center (ASC), located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave., or call (206) 684-8850.

When an applicant seeks more detailed information about the ECA exception review process, a land use planner will be available at the SDCI Coaching Counter, located in the ASC. (Note: an appointment and a fee may be required.) For more complicated proposals, the land use planner may suggest a pre-submittal conference.

ECA exception applications are filed with SDCI by appointment through the Project Portal at [www.seattle.gov/sdci](http://www.seattle.gov/sdci).

Unless associated with a project under review, before making an appointment, the applicant is required to upload a Preliminary Application. The applicant may obtain this form from SDCI's website at [www.seattle.gov/sdci/permits/forms](http://www.seattle.gov/sdci/permits/forms).

There is an initial fee for an ECA exception application, which is collected at the time of application. Additional time spent by staff on review of the application is billable at our hourly rate and invoiced monthly. Questions about fees should be directed to the Public Resource Center, or find information online at [www.seattle.gov/sdci/codes/codes-we-enforce-\(a-z\)/fees](http://www.seattle.gov/sdci/codes/codes-we-enforce-(a-z)/fees).

The ECA exception application form is included in this Tip. For proposals that are within the shoreline district, the ECA exception must be requested as a Shoreline variance with application information available in Tip 209, [Application Requirements for Shoreline Permits](#). The application must be fully completed and all documentation uploaded before it can be accepted for review.

Additional information may be requested of the applicant during the review process. Once an application is made, public notice of the project will be given in the SDCI Land Use Information Bulletin (LUIB) and placards will be posted in the neighborhood.

Interested parties may comment on the exception application. A land use planner will be assigned to the project to conduct review and analysis. The application may be distributed to other City departments for their comment.

When an ECA exception application is controversial and/or significant public interest in the application is shown, SDCI may coordinate meetings between the applicant and interested parties during the application review process to accept public comment and to allow the applicant to hear neighborhood concerns and take these into consideration during final project planning.

SDCI will evaluate the request for an ECA exception in the context of the applicant's alternative proposals, the characteristics of the critical areas, and the surrounding development pattern, and zoning designation. Once the staff report is completed, a decision about the exception will be made and notice of the decision will be published in the LUIB and the Daily Journal of Commerce. Notice of the decision will also be sent to individuals who have indicated their interest in receiving it.

The ECA Exception decision made by SDCI may be appealed to the City Hearing Examiner. The hearing examiner's decision is the final City decision. If the ECA Exception is part of a Shoreline Variance, the decision can be appealed to the Washington State Shoreline Hearings Board.

## OTHER ECA-RELATED DOCUMENTS

The following documents on ECA regulations are available on SDCI's website at [www.seattle.gov/sdci](http://www.seattle.gov/sdci) or from the SDCI Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave., (206) 684-8467.

- **Tip 103B**, [Environmentally Critical Area Site Plan Requirements](#)
- **Tip 111**, [Construction and Development in Floodplains](#)
- **Tip 324**, [Reducing Landslide and Stormwater Erosion Damage: What You Can Do](#)
- **Tip 327a**, [Environmentally Critical Area Exemptions, Relief from Prohibition on Development, and Modifications to Submittal Requirements](#)
- **Tip 327b**, [Environmentally Critical Areas — Small Project Waivers](#)
- **Tip 329**, [Environmentally Critical Areas Administrative Conditional Use Permit](#)
- **Tip 330**, [Environmentally Critical Areas — Yard and Set-back, Steep Slope Erosion Hazard and Wetland Buffer Variances — Application Instructions and Submittal Requirements](#)
- **Tip 331**, [Environmentally Critical Areas — Tree and Vegetation](#)

### [Overview](#)

- **Tip 331A**, [Environmentally Critical Areas: Vegetation Restoration](#)
- **Tip 331B**, [Hazard Trees](#)

## Access to Information

Links to electronic versions of SDCI Tip, **Director's Rules**, and the **Seattle Municipal Code** are available on our website at [www.seattle.gov/sdci](http://www.seattle.gov/sdci). Paper copies of these documents, as well as additional regulations mentioned in this Tip, are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.

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**Department of Construction and Inspections**  
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# Environmentally Critical Areas Exception Application

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

## SITE AND PROJECT INFORMATION

Property Address: \_\_\_\_\_

Description of Proposed Project:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Legal Description of Property:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Assessor's Parcel Number: \_\_\_\_\_

If your application is related to a SDCI project, please enter the project number here: \_\_\_\_\_

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

Application Number: \_\_\_\_\_ Receipt #: \_\_\_\_\_

Land Use Planner: \_\_\_\_\_ Fee: \_\_\_\_\_

Analyst: \_\_\_\_\_ Land Use Map Page: \_\_\_\_\_

Zone: \_\_\_\_\_

Type of Critical Area(s): \_\_\_\_\_

Other Land Use Designations: \_\_\_\_\_

Approved: \_\_\_\_\_ Denied: \_\_\_\_\_

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TO BE COMPLETED BY APPLICANT

**NAME AND ADDRESS OF OWNER(S) OF THE PROPERTY**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

**NAME AND ADDRESS OF AGENT FOR OWNER(S)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

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Applicant's Signature: \_\_\_\_\_

Date of Application: \_\_\_\_\_

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For guidance as to information required with this application, see Code section 25.09.300 and the section of this Tip titled **"What Should Your Application Include?"**