Title 25

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION[1]

This title is intended for those provisions of the Code which relate to protection of the environment, historical areas and landmarks.

1. Cross-reference: For provisions on the following subjects, see the chapter indicated of this Code:
Grading Ordinance, Subtitle VIII of Title 22
Land Use Code, Title 23

Chapter 25.02

COMMUTE TRIP REDUCTION

Sections:

Severability: If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or the application of the provision to other persons or circumstances is not affected.

(Ord. 119056 § 1(part), 1998: Ord. 116657 § 1(part), 1993.)

25.02.010 Title.

This chapter shall be known and may be cited as the "Seattle Commute Trip Reduction Ordinance."
(Ord. 119056 § 1(part), 1998: Ord. 116657 § 1(part), 1993.)

25.02.020 Purpose.

The purpose of this chapter is to implement the Washington State Clean Air Act, RCW 70.94.521 through 70.94.551.
(Ord. 119056 § 1(part), 1998: Ord. 116657 § 1(part), 1993.)

25.02.030 Definitions.

For the purposes of this chapter the following works or phrases are defined as described below:

A. "Affected employee" means a full-time employee who begins his or her regular work day at a single worksite between six (6:00) a.m. and nine (9:00) a.m. (inclusive) on two (2) or more weekdays.

B. "Affected employer" means a private or public employer that for twelve (12) continuous months employs one hundred (100) or more full-time employees at a single worksite who are scheduled to begin their regular workday between six (6:00) a.m. and nine (9:00) a.m. (inclusive) on two (2) or more weekdays, even if the identity of the employees varies over time. This is equivalent to the term "major employer" used in RCW 70.94.521 through 70.94.551.

C. "Alternative mode" means a method of commuting to work other than a single-occupant motor vehicle being the dominant mode, and may include telecommuting and compressed workweeks if those methods result in fewer commute trips.

D. "Base year" means the calendar year from January 1, 1992 through December 31, 1992. Goals for vehicle miles traveled (VMT) per employee and proportion of single-occupant vehicle trips (SOV) are based upon VMT and SOVs established in that year for the CTR zone.

E. "Commute trips" means trips made from an employee's residence to a worksite for a regularly scheduled workday beginning between six (6:00) a.m. and nine (9:00) a.m. (inclusive).

F. "CTR plan" means Seattle's commute trip reduction plan as set forth in this chapter.

G. "CTR program" means an employer's strategy to reduce affected employee's SOV use and VMT per employee.

H. "CTR zone" means an area, such as a census tract or combination of census tracts within Seattle, characterized by similar employment density, population density, level of transit service, parking availability, access to high-occupancy vehicle facilities, and other factors that affect the level of SOV commuting. One (1) of the six (6) areas shown on Attachment A.1

I. "Director" means the Director of Transportation.

J. "Dominant mode" means the mode of travel used for the greatest distance of a commute trip.

K. "Employee" means any person who works for an employer in return for financial or other compensation, and whose workload and schedule is subject to the control of the employer. Employee does not include independent contractors.

L. "Equivalent survey information" means information that substitutes for the Washington State Department of Transportation goal measurement survey, as determined by the City.

M. "Full-time employee" means an employee, scheduled to be employed on a continuous basis for fifty-two (52) weeks for an average of at least thirty-five (35) hours per week.

N. "Mode" means the type of transportation used by employees, such as single-occupant vehicle, rideshare, bicycle, walk, ferry, and transit.

O. "Proportion of SOV trips" or "SOV rate" means the number of commute trips in the survey week made by affected employees in SOVs, minus any adjustments for telecommuting, bicycling, walking or compressed work schedules, divided by the total number of affected employee workdays during the survey week. An "affected employee workday" includes any day that an employee does not work due to a compressed work schedule.

P. "Single-occupant vehicle (SOV)" means a motor vehicle occupied by one (1) employee for commute purposes, excluding motorcycles.

Q. "Vehicle miles traveled (VMT) per employee" means the average commute trip length, in miles, made by affected employees over a set period, multiplied by the number of vehicle commute trips per affected employee during that period.

R. "Worksite" means a building or group of buildings on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way. Construction worksites, when the expected duration of the construction project is less than two (2) years, are excluded.

S. "Writing," "written" or "in writing" means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

T. "Good faith effort" means that an employer has met the minimum requirements identified in RCW 70.94.531 and this chapter, and is working collaboratively with the City to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed upon length of time. (Ord. 119056 § 1 (part), 1998: Ord. 118409 § 217, 1996: Ord. 116657 § 1 (part), 1993.)

1. Editor's Note: Attachment A is on file with Ordinance 116657 in the City Clerk's office.

25.02.040 Employer's commute trip reduction program.

A. Program Submittal and Implementation.

1. Application.

a. This chapter applies to any affected employer at any worksite within The City of Seattle. An affected employer must submit a CTR program to the Director within one hundred eighty (180) days of June 4, 1993, the effective date of the ordinance codified in this chapter, regardless of whether the employer has received notice from the City that this chapter applies to the employer. The purpose of an employer CTR program is to help achieve the goals set forth in Section 25.02.060.

b. An employer that becomes an "affected employer" after adoption of the ordinance codified in this chapter shall develop and submit its initial CTR program to the Director within one hundred eighty (180) days of the first Washington State Department of Employment Security's Employer's Quarterly Report of Employee's Wages published after becoming an affected employer.

c. An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter, to develop and implement a CTR program that will encourage its employees to reduce VMT per employee and SOV commute trips.

d. An affected employer shall implement its approved CTR program within one hundred eighty (180) days after the initial program is submitted to the Director. Implementation is accomplished by carrying out all of the program measures contained in an employer's CTR program.

2. Transportation Management Associations.

a. In lieu of submitting an initial CTR program and annual report as described in Section 25.02.050, an affected employer may join a transportation management association (TMA) or other organization that submits a single program or annual report on behalf of its members. In addition to describing program measures which are common to its members, the TMAs CTR program and annual report shall describe

specific program measures which are unique to individual members' worksites. The TMA, as an agent for its members, shall provide performance data for each worksite, as well as data aggregated from all TMA members, to the Director. A TMA is subject to the same time-period requirements as any single employer.

b. Each employer is responsible for meeting the requirements of this chapter regardless of the employer's participation in a TMA. Program modifications shall be specific to an employer. If an employer elects to satisfy its CTR program requirements through a TMA program or annual report, the employer shall notify the Director in writing, designating the TMA as its agent.

B. Program Content. Each employer CTR program shall include the following elements:

1. Designation of Employee Transportation Coordinator. The employer shall designate a transportation coordinator to administer CTR program and act as liaison with the Director. An affected employer with multiple worksites may have one (1) transportation coordinator for all sites. The coordinator's and/or designee's name, location and telephone number must be displayed prominently at each affected work site;

2. Distribution of Information. The employer shall provide a complete description of its CTR program to employees at least twice a year and to each new employee when he or she begins his or her employment. Each employer's program description and annual report must report the information to be regularly distributed and the method and frequency of distribution;

3. CTR Program Measures. An employer's initial CTR program shall include at least two (2) of the following measures:

a. Provide bicycle parking facilities and/or lockers, changing areas, and showers for employees who walk or bicycle to work,

b. Provide commuter ride-matching services to facilitate employee ride-sharing for commute trips,

c. Provide subsidies for transit fares,

d. Provide employer vans or third-party vans for vanpooling,

e. Provide subsidy for carpool and vanpool participation,

f. Permit the use of the employer's vehicles for carpool and/or vanpool commute trips,

g. Permit alternative work schedules such as a compressed work week that reduce commute trips by affected employees between six (6:00) a.m. and nine (9:00) a.m. A compressed workweek regularly allows a full-time employee to eliminate at least one (1) workday every two (2) weeks, by working longer hours during the remaining days, resulting in fewer commute trips by the employee,

h. Permit alternative work schedules such as flex-time that reduce commute trips by affected employees between six (6:00) a.m. and nine (9:00) a.m. Flex-time allows individual employees some flexibility in choosing the time, but not the number, of their working hours,

i. Provide preferential parking for high-occupancy vehicles,

j. Provide reduced parking charges for high-occupancy vehicles,

k. Cooperate with transportation providers to provide additional regular or express service to the work site (e.g., a custom bus service arranged specifically to transport employees to work),

l. Construct special loading and unloading facilities for transit, carpool and/or vanpool users,

m. Provide and fund a program of parking incentives such as a cash payment for employees who do not use the parking facilities,

n. Institute or increase parking charges for SOVs,

o. Establish a program to permit employees to telecommute either part- or full-time, where telecommuting is an arrangement that permits an employee to work from home, eliminating a commute trip, or to work from a work center closer to home, reducing the distance traveled in a commute trip by at least half,

p. Provide a shuttle between the employer's worksite and the closest park-and-ride lot, transit center, or principal transit street,

q. Implement other measures designed and demonstrated to facilitate the use of non-SOV commute modes, which are agreed upon between the Director and the employer;

4. A description of any additional program measures included in the employer's CTR program;

5. Assignment of responsibilities for implementing the CTR program, evidence of

commitment to provide appropriate resources to carry out the CTR program, and a schedule of implementation; and

6. Description of employer's CTR worksite characteristics. The employer program must include:

a. A general description of the affected employer worksite,

b. A general description of the availability of transportation to the worksite,

c. The total number of employees and affected employees at the worksite,

d. Site or operational conditions which may affect an employee's choice of commute mode;

7. Record-keeping. The CTR program shall include a list of the records to be maintained by the employer in implementing the program. Employers will maintain all records listed in their CTR program for twenty-four (24) months.

C. Program Review and Approval.

1. a. The Director shall review each employer's initial CTR program to determine if it has met the minimum requirements of this CTR chapter.

b. The Director shall complete review of each employer's initial CTR program and annual reports within ninety (90) days of the date the employer submits the program or report to the Director, and notify the employer in writing whether or not the program or report has been approved, and the reasons for approval or disapproval.

2. No later than thirty (30) days before the initial CTR program description or annual report is to be submitted, an employer may request a thirty (30) day extension to submit that document. An extension shall be granted and shall not exceed thirty (30) days.

3. Beginning in 1995, the Director shall review each employer's annual report to determine the employer's progress toward achieving its SOV and VMT goals.

a. If an employer makes a good faith effort as defined in RCW 70.94.534(2) and this chapter and meets either or both goals for SOV and VMT, the employer has satisfied the objectives of the CTR plan and will not be required to modify the CTR program. The Director shall issue a decision approving an employer's CTR program.

b. (i) If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this chapter, but has met or is likely to meet neither the applicable

SOV and VMT goal the employer shall, in its annual report, propose changes to its CTR program measures, and the schedule for implementing these measures, which it believes will help achieve the goals. The city shall work collaboratively with the employer to make modifications to the CTR program. After the City and the employer agree on modifications, the employer shall submit a revised CTR program description to the City for approval within thirty (30) days.

(ii) When determining whether to approve changes to a CTR program, the Director shall consider the likelihood that the changes will help achieve the goals, based on the following criteria:

-- The extent to which the employer has implemented the program and attained the CTR goals;

-- The extent to which the employer has demonstrated a commitment to implementing the program and achieving the goals;

-- Diversity of modes and CTR strategies included in the program;

-- Characteristics of pedestrian, bicycle, transit, ferry, road and HOV access, and facilities available to the employer's worksite;

-- Expected benefit to be derived from a specific program element as well as its effect on the entire program;

-- Effect on reducing the relative cost or improving the convenience of commuting by non-SOV modes versus by SOV.

c. If the Director approves the proposed program changes, then the Director shall issue a final decision, and the changes shall be made in the program and implemented by the employer.

d. If the Director determines that the proposed program is insufficient, or unlikely to help achieve the goals, the Director shall recommend changes to the program which can reasonably be expected to be effective. The Director's preliminary decision shall be in writing, and mailed to the employer within ninety (90) days of the date the annual report is submitted.

(i) An affected employer may request that the Director reconsider a preliminary decision regarding its CTR program elements, except

for the minimum requirements of subsection B of this section. The employer may apply in writing for reconsideration of the preliminary decision within fifteen (15) days of the date the Director's preliminary decision is mailed to the employer. The Director shall meet with the employer to discuss program changes if the application for reconsideration includes a request for a meeting. The Director shall give the employer a written response to the request for reconsideration.

(ii) An employer who disagrees with a preliminary decision by the Director regarding the approval of the employer's CTR program or changes to the program, may ask the peer review panel to consider the issue in disagreement. The peer review panel shall make a recommendation to the Director following meeting with the employer, if the employer requests a meeting.

(iii) If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this chapter, and meets neither the applicable SOV nor the VMT reduction goal, the City shall work collaboratively with the employer to identify modifications to the CTR program and shall direct the employer to revise its program within thirty (30) days to incorporate the modifications. In response to the recommended modifications, the employer shall submit a revised CTR program description, including the requested modifications or equivalent measures, within thirty (30) days of certified return receipt. The City shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not acceptable, the City will send notice (certified return receipt) to that effect to the employer within thirty (30) days and if necessary require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by the City within ten (10) working days of the conference.

(iv) The Director shall make a final decision regarding changes to an employer's CTR program within sixty (60) days of making a preliminary decision, based upon consideration of the peer review panel recommendation and the preliminary decision.

(iv) Within thirty (30) days of written notification of the Director's final decision regarding required program modifications, an employer shall incorporate those modifications into its CTR program and submit a revised CTR program description, including the required modifications or equivalent measures, to the Director.

4. If an affected employer does not submit an initial CTR program or an annual report, and no request for an extension or reconsideration is filed, the Director shall issue a final decision without issuing a preliminary decision.

(Ord. 119056 § 1(part), 1998: Ord. 116657 § 1 (part), 1993.)

25.02.050 Employer's annual report.

A. Submittal.

1. An affected employer shall submit an annual CTR report to the Director, beginning with the 1995 annual reporting date assigned by the Director after reviewing the employer's initial CTR program. Annual reports shall be due on the same date each year.

2. At least thirty (30) days prior to the date an annual report is due an employer may request a thirty (30) day extension to complete its annual report. This extension shall not change the normal reporting date for subsequent years.

B. Contents. The annual report shall include an annual review of employee commuting and of progress and good faith efforts toward meeting the SOV reduction goals. The annual report shall include:

1. A description of each CTR program measure that was undertaken during the year;

2. The number of employees participating in each of the CTR program measures;

3. An evaluation of the effectiveness of the CTR program; and if necessary, a description of proposed revisions to the CTR program to help achieve the CTR goals;

4. A description of the method and frequency by which the information required by the approved CTR program was distributed;

5. A statement of the employer's method of measuring its VMT per employee, using either the average zonal trip length or the employer's average trip length from a survey;

6. Data of Employees' Commuting Behavior.

a. Survey information or approved equivalent information must be provided in the 1995, 1997, 1999, 2001, 2003, and 2005 reports. Employers whose work sites became affected after 1993 must provide survey data or approved equivalent information in the second, fourth, sixth, eighth, tenth, and twelfth years following initial program implementation. Employee surveys of commuting behavior will be the primary source of data about an employer's CTR program performance. Washington State Department

of Transportation goal measurement questionnaires shall be used to measure affected employer's progress towards goal attainment, unless the Director approves equivalent information which is provided by the employer.

b. Instead of surveying all affected employees at a worksite, an employer may conduct a survey based on a sample of its affected employees if there are at least one hundred (100) affected employees at its worksite. The employer must demonstrate to the Director that the sampling method is in accordance with generally accepted methods before the sampling is undertaken.

c. A minimum response rate of seventy (70) percent of all affected employees in the population or seventy (70) percent of the sample is required. When a seventy (70) percent response rate is not achieved, an employer shall either:

(i) Provide supporting information, approved by the Director, to document mode choice of affected employees. This information may include transit pass sales, records of rideshare subsidies, parking lot counts (where affected employees' actual commute trip behavior is measured between six (6:00) a.m. and nine (9:00) a.m. when access and egress points are completely monitored; or

(ii) Designate all non-responses below seventy (70) percent of the affected employee population or sample as SOV trips; or

(iii) Use a combination of options in subsections B6 c(i) and (ii) above, if approved by the Director.

(Ord. 119056 § 1 (part), 1998: Ord. 116657 § 1 (part), 1993.)

25.02.060 Commute trip reduction goals, zones and base-year values.

A. Employer CTR Goals.

1. The goals for commute trip vehicle miles traveled per employee and proportion of single-occupant vehicles are a fifteen (15) percent reduction by January 1, 1995, a twenty (20) percent reduction by January 1, 1997, a twenty-five (25) percent reduction by January 1, 1999, and a thirty-five (35) percent reduction by January 1, 2005, from the base-year value of the worksite or the commute trip reduction zone in which the worksite is located.

2. An employer that becomes an affected employer after January 1, 1994 has two (2) years from the time it becomes affected to achieve a fifteen (15) percent reduction, four (4) years to achieve a twenty (20) percent reduction, six (6) years to achieve a twenty-five (25) percent reduction, and twelve (12) years to achieve a

thirty-five (35) percent reduction.

a. If an affected employer drops below one hundred (100) affected employees and then returns to affected employer status within the same twelve (12) month period, that employer will be a reaffected employer, and will be subject to the same program goals that would have applied had it not dropped below one hundred (100) employees.

b. If an affected employer drops below one hundred (100) affected employees and then returns to affected employer status after twelve (12) months, it will be deemed a newly affected employer and will be subject to the same goals as other newly affected employers.

c. It is the responsibility of the employer to notify the Director and provide documentation of its change in status as an affected employer.

B. CTR Zones. Commute trip reduction zones for affected employers are shown in Attachment A.[1]

C. Base-Year Values and Modifications. Base-year values for determining proportion of SOV trips and VMT per employee are identified in Attachment B[1] for each CTR zone. An employer may modify its base-year values by meeting either of the following two (2) conditions:

1. Each employer must conduct a survey of employees as described in the Washington State Commute Trip Reduction Task Force Guidelines and in conformance with this chapter and achieve a seventy (70) percent response rate to be eligible to modify its base-year value. For example, if a CTR zone's base-year value for proportion of SOV is seventy-four (74) percent and an employer's survey demonstrates that its proportion of SOV is ninety (90) percent, the employer may apply for a modification of its base-year value to conform with its survey results.

2. If an affected employer can demonstrate that its worksite is contiguous with a CTR zone boundary and that the worksite conditions affecting alternative commuting options are similar to those for employers in the adjoining CTR zone, the employer's worksite may be made subject to the base-year values for VMT per employee and SOV trips in the adjoining zone. The employer may only request this base-year value modification at least thirty (30) days prior to its initial CTR program submittal.

D. At least one (1) year after its initial CTR program implementation an affected employer may request a modification of the applicable CTR goals. Such requests shall be filed in writing at least sixty (60) days prior to the date the worksite is required to submit its program description and annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has

implemented all of the elements contained in its approved CTR program. The City shall review and grant or deny an employer's goal modification requests pursuant to RCW 70.94.534(6) and in a manner that is consistent with the guidelines developed by the CTR Task Force.
(Ord. 119056 § 1(part), 1998: Ord. 116657 § 1 (part), 1993.)
1. Editor's Note: Attachments A and B are on file in the office of the City Clerk.

25.02.070 Exemptions, credit, and adjustment to definition of affected employee.

A. Exemptions. An affected employer may submit a request to the City to grant an exemption from all CTR Plan requirements for a particular worksite. The employer must demonstrate that due to the characteristics of its business, or its workforce or its location, that complying with the requirements of this chapter would cause undue hardship, such as bankruptcy. The City may grant an exemption if the employer can demonstrate undue hardship or that the employer is unable for economic reasons to implement any measures that could reduce the proportion of SOV trips and VMT per employee. The City may grant exemptions at any time based on written notice provided by the affected employer. The notice should explain clearly the conditions for which the affected employer is seeking an exemption from the requirements of the CTR plan. The City shall review annually all employers receiving exemptions and shall determine if the exemption will be in effect during the following program year.

B. Credit for Successful Transportation Demand Management Program.

1. In either the initial CTR program description or any annual report an affected employer who has already met both the VMT per employee and proportion of SOV trips goals for one (1) or more future goal years, may request a waiver from the requirement to submit the following year's annual report and from the required CTR program measures, except for the requirements to report performance in annual reports for the goal years. An employer receiving this waiver must commit in writing to continue its current CTR level of effort.

2. If any of the goal-year annual reports indicates the employer does not satisfy the next applicable year's goal, the employer shall immediately become subject to all requirements of this chapter.

3. Requests for credit shall include results from a survey of employees, or equivalent information that establishes the applicant's reduction of VMT per employee and reduction of proportion of SOV trips. The survey or equivalent information shall conform to all applicable standards established in this chapter.

C. Credit for Telecommuting, Bicycling, Walking and Compressed Workweek Schedules. Trips avoided by telecommuting and compressed workweek schedules, and trips made by bicycling and walking, shall be multiplied by two-tenths (0.2) and subtracted from the number of SOV commute trips when calculating the proportion of SOV vehicle trips and VMT per employee.

D. Credit for Schedule Changes Which Move Some or all Employees Outside of the

Peak Commute Period. For purposes of counting commute vehicle trips, employers who have modified their employees' work schedules out of the six (6:00) a.m. to nine (9:00) a.m. peak commute period in response to the CTR law or for impacts associated with the Growth Management Act (RCW 36.70A) may apply for credit toward calculating SOV trips and VMT per employee. Such credit shall be two-tenths (0.2) of a trip reduced per employee whose work schedule has been shifted out of the six (6:00) a.m. to nine (9:00) a.m. window. An employer who wants to claim such credit for changes implemented prior to 1998 shall provide the City with the following information: (1) an explanation of how the schedule change is related to provisions of the Growth Management Act of 1990 or a demonstration that the schedule change was an identified element of a previously approved CTR program; (2) the number of employees whose schedules were changed; (3) the date on which the schedule change became effective; and (4) the previous schedule for those employees for which the credit is being claimed.

E. Adjustment to the Calculation of Affected Employee and Employee Exemptions. Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. The City will use the criteria identified in the CTR Task Force Guidelines to assess the validity of employee exemption requests. The City shall review annually all employee exemption requests and shall determine whether the exemption will be in effect during the following program year. Employers requesting exemptions or adjustments must do so at least thirty (30) days prior to conducting surveys of progress as described in SMC Section 25.02.050 and SMC Section 25.02.060.

1. a. An affected employer may request an adjustment to the calculation of affected employee if the employer can demonstrate that it requires certain employees to use the vehicles they drive to work during the workday for work purposes. Any employee who needs frequent and regular access to the vehicle he or she drives to work, for which no reasonable alternative commute mode exists, will not be included in the calculations of proportion of SOV trips and VMT per employee used to determine the employer's progress toward program goals.

   b. The employer shall provide documentation indicating how many employees meet this condition and why.

   c. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

2. a. An affected employer may request an adjustment to the calculation of affected employee if it can demonstrate that it requires full-time employees to work varying shifts, so that these employees sometimes begin their shift between six (6:00) a.m. to nine (9:00) a.m. and at other times begin their shifts outside that time period. The employer shall provide documentation indicating how may employees meet this condition and must demonstrate that no reasonable alternative commute trip reduction program can be developed for these

employees. Under this condition, the applicable goals will not be changed, but those full-time employees working varying shifts need not be included in the calculations of proportion of SOV trips and VMT per employee used to determine the employer's progress toward program goals.

b. Adjustments to the calculation of affected employee shall not apply to full-time employees who rotate shifts together, as a group.

3. An adjustment to the calculation of affected employee for the purpose of determining employer progress toward achieving the CTR goals does not change whether the employer is subject to this chapter.

(Ord. 119056 § 1(part), 1998: Ord. 116657 § 1 (part), 1993.)

25.02.080 Appeal of Director's final decision.

A. An affected employer may appeal the Director's final decision regarding exemptions, changes to its CTR program measures, credits, adjustments to the calculation of affected employee, and violations to the CTR Appeals Board. The notice of appeal must be filed with the Director within fifteen (15) days after the Director's final decision is mailed to the employer.

B. The Appeals Board shall review the appeal to determine if the Director's final decision is consistent with RCW Chapter 70.94 and this chapter. If the Appeals Board determines that the decision is inconsistent, it shall reverse or modify the decision as appropriate. If the Appeals Board determines that the decision is consistent, the Director's final decision shall be upheld.

(Ord. 119056 § 1(part), 1998: Ord. 116657 § 1(part), 1993.)

25.02.090 Violation--Penalties.

A. Civil Penalties.

1. The Director shall notify the employer of his intent to impose a civil penalty for violation of this chapter. The Director may not impose a penalty until the completion of the administrative appeal authorized by SMC Section 25.02.080.

2. An affected employer who commits any of the following acts is subject to a civil penalty as a Class I civil infraction pursuant to RCW 7.80.120, as provided herein:

a. Failure to prepare and submit a complete CTR program or annual report to the Director within the time period and as prescribed by this chapter. Each day of failure to submit a CTR program or annual report shall constitute a separate violation and is subject to a civil penalty. The penalty for each violation shall be Two Hundred Fifty Dollars ($250) per day;

b. Failure to implement an approved CTR program or change an unacceptable CTR program measure after the first goal year, after receiving notice of violation, unless the program elements that are carried out can be shown to meet or exceed VMT and SOV goals as specified in this chapter. Each day of failure to implement an approved CTR program or individual CTR program measure is a separate violation and is subject to civil penalty. The penalty for each violation shall not exceed Two Hundred Fifty Dollars ($250) per day and shall be based on the degree of failure to implement;

c. Failure to make available to the Director any documentation supporting an annual report as required pursuant to subsection B6 of Section 25.02.050. Each day of failure to provide required documentation is a separate violation and is subject to civil penalty. The penalty for each violation shall be Two Hundred Fifty Dollars ($250) per day;

d. Failure to make a good faith effort, as defined in RCW 70.94.534(2) and this chapter. Each day of failure to make a good faith effort is a separate violation and is subject to civil penalty. The penalty for each violation shall be Two Hundred Fifty Dollars ($250) per day; or

e. Failure to revise a CTR program as prescribed in RCW 70.94.53(4) and this chapter. Each day of failure to revise a CTR program is a separate violation and is subject to civil penalty. The penalty for each violation shall be Two Hundred Fifty Dollars ($250) per day.

B. Pursuant to RCW 70.94.534(4), an employer shall not be liable for civil penalties if a violation was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by an employer and pursued in good faith. A unionized employer shall be presumed to act in good faith if it:

1. Proposes to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

2. Advises the union of the existence of the statute and the mandates of the CTR program approved by the City, and advises the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

C. Criminal Penalties. An employer who submits a report pursuant to this chapter is subject to state and local laws making it a crime to submit false information. These laws include, but are not limited to, RCW 9A.76.020 and SMC Section 12A.16.040.

D. No major employer may be held liable for failure to reach the applicable SOV or VMT goal.

(Ord. 119056 § 1(part), 1998: Ord. 116657 § 1(part), 1993.)

25.02.100 Administration.

A. Authority to Promulgate Administrative Rules. The Director is authorized to promulgate rules to implement this chapter.

B. Peer Review Panel. The Director shall appoint five (5) public and private sector employers to a peer review panel. The peer review panel may consider employer disagreements with preliminary decisions by the Director regarding exemptions, credits, applicability of this chapter to the employer, violations, calculations of affected employees, and approval of the employer's CTR program or changes to the program.

C. Appeals Board. The three (3) members of the Appeals Board are a Director of a City Department designated by the Mayor, a member of the Seattle Planning commission designated by the chair of the Planning Commission, and a private sector employer appointed by the City Council. Terms of appointment are two (2) years and members may be reappointed. (Ord. 119056 § 1(part), 1998: Ord. 116657 § 1(part), 1993.)

Chapter 25.05

ENVIRONMENTAL POLICIES AND PROCEDURES

Sections:

25.05.950 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances shall not be affected.
(Ord. 111866 § 1(part), 1984.)

Subchapter I

Purpose/Authority

25.05.010 Authority.

(See WAC 197-11-010).

This chapter is adopted as required by Washington Administrative Code (WAC) 197-11 to implement the State Environmental Policy Act and the State Environmental Policy Act Rules (WAC 197-11). This chapter may be cited as the "SEPA Rules," and "these rules" as used herein refers to this chapter. As required in RCW 43.21C.095 the SEPA Rules shall be given substantial deference in the interpretation of SEPA.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.020 Purpose.

(See WAC 197-11-020).

A. The purpose of these rules is to adopt the uniform requirements of WAC 197-11 for compliance with SEPA and to establish local procedures and policies where permitted. Many sections of WAC 197-11 are adopted verbatim or nearly so, and in all cases the last three (3) digits of each section number of this chapter corresponds to the comparable section of WAC 197-11.

B. These rules replace the previous guidelines in Chapter 197-10 WAC and Chapter 25.04 of the Seattle Municipal Code.

C. The provisions of these rules, Chapter 197-11 WAC and the State Environmental Policy Act must be read together as a whole in order to comply with the spirit and letter of the law. The City of Seattle adopts by reference the purposes and policies of SEPA as set forth in RCW 43.21C.010 and 43.21C.020.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.030 Policy.

A. The policies and goals set forth in SEPA are supplementary to existing agency authority.

B. Agencies shall to the fullest extent possible:

1. Interpret and administer the policies, regulations and laws of the state of Washington in accordance with the policies set forth in SEPA and these rules;

2. Find ways to make the SEPA process more useful to decisionmakers and the public; promote certainty regarding the requirements of the act; reduce paperwork and the accumulation of extraneous background data; and emphasize important environmental impacts and alternatives;

3. Prepare environmental documents that are concise, clear, and to the point, and are supported by evidence that the necessary environmental analyses have been made;

4. Initiate the SEPA process early in conjunction with other agency operations to avoid delay and duplication;

5. Integrate the requirements of SEPA with existing agency planning and licensing procedures and practices, so that such procedures run concurrently rather than consecutively;

6. Encourage public involvement in decisions that significantly affect environmental

quality;

7. Identify, evaluate, and require or implement, where required by the act and these rules, reasonable alternatives that would mitigate adverse effects of proposed actions on the environment.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.035 Rules and departmental procedures.

The Mayor is authorized to promulgate rules pursuant to the Administrative Code (Chapter 3.02), consistent with this chapter, to facilitate the application of this chapter to City departments and operations. All departments subject to the provisions of this chapter are authorized and directed to develop and promulgate such supplementary procedures as they deem appropriate for implementing the provisions of this chapter within each department. All such supplemental procedures shall be consistent with this chapter, WAC 197-11 and the State Environmental Policy Act, and shall be kept on file at the SEPA Public Information Center. (Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter II

General Requirements

25.05.040 Definitions.

The terms used in these rules are explained in Subchapter VIII, Definitions, Sections 25.05.700 to 25.05.799. This terminology is uniform throughout the state as applied to SEPA, Chapter 43.21C RCW. In addition to the definitions set forth in WAC 197-11-700 through 197-11-799, this chapter includes definitions for Seattle, as indicated in Section 25.05.700 et seq. (Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.050 Lead agency.

A. A lead agency shall be designated when an agency is developing or is presented with a proposal, following the rules beginning at Section 25.05.922.

B. The lead agency shall be the agency with main responsibility for complying with SEPA's procedural requirements and shall be the only agency responsible for:

1. The threshold determination; and

2. Preparation and content of environmental impact statements.

C. In those instances in which the City is not the lead agency under the criteria of Sections 25.05.922 through 25.05.948, all departments shall use unchanged either a DNS subject to the limits of Section 25.05.390 or a final EIS subject to the limits of Subchapter VI of this chapter in connection with the decisions of the City on the proposal.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.055 Timing of the SEPA process.

A. Integrating SEPA and Agency Activities. The SEPA process shall be integrated with agency activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential problems.

B. Timing of Review of Proposals. The lead agency shall prepare its threshold determination and environmental impact statement (EIS), if required, at the earliest possible point in the planning and decisionmaking process, when the principal features of a proposal and its environmental impacts can be reasonably identified.

1. A proposal exists when an agency is presented with an application or has a goal and is actively preparing to make a decision on one (1) or more alternative means of accomplishing that goal and the environmental effects can be meaningfully evaluated.

    a. The fact that proposals may require future agency approvals or environmental review shall not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of their probable environmental impacts.

    b. Preliminary steps or decisions are sometimes needed before an action is sufficiently definite to allow meaningful environmental analysis.

2. A major purpose of the environmental review process is to provide environmental information to governmental decisionmakers for consideration prior to making their decision on any action. The actual decision to proceed with any actions may involve a series of individual approvals or decisions. Agencies may also organize environmental review in phases, as specified in Section 25.05.060 E.

3. Appropriate consideration of environmental information shall be completed before an agency commits to a particular course of action (Section 25.05.070).

4. The City of Seattle, planning under the State Growth Management ACT (GMA), is subject to additional timing requirements (see Section 25.05.310).

C. Applications and Rulemaking. The timing of environmental review for applications and for rulemaking shall be as follows:

1. At the latest, the lead agency shall begin environmental review, if required, when an application is complete. The lead agency may initiate review earlier and may have informal conferences with applicants. A final threshold determination or FEIS shall normally precede or accompany the final staff recommendations, if

any, in a quasi-judicial proceeding on an application. Environmental documents shall be submitted to the City Planning Commission and similar advisory bodies when their advice is sought.

2. For rulemaking, the DNS or DEIS, if required, shall normally accompany the proposed rule. An FEIS, if any, shall be issued at least seven (7) days before adoption of a final rule (Section 25.05.460 D).

D. Applicant Review at Conceptual Stage. In general, procedures contemplate environmental review and preparation of EIS's on private proposals at the conceptual stage rather than the final detailed design stage.

1. If an agency's only action is a decision on a building permit or other license that requires detailed project plans and specifications, agencies shall provide applicants with the opportunity for environmental review under SEPA prior to requiring applicants to submit such detailed project plans and specifications.

2. Agencies may specify the amount of detail needed from applicants for such early environmental review, consistent with Sections 25.05.100 and 25.05.335, in their SEPA or permit procedures. For master use permits, see Section 23.76.010.

3. This subsection does not preclude agencies or applicants from preliminary discussions or exploration of ideas and options prior to commencing formal environmental review.

E. Decision to Proceed. An overall decision to proceed with a course of action may involve a series of actions or decisions by one or more agencies. If several agencies have jurisdiction over a proposal they should coordinate their SEPA processes wherever possible. The agencies shall comply with lead agency determination requirements in Sections 25.05.050 and 25.05.922.

F. Circulation and Review of Environmental Documents. To meet the requirement to ensure that environmental values and amenities are given appropriate consideration along with economic and technical considerations, environmental documents and analyses shall be circulated and reviewed with other planning documents to the fullest extent possible.

G. Extension of Lead Agency Time Limits. For their own public proposals, lead agencies may extend the time limits prescribed in these rules.
(Ord. 119096 § 12, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.060 Content of environmental review.

A. Environmental review consists of the range of proposed activities, alternatives, and impacts to be analyzed in an environmental document, in accordance with SEPA's goals and policies. This section specifies the content of environmental review common to all environmental documents required under SEPA.

B. The content of environmental review:

1. Depends on each particular proposal, on an agency's existing planning and decisionmaking processes, and on the time when alternatives and impacts can be most meaningfully evaluated;

2. For the purpose of deciding whether an EIS is required, is specified in the environmental checklist, in Sections 25.05.330 and 25.05.444;

3. For an environmental impact statement, is considered its "scope" (Section 25.05.792 and Subchapter IV of these rules);

4. For any supplemental environmental review, is specified in Subchapter VI.

C. Proposals.

1. Agencies shall make certain that the proposal that is the subject of environmental review is properly defined.

   a. Proposals include public projects or proposals by agencies, proposals by applicants, if any, and proposed actions and regulatory decisions of agencies in response to proposals by applicants.

   b. A proposal by a lead agency or applicant may be put forward as an objective, as several alternative means of accomplishing a goal, or as a particular or preferred course of action.

   c. Proposals should be described in ways that encourage considering and comparing alternatives. Agencies are encouraged to describe public or nonproject proposals in terms of objectives rather than preferred solutions. A proposal could be described, for example, as "reducing flood damage and achieving better flood control by one or a combination of the following means: Building a new dam; maintenance dredging; use of shoreline and land use controls; purchase of floodprone areas; or relocation assistance."

2. Proposals or parts of proposals that are related to each other closely enough to be, in effect, a single course of action shall be evaluated in the same environmental document. (Phased review is allowed under subsection E.) Proposals or parts of proposals are closely related, and they shall be discussed in the same environmental document, if they:

   a. Cannot or will not proceed unless the other proposals (or parts of proposals) are implemented simultaneously with them; or

b. Are interdependent parts of a larger proposal and depend on the larger proposal as their justification or for their implementation.

3. Agencies may at their options analyze "similar actions" in a single environmental document.

a. Proposals are similar if, when viewed with other reasonably foreseeable actions, they have common aspects that provide a basis for evaluating their environmental consequences together, such as common timing, types of impacts, alternatives, or geography. This section does not require agencies or applicants to analyze similar actions in a single environmental document or require applicants to prepare environmental documents on proposals other than their own.

b. When preparing environmental documents on similar actions, agencies may find it useful to define the proposals in one of the following ways: (i) Geographically, which may include actions occurring in the same general location, such as a body of water, region, or metropolitan area; or (ii) generically, which may include actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, environmental media, or subject matter.

D. Impacts.

1. SEPA's procedural provisions require the consideration of "environmental" impacts (see definition of "environment" in Section 25.05.740 and of "impacts" in Section 25.05.752), with attention to impacts that are likely, not merely speculative. (See definition of "probable" in Section 25.05.782 and Section 25.05.080 on incomplete or unavailable information.)

2. In assessing the significance of an impact, a lead agency shall not limit its consideration of a proposal's impacts only to those aspects within its jurisdiction, including local or state boundaries (see Section 25.05.330 C also).

3. Agencies shall carefully consider the range of probable impacts, including short-term and long-term effects. Impacts shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer.

4. A proposal's effects include direct and indirect impacts caused by a proposal. Impacts include those effects resulting from growth caused by a proposal, as well as the likelihood that the present proposal will serve as a precedent for future actions. For example, adoption of a zoning ordinance will encourage or tend to cause particular types of projects or extension of sewer lines would tend to encourage development in previously unsewered areas.

5. The range of impacts to be analyzed in an EIS (direct, indirect, and cumulative impacts, Section 25.05.792) may be wider than the impacts for which mitigation measures are required of applicants (Section 25.05.660). This will depend upon the specific impacts, the extent to which the adverse impacts are attributable to the applicant's proposal, and the capability of applicants or agencies to control the impacts in each situation.

E. Phased Review.

1. Lead agencies shall determine the appropriate scope and level of detail of environmental review to coincide with meaningful points in their planning and decisionmaking processes. (See Section 25.05.055 on timing of environmental review.)

2. Environmental review may be phased. If used, phased review assists agencies and the public to focus on issues that are ready for decision and exclude from consideration issues already decided or not yet ready. Broader environmental documents may be followed by narrower documents, for example, that incorporate prior general discussion by reference and concentrate solely on the issues to that phase of proposal.

3. Phased review is appropriate when:

   a. The sequence is from a nonproject document to a document of narrower scope such as a site specific analysis (see, for example, Section 25.05.443); or

   b. The sequence is from an environmental document on a specific proposal at an early stage (such as need and site selection) to a subsequent environmental document at a later stage (such as sensitive design impacts).

4. Phased review is not appropriate when:

   a. The sequence is from a narrow project document to a broad policy document;

   b. It would merely divide a larger system into exempted fragments or avoid discussion of cumulative impacts; or

   c. It would segment and avoid present consideration of proposals and their impacts that are required to be evaluated in a single environmental document under Section 25.05.060 C2 or Section 25.05.305 A; however, the level of detail and type of environmental review may vary with the nature and timing of proposals and their component parts.

5. When a lead agency knows it is using phased review, it shall so state in its environmental document.

6. Agencies shall use the environmental checklist, scoping process, nonproject EIS's, incorporation by reference, adoption, and supplemental EIS's, and addenda, as appropriate, to avoid duplication and excess paperwork.

7. Where proposals are related to a large existing or planned network, such as highways, streets, pipelines, or utility lines or systems, the lead agency may analyze in detail the overall network as the present proposal or may select some of the future elements for present detailed consideration. Any phased review shall be logical in relation to the design of the overall system or network, and shall be consistent with this section and Section 25.05.070.

(Ord. 119096 § 13, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.070 Limitations on actions during SEPA process.

A. Until the responsible official issues a final determination of nonsignificance or final environmental impact statement, no action concerning the proposal shall be taken by a governmental agency that would:

1. Have an adverse environmental impact; or

2. Limit the choice of reasonable alternatives.

B. In addition, certain DNS's require a fourteen (14) day period prior to agency action (Section 25.05.340 B), and FEIS's require a seven (7) day period prior to agency action (Section 25.05.460 E).

C. In preparing environmental documents, there may be a need to conduct studies that may cause nonsignificant environmental impacts. If such activity is not exempt under Section 25.05.800 R (information collection and research), the activity may nonetheless proceed if a checklist is prepared and appropriate mitigation measures taken.

D. This section does not preclude developing plans or designs, issuing requests for proposals (RFP's), securing options, or performing other work necessary to develop an application for a proposal, as long as such activities are consistent with subsection A.

E. No final authorization of any permit shall be granted until expiration of the time period for filing an appeal in accordance with Section 25.05.680, or if an appeal is filed, until the fifth day following termination of the appeal. If, on or before the fifth day following termination of an appeal, a party of record files with the Director of Construction and Land Use, a written notice of intent to seek judicial review of the City's action, no direct modification of the physical environment shall begin or be authorized until the thirty-first day following termination of the appeal or until a court has disposed of any requests for preliminary injunctive relief, whichever occurs first. Where substantial injury to a party would result from a delay of construction,

demolition, grading, or other direct modification of the physical environment, the official or body hearing the appeal shall grant an expedited hearing, in which case shorter notice less than twenty (20) days prior to the hearing may be given as permitted by Section 3.02.090 A.
(Ord. 119096 § 14, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.080 Incomplete or unavailable information.

A. If information on significant adverse impacts essential to a reasoned choice among alternatives is not known, and the costs of obtaining it are not exorbitant, agencies shall obtain and include the information in their environmental documents.

B. When there are gaps in relevant information or scientific uncertainty concerning significant impacts, agencies shall make clear that such information is lacking or that substantial uncertainty exists.

C. Agencies may proceed in the absence of vital information as follows:

1. If information relevant to adverse impacts is essential to a reasoned choice among alternatives, but it is not known, and the costs of obtaining it are exorbitant; or

2. If information relevant to adverse impacts is important to the decision and the means to obtain it are speculative or not known;

Then the agency shall weigh the need for the action with the severity of possible adverse impacts which would occur if the agency were to decide to proceed in the face of uncertainty. If the agency proceeds, it shall generally indicate in the appropriate environmental documents its worst case analysis and the likelihood of occurrence, to the extent this information can reasonably be developed.

D. Agencies may rely upon applicants to provide information as allowed in Section 25.05.100.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.090 Supporting documents.

If an agency prepares background or supporting analyses, studies, or technical reports, such material shall be considered part of the agency's record of compliance with SEPA, as long as the preparation and circulation of such material complies with the requirements in these rules for incorporation by reference and the use of supporting documents.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.100 Information required of applicants.

Further information may be required if the responsible official determines that the information initially supplied is not reasonably adequate to fulfill the purposes for which it is required. An applicant may, at any time, voluntarily submit information beyond that required

under these rules. An agency is allowed to require information from an applicant in the following areas:

A. Environmental Checklist. An applicant may be required to complete the environmental checklist in Section 25.05.960 in connection with filing an application (see Section 25.05.315). Additional information may be required at an applicant's expense, but not until after initial agency review of the checklist (Sections 25.05.315 and 25.05.335).

B. Threshold Determination. Any additional information required by an agency after its initial review of the checklist shall be limited to those elements on the checklist for which the lead agency has determined that information accessible to the agency is not reasonably sufficient to evaluate the environmental impacts of the proposal. The lead agency may require field investigation or research by the applicant reasonably related to determining a proposal's environmental impacts (Section 25.05.335). An applicant may clarify or revise the checklist at any time prior to a threshold determination. Revision of a checklist after a threshold determination is issued shall be made under Section 25.05.340 or 25.05.360.

C. Environmental Impact Statements. The responsible official may require an applicant to provide relevant information that is not in the possession of the lead agency. Although an agency may include additional analysis not required under SEPA in an EIS (Sections 25.05.440 G, 25.05.448 D and 25.05.640), the agency shall not require the applicant to furnish such information, under these rules. An applicant shall not be required to provide information requested of a consulted agency until the agency has responded or the time allowed for the consulted agency's response has elapsed, whichever is earlier. Preparation of an EIS by the applicant is in Section 25.05.420.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.164 Planned actions--Definitions and criteria.

Under the authority of RCW 43.21C.031, the City Council may adopt ordinances designating planned actions. A planned action means one (1) or more types of project action that:

A. Are designated planned actions by an ordinance adopted by The City of Seattle;

B. Have had the significant environmental impacts adequately addressed in an EIS prepared in conjunction with:

1. A subarea or neighborhood plan adopted under Chapter 36.70A RCW, or

2. A master planned development or phased project.

C. Are subsequent or implementing projects for the proposals listed in subsection B of this section;

D. Are located within an urban growth area, as defined in RCW 36.70A.030;

E. Are not essential public facilities, as defined in RCW 36.70A.200; and

F. Are consistent with the Seattle Comprehensive Plan adopted under Chapter 36.70A RCW.

(Ord. 119096 § 15, 1998.)

25.05.168 Ordinances designating planned actions--Procedures for adoption.

A. City Council shall adopt planned actions by ordinance.

B. The ordinance shall include the following information:

1. A description of the type(s) of project action being designated as a planned action;

2. A description of how the planned action meets the criteria in Section 25.05.164 (including specific reference to the ElS that addresses any significant environmental impacts of the planned action);

3. A finding that the environmental impacts of the planned action have been identified and adequately addressed in the EIS, subject to project review under Section 25.05.172; and

4. Identification of any specific mitigation measures other than applicable development regulations that must be applied to a project for it to qualify as the planned action.

C. If the City has not limited the planned action to a specific time period identified in the EIS, it may do so in the ordinance designating the planned action.

D. Each planned action ordinance may include provisions to provide for a periodic review and update procedure for the planned action to monitor implementation and consider changes as warranted.

(Ord. 119096 § 16, 1998.)

25.05.172 Planned actions--Project review.

A. Planned action project review shall include:

1. Verification that the project meets the description in, and will implement any applicable conditions or mitigation measures identified in, the designating ordinance; and

2. Verification that the probable significant adverse environmental impacts of the project have been adequately addressed in the EIS prepared under Section 25.05.164 B through review of an environmental checklist or other project review form as specified in Section 25.05.315, filed with the project application.

B. 1. If the project meets the requirements of subsection A of this section, the project shall qualify as the planned action designated by the City, and a project threshold determination or EIS is not required. Nothing in this section limits the City as lead agency from using this chapter or other applicable laws to place conditions on the project in order to mitigate nonsignificant impacts through the normal local project review and permitting process.

2. If the project does not meet the requirements of subsection A of this section, the project is not a planned action and a threshold determination is required. In conducting the additional environmental review under this chapter, the lead agency may use information in existing environmental documents, including the EIS used to designate the planned action (refer to Section 25.05.330 B1 and Sections 25.05.600 through 25.05.635). If an EIS or SEIS is prepared on the proposed project, its scope is limited to those probable significant adverse environmental impacts that were not adequately addressed in the EIS used to designate the planned action.

C. Public notice for projects that qualify as planned actions shall be based on the notice requirements of the underlying permit. If notice is otherwise required for the underlying permit, the notice shall state that the project has qualified as a planned action.
(Ord. 119096 § 17, 1998.)

25.05.210 SEPA/GMA integration.

(See WAC 197-11-210 through 197-11-235.)

25.05.250 SEPA/Model Toxics Control Act integration.

(See WAC 197-11-250 through 197-11-268.)

Subchapter III

Categorical Exemptions and Threshold Determination

25.05.300 Purpose of this subchapter.

This subchapter provides rules for:

A. Administering categorical exemptions for proposals that would not have probable significant adverse impacts;

B. Deciding whether a proposal has a probable significant adverse impact and thus requires an EIS (the threshold determination);

C. Providing a way to review and mitigate nonexempt proposals through the threshold determination;

D. Integrating the environmental analysis required by SEPA into early planning to ensure appropriate consideration of SEPA's policies and to eliminate duplication and delay; and

E. Integrating the environmental analysis required by SEPA into the project review process.

(Ord. 119096 § 20, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.305 Categorical exemptions.

A. If a proposal fits within any of the provisions in Subchapter IX of these rules, the proposal shall be categorically exempt from threshold determination requirements (Section 25.05.720) except as follows:

1. The proposal is not exempt under Section 25.05.908, environmentally critical areas;

2. The proposal is a segment of a proposal that includes:

   a. A series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not, or

   b. A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction. If so, that agency shall be the lead agency, unless the agencies with jurisdiction agree that another agency should be the lead agency. Agencies may petition the Department of Ecology to resolve disputes (Section 25.05.946), or may petition the Mayor to resolve disputes between City agencies (Section 25.05.910).

For such proposals, the agency or applicant may proceed with the exempt aspects of the proposals, prior to conducting environmental review, if the requirements of Section 25.05.070 are met.

B. An agency is not required to document that a proposal is categorically exempt. Agencies may note on an application that a proposal is categorically exempt or place such a determination in agency files.

C. If requested by a private applicant, the responsible official shall make a preliminary determination as to the scope of a proposal and whether the proposal is categorically exempt within seven (7) days following submission of such request.

(Ord. 119096 § 21, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.310 Threshold determination required.

A. A threshold determination is required for any proposal which meets the definition of action and is not categorically exempt, subject to the limitations in Section 25.05.600 C concerning proposals for which a threshold determination has already been issued. A threshold determination is not required for a planned action (refer to Sections 25.05.164 through 25.05.172).

B. The responsible official of the lead agency shall make the threshold determination, which shall be made as close as possible to the time an agency has developed or is presented with a proposal (Section 25.05.784). If the lead agency is the City, the timing requirements in subsection C of this section must be met.

C. When the City is lead agency for a project, the following timing requirements apply:

1. If a DS is made concurrent with the notice of application, the DS and scoping notice shall be combined with the notice of application (RCW 36.70B.110). Nothing in this subsection prevents the DS/scoping notice from being issued before the notice of application. If sufficient information is not available to make a threshold determination when the notice of application is issued, the DS may be issued later in the review process.

2. Nothing in this section prevents a lead agency, when it is a project proponent or is funding a project, from conducting its review under SEPA or from allowing appeals of procedural determinations prior to submitting a project permit application.

3. If an open record predecision hearing is required, the threshold determination shall be issued at least fifteen (15) days before the open record predecision hearing (RCW 36.70B.110 (6)(b)).

4. The early review DNS process in Section 25.05.355 may be used to indicate on the notice of application that the lead agency is likely to issue a DNS. If this process is used, a separate comment period on the DNS shall not be required (refer to Section 25.05.355 D).

D. All threshold determinations shall be documented in:

1. A determination of nonsignificance (DNS) (Section 25.05.340); or

2. A determination of significance (DS) (Section 25.05.360).

(Ord. 119096 § 22, 1998; Ord. 118012 § 59, 1996; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.315 Environmental checklist.

A. Agencies shall use the environmental checklist substantially in the form found in

Section 25.05.960 to assist in making threshold determinations for proposals, except for public proposals on which the lead agency has decided to prepare its own EIS, proposals on which the lead agency and applicant agree an EIS will be prepared; or projects which are proposed as planned actions (see subsection B of this section).

B. For projects submitted as planned actions under Section 25.05.164, the City shall use the existing environmental checklist or modify the environmental checklist form to fulfill the purposes outlined in Section 25.05.172 A, notwithstanding the requirements of WAC 197-11-906 (4).

C. Agencies may use an environmental checklist whenever it would assist in their planning and decision making, but shall only require an applicant to prepare a checklist under SEPA if a checklist is required by subsection A of this section.

D. The lead agency shall prepare the checklist or require an applicant to prepare the checklist.

E. The items in the environmental checklist are not weighted. The mention of one (1) or many adverse environmental impacts does not necessarily mean that the impacts are significant. Conversely, a probable significant adverse impact on the environment may result in the need for an EIS.
(Ord. 119096 § 23, 1998: Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.330 Threshold determination process.

An EIS is required for proposals for legislation and other major actions significantly affecting the quality of the environment. The lead agency decides whether an EIS is required in the threshold determination process, as described below.

A. In making a threshold determination, the responsible official shall:

1. Review the environmental checklist, if used:

   a. Independently evaluating the responses of any applicant and indicating the result of its evaluation in the DS, in the DNS, or on the checklist, and

   b. Conducting its initial review of the environmental checklist and any supporting documents without requiring additional information from the applicant;

2. Determine if the proposal is likely to have a probable significant adverse environmental impact, based on the proposed action, the information in the checklist (Section 25.05.960), and any additional information furnished under Section 25.05.335 (Additional information) and Section 25.05.350 (Mitigated DNS); and

3. Consider mitigation measures which an agency or the applicant will implement as part of the proposal, including any mitigation measures required by the City's development regulations or other existing environmental rules or laws.

B. In making a threshold determination, the responsible official should determine whether:

1. All or part of the proposal, alternatives, or impacts have been analyzed in a previously prepared environmental document, which can be adopted or incorporated by reference (see Subchapter VI);

2. Environmental analysis would be more useful or appropriate in the future in which case, the agency shall commit to timely, subsequent environmental review, consistent with Sections 25.05.055 through 25.05.070 and Subchapter VI.

C. In determining an impact's significance (Section 25.05.794), the responsible official shall take into account that:

1. The same proposal may have a significant adverse impact in one location but not in another location;

2. The absolute quantitative effects of a proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment;

3. Several marginal impacts when considered together may result in a significant adverse impact;

4. For some proposals, it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted or values cannot be quantified;

5. A proposal may to a significant degree:

a. Adversely affect environmentally critical or special areas, such as loss or destruction of historic, scientific, and cultural resources, parks, prime farmlands, wetlands, wild and scenic rivers, or wilderness,

b. Adversely affect endangered or threatened species or their habitat,

c. Conflict with local, state, or federal laws or requirements for the protection of the environment, and

d. Establish a precedent for future actions with significant effects, involves unique and unknown risks to the environment, or may affect public health or safety.

D. If after following Section 25.05.080 (incomplete or unavailable information), and Section 25.05.335 (additional information), the lead agency reasonably believes that a proposal may have a significant adverse impact, an EIS is required.

E. A threshold determination shall not balance whether the beneficial aspects of a proposal outweigh its adverse impacts, but rather, shall consider whether a proposal has any probable significant adverse environmental impacts under the rules stated in this section. For example, proposals designed to improve the environment, such as sewage treatment plants or pollution control requirements, may also have significant adverse environmental impacts.
(Ord. 119096 § 24, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.335 Additional information.

The lead agency shall make its threshold determination based upon information reasonably sufficient to evaluate the environmental impact of a proposal (Section 25.05.055 B and Section 25.05.060 C). The lead agency may take one (1) or more of the following actions if, after reviewing the checklist, the agency concludes that there is insufficient information to make its threshold determination:

A. Require an applicant to submit more information on subjects in the checklist;

B. Make its own further study, including physical investigation on a proposed site or communicating with interested parties;

C. Consult with other agencies, requesting information on the proposal's potential impacts which lie within the other agencies' jurisdiction or expertise (agencies shall respond in accordance with Section 25.05.550); or

D. Decide that all or part of the action or its impacts are not sufficiently definite to allow environmental analysis and commit to timely, subsequent environmental analysis, consistent with Sections 25.05.055 through 25.05.070.
(Ord. 118012 § 60, 1996; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.340 Determination of nonsignificance (DNS).

A. If the responsible official determines there will be no probable significant adverse environmental impacts from a proposal, the lead agency shall prepare and issue a determination of nonsignificance (DNS) substantially in the form provided in WAC 197-11-970. If an agency adopts another environmental document in support of a threshold determination (Subchapter VI), the notice of adoption (WAC 197-11-965) and the DNS shall be combined or attached to each other.

B. When a DNS is issued for any of the proposals listed in subsection B1 of this section, the requirements in this subsection shall be met. The requirements of this subsection do not apply to a DNS issued when the early review DNS process in Section 25.05.355 is used.

1. An agency shall not act upon a proposal for fourteen (14) days after the date of issuance of a DNS if the proposal involves:

   a. Another agency with jurisdiction;

   b. Demolition of any structure or facility not exempted by Section 25.05.800 B6 (exempt construction other than historic) or Section 25.05.880 (Emergencies);

   c. Issuance of clearing or grading permits not exempted in Subchapter IX of these rules;

   d. A DNS under Section 25.05.350 B, Section 25.05.350 C (mitigated DNS) or Section 25.05.360 D (withdrawn DS); or

   e. A Growth Management Act (GMA) action.

2. The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the Department of Ecology, and affected tribes, the SEPA Public Information Center, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, and shall give notice under Section 25.05.510.

3. Any person, affected tribe, or agency may submit comments to the lead agency within fourteen (14) days of the date of issuance of the DNS.

4. The date of issue for the DNS is the date the DNS is sent to the Department of Ecology and agencies with jurisdiction and the SEPA Public Information Center and is made publicly available.

5. An agency with jurisdiction may assume lead agency status only within this fourteen (14) day period (Section 25.05.948).

6. The responsible official shall reconsider the DNS based on timely comments and may retain or modify the DNS or, if the responsible official determines that significant adverse impacts are likely, withdraw the DNS or supporting documents. When a DNS is modified, the lead agency shall send the modified DNS to agencies with jurisdiction.

C. 1. The lead agency shall withdraw a DNS if:

   a. There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts;

   b. There is significant new information indicating a proposal's probable

significant adverse environmental impacts; or

c. The DNS was procured by misrepresentation or lack of material disclosure; if such DNS resulted from the actions of an applicant, any subsequent environmental checklist on the proposal shall be prepared directly by the lead agency or its consultant at the expense of the applicant.

2. Subsection C1b shall not apply when a nonexempt license has been issued on a private project.

3. If the lead agency withdraws a DNS, the agency shall make a new threshold determination and notify other agencies with jurisdiction of the withdrawal and new threshold determination, and any appeal fees paid shall be refunded. If a DS is issued, each agency with jurisdiction shall commence action to suspend, modify, or revoke any approvals until the necessary environmental review has occurred (see also Section 25.05.070 (limitations on actions during SEPA process)).

(Ord. 119096 § 25, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.350 Mitigated DNS.

The purpose of this section is to allow clarifications or changes to a proposal prior to making the threshold determination.

A. In making threshold determinations, an agency may consider mitigation measures that the agency or applicant will implement.

B. After submission of an environmental checklist and prior to the lead agency's threshold determination on a proposal, an applicant may ask the lead agency to indicate whether it is considering a DS. If the lead agency indicates a DS is likely, the applicant may clarify or change features of the proposal to mitigate the impacts which lead the agency to consider a DS likely. The applicant shall revise the environmental checklist as may be necessary to describe the clarifications or changes. The lead agency shall make its threshold determination based upon the changed or clarified proposal. If a proposal continues to have a probable significant adverse environmental impact, even with mitigation measures, an EIS shall be prepared.

C. Whether or not an applicant requests early notice under subsection B, if the lead agency specifies mitigation measures on an applicant's proposal that would allow it to issue a DNS, and the proposal is clarified, changed, or conditioned to include those measures, the lead agency shall issue a DNS. Mitigation measures specified by the lead agency may be based upon any adverse impacts revealed by the environmental checklist, and need not be limited to those permitted by agency SEPA policies. (Compare Section 25.05.660 A (substantive authority and mitigation).)

D. Environmental documents need not be revised and resubmitted if the clarifications

or changes are stated in writing in documents that are attachments to, or incorporated by reference, the documents previously submitted. An addendum may be used, see Subchapter VI.

E. Agencies may clarify or change features of their own proposal, and may specify mitigation measures in their DNSs, as a result of comments by other agencies or the public or as a result of additional agency planning.

F. An agency's indication under this section that a DS appears likely shall not be construed as a determination of significance. Likewise, the preliminary discussion of clarifications or changes to a proposal shall not bind the lead agency to a mitigated DNS.

G. Anyone violating or failing to comply with any mitigation measure imposed under this section shall, upon conviction thereof, be subject to a civil penalty not exceeding Five Hundred Dollars ($500), and each day that anyone shall continue to violate or fail to comply with such measure after receiving notice of the violation shall be considered a separate offense. In addition, permits authorizing the work which is subject to the mitigation measure may be suspended or revoked.

H. As provided for in SMC 25.05.340 B1d, notice of a fifteen (15) day comment period, consistent with Section 25.05.510, shall be issued concurrently with a mitigated DNS. No further action shall be taken until expiration of the comment period. Notice shall include information sufficient to inform the public of the mitigation proposed.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.355 Early review DNS (optional DNS) process.

A. Early Review DNS Process. If the City is lead agency for a proposal and has a reasonable basis for determining significant adverse environmental impacts are unlikely, the notice of application comment period may be used to obtain comments on both the notice of application and the likely threshold determination for the proposal.

B. If the lead agency uses the early review DNS process specified in subsection A of this section, the lead agency shall:

1. State on the first page of the notice of application that it expects to issue a DNS for the proposal, and that:

   a. The early review DNS process is being used,

   b. This will be the only opportunity to comment on the environmental impacts of the proposal,

   c. The proposal may include mitigation measures under applicable codes, and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared, and

d. A copy of the subsequent threshold determination for the specific proposal may be obtained upon request;

2. List in the notice of application the conditions being considered to mitigate environmental impacts, if a mitigated DNS is expected;

3. Comply with the requirements for a notice of application and public notice in Section 23.76.012 of the Land Use Code; and

4. Send the notice of application and environmental checklist to:

a. Agencies with jurisdiction, the Department of Ecology, affected tribes, and each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal, and

b. Anyone requesting a copy of the environmental checklist for the specific proposal.

C. If the lead agency indicates on the notice of application that a DNS is likely, an agency with jurisdiction may assume lead agency status during the comment period on the notice of application (Section 25.05.948).

D. The responsible official shall consider timely comments on the notice of application and either:

1. Issue a DNS or mitigated DNS with no comment period using the procedures in subsection E of this section; or

2. Issue a DS; or

3. Require additional information or studies prior to making a threshold determination.

E. If a DNS or mitigated DNS is issued under subsection D1 of this section, the lead agency shall send a copy of the DNS or mitigated DNS to the Department of Ecology, affected tribes, agencies with jurisdiction, those who commented, and anyone requesting a copy. A copy of the environmental checklist need not be recirculated.
(Ord. 119096 § 26, 1998.)

25.05.360 Determination of significance (DS)/initiation of scoping.

A. If the responsible official determines that a proposal may have a probable significant adverse environmental impact, the responsible official shall prepare and issue a determination of significance (DS) substantially in the form provided in Section 25.05.980. The DS shall describe the main elements of the proposal, the location of the site, if a site-specific proposal, and the main areas the lead agency has identified for discussion in the EIS. A copy of

the environmental checklist may be attached.

B. If an agency adopts another environmental document in support of a threshold determination (Subchapter VI), the notice of adoption (Section 25.05.965) and the DS shall be combined or attached to each other.

C. The responsible official shall put the DS in the lead agency's file and shall commence scoping (Section 25.05.408) by circulating copies of the DS to the applicant, agencies with jurisdiction and expertise, if any, affected tribes, and to the public. Notice shall be given under Section 25.05.510. The lead agency is not required to scope if the agency is adopting another environmental document for the EIS or is preparing a supplemental EIS.

D. If at any time after the issuance of a DS a proposal is changed so, in the judgment of the lead agency, there are no probable significant adverse environmental impacts, the DS shall be withdrawn and a DNS issued instead. The DNS shall be sent to all who commented on the DS. A proposal shall not be considered changed until all license applications for the proposal are revised to conform to the changes or other binding commitments made by agencies or by applicants.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.390 Effect of threshold determination.

A. When the responsible official makes a threshold determination, it is final and binding on all agencies, subject to the provisions of this section and Section 25.05.340 (DNS), Section 25.05.360 (Scoping), and Subchapter VI.

B. The responsible official's threshold determination:

1. for proposals listed in Section 25.05.340 B, shall not be final until fourteen (14) days after issuance;

2. Shall not apply if another agency with jurisdiction assumes lead agency status under Section 25.05.948;

3. Shall not apply when withdrawn by the responsible official under Section 25.05.340 or Section 25.05.360;

4. Shall not apply when reversed on appeal.

C. Regardless of any appeals, a DS or DNS issued by the responsible official may be considered final for purposes of other agencies' planning and decisionmaking unless subsequently changed, reversed, or withdrawn.
(Ord. 119096 § 27, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter IV

Environmental Impact Statement (EIS)

25.05.400 Purpose of EIS.

A. The primary purpose of an environmental impact statement is to ensure that SEPA's policies are an integral part of the ongoing programs and actions of state and local government.

B. An EIS shall provide impartial discussion of significant environmental impacts and shall inform decisionmakers and the public of reasonable alternatives, including mitigation measures, that would avoid or minimize adverse impacts or enhance environmental quality.

C. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by the necessary environmental analysis. The purpose of an EIS is best served by short documents containing summaries of, or reference to, technical data and by avoiding excessively detailed and overly technical information. The volume of an EIS does not bear on its adequacy. Larger documents may even hinder the decisionmaking process.

D. The EIS process enables government agencies and interested citizens to review and comment on proposed government actions, including government approval of private projects and their environmental effects. This process is intended to assist the agencies and applicants to improve their plans and decisions, and to encourage the resolution of potential concerns or problems prior to issuing a final statement. An environmental impact statement is more than a disclosure document. It shall be used by agency officials in conjunction with other relevant materials and considerations to plan actions and make decisions.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.402 General requirements.

Agencies shall prepare environmental impact statements as follows:

A. EIS's need analyze only the reasonable alternatives and probable adverse environmental impacts that are significant. Beneficial environmental impacts or other impacts may be discussed.

B. The level of detail shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or referenced.

C. Discussion of insignificant impacts is not required; if included, such discussion shall be brief and limited to summarizing impacts or noting why more study is not warranted.

D. Description of the existing environment and the nature of environmental impacts shall be limited to the affected environment and shall be no longer than is necessary to understand the environmental consequences of the alternatives, including the proposal.

E. EIS's shall be no longer than necessary to comply with SEPA and these rules.

Length should relate first to potential environmental problems and then to the size or complexity of the alternatives, including the proposal.

F. The basic features and analysis of the proposal, alternatives, and impacts shall be discussed in the EIS and shall be generally understood without turning to other documents; however, an EIS is not required to include all information conceivably relevant to a proposal, and may be supplemented by appendices, reports, or other documents in the agency's record.

G. Agencies shall reduce paperwork and the accumulation of background data by adopting or incorporating by reference, existing, publicly available environmental documents, wherever possible.

H. Agencies shall prepare EIS's concurrently with and coordinated with environmental studies and related surveys that may be required for the proposal under other laws, when feasible.

I. EIS's shall serve as the means of assessing the environmental impact of proposed agency action, rather than justifying decisions already made.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.405 EIS types.

A. Draft and final environmental impact statements (EIS's) shall be prepared; draft and final supplemental EIS's may be prepared.

B. A draft EIS (DEIS) allows the lead agency to consult with members of the public, affected tribes, and agencies with jurisdiction and expertise. The lead agency shall issue a DEIS and consider comments as stated in Subchapter V.

C. A final EIS (FEIS) shall revise the DEIS as appropriate and respond to comments as required in Section 25.05.560. An FEIS shall respond to opposing views on significant adverse environmental impacts and reasonable alternatives which the lead agency determines were not adequately discussed in the DEIS. The lead agency shall issue a FEIS as specified by Section 25.05.460.

D. A supplemental EIS (SEIS) shall be prepared as an addition to either a draft or final statement if:

1. There are substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts; or

2. There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts.

Preparation of a SEIS shall be carried out as stated in 25.05.620.

E. Agencies may use federal EIS's, as stated in Subchapter VI.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.406 EIS timing.

The lead agency shall commence preparation of the environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal, so that preparation can be completed in time for the final statement to be included in appropriate recommendations or reports on the proposal (Section 25.05.055). The statement shall be prepared early enough so it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made. EIS's may be "phased" in appropriate situations (Section 25.05.060 E).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.408 Scoping.

A. The lead agency shall narrow the scope of every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation measures. For example, if there are only two (2) or three (3) significant impacts or alternatives, the EIS shall be focused on those.

B. To ensure that every EIS is concise and addresses the significant environmental issues, the lead agency shall:

1. Invite agency, affected tribes, and public comment on the DS (Section 25.05.360 (DS/scoping)).

   a. If the agency requires written comments, agencies, affected tribes and the public shall be allowed twenty-one (21) days from the date of issuance of the DS in which to comment, unless expanded scoping is used.

   b. If the City issues the scoping notice with the notice of application under RCW 36.70B.110, the comment period shall be fourteen (14) days;

2. Identify reasonable alternatives and probable significant adverse environmental impacts;

3. Eliminate from detailed study those impacts that are not significant; and

4. Work with other agencies to identify and integrate environmental studies required for other government approvals with the EIS, where feasible.

C. Agencies, affected tribes, and the public should comment promptly and as specifically as permitted by the details available on the proposal.

D. Meetings or scoping documents, including notices that the scope has been revised, may be used but are not required. The lead agency shall integrate the scoping process with its

existing planning and decisionmaking process in order to avoid duplication and delay.

E. The lead agency shall revise the scope of an EIS if substantial changes are made later in the proposal, or if significant new circumstances or information arise that bear on the proposal and its significant impacts.

F. DEIS's shall be prepared according to the scope decided upon by the lead agency in its scoping process.

G. EIS preparation may begin during scoping.

H. The date of issuance for a DS is the date it is sent to the Department of Ecology and other agencies with jurisdiction, and is publicly available.
(Ord. 119096 § 28, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.409 Scoping on City-sponsored projects.

A. When a City department is lead agency for a City project or non-project action and the department determines that an EIS is required for the project, the department shall hold a public scoping meeting to determine the range of proposed actions, alternatives, possible mitigating measures, and impacts to be discussed in an EIS (see Sections 25.05.510 and 25.05.535).

B. Depending on the size, timing, public comment, or other relevant aspects of the project, the lead agency may, at its option, expand scoping according to the provisions set forth in Section 25.05.410.
(Ord. 114057 § 1(part), 1988.)

25.05.410 Expanded scoping (optional).

A. At its option, the lead agency may expand the scoping process to include any or all of the following, which may be applied on a proposal-by-proposal basis:

1. Using questionnaires or information packets;

2. Using meetings or workshops, which may be combined with any other early planning meetings of the agency;

3. Using a coordinator or team from inside or outside the agency;

4. Developing cooperative consultation and exchange of information among agencies before the EIS is prepared, rather than awaiting submission of comments on a completed document;

5. Coordinating and integrating other government reviews and approvals with the EIS process through memoranda or other methods;

6. Inviting participation of agencies with jurisdiction or expertise from various levels of government, such as regional or federal agencies;

7. Using other methods as the lead agency may find helpful.

B. Use of expanded scoping is intended to promote interagency cooperation, public participation, and innovative ways to streamline the SEPA process. Steps shall be taken, as the lead agency determines appropriate, to encourage and assist public participation. There are no specified procedural requirements for the methods, techniques, or documents which may be used in an expanded scoping process, to provide maximum flexibility to meet these purposes.

C. The lead agency shall consult with an applicant prior to deciding the method and schedule for an expanded scoping process.

D. Under expanded scoping, an applicant may request, in which case the lead agency shall set, a date by which the lead agency shall determine the scope of the EIS, including the need for any field investigations (to the extent permitted by the details available on the proposal). The date shall occur thirty (30) days or less after the DS is issued, unless the lead agency and applicant agree upon a later date.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.420 EIS preparation.

For draft and final EIS's and SEIS's:

A. Preparation of the EIS is the responsibility of the lead agency, by or under the direction of its responsible official, as specified by the lead agency's procedures. No matter who participates in the preparation of the EIS, it is the EIS of the lead agency. The responsible official, prior to distributing an EIS, shall be satisfied that it complies with these rules and the procedures of the lead agency.

B. The lead agency may have an EIS prepared by agency staff, an applicant or its agent, or by an outside consultant retained by either an applicant or the lead agency. In the event the responsible official determines that the applicant will be required to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination. The lead agency shall assure that the EIS is prepared in a professional manner and with appropriate interdisciplinary methodology. The responsible official shall direct the areas of research and examination to be undertaken as a result of the scoping process, as well as the organization of the resulting document.

C. If a person other than the lead agency is preparing the EIS, the lead agency shall:

1. Coordinate any scoping procedures so that the individual preparing the EIS receives all substantive information submitted by any agency or person;

2. Assist in obtaining any information on file with another agency that is needed by the person preparing the EIS;

3. Allow any party preparing an EIS access to all public records of the lead agency that relate to the subject of the EIS, under Chapter 42.17 RCW (Public Disclosure and Public Records Law).

D. In the event the responsible official or his designee is preparing an EIS, the responsible official may require a private applicant to provide data and information not in the possession of the City which is relevant to any or all areas to be covered by an EIS. However, a private applicant shall not be required to provide information which the lead agency has requested of a consulted agency until the consulted agency has responded, or the thirty (30) days allowed for response by the consulted agency has expired, whichever is earlier. An applicant may volunteer to provide any information or effort desired, as long as the EIS is supervised and approved by the responsible official. These rules do not prevent an agency from charging any fees which the agency is otherwise allowed to charge (Section 25.05.914).
(Ord. 118012 § 61, 1996; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.425 Style and size.

A. Environmental impact statements shall be readable reports, which allow the reader to understand the most significant and vital information concerning the proposed action, alternatives, and impacts, without turning to other documents, as provided below and in Section 25.05.402 (general requirements).

B. Environmental impact statements shall be concise and written in plain language. EISs shall not be excessively detailed or overly technical. EISs shall explain plainly the meaning of technical terms not generally understood by the general public. This may be done in a glossary or footnotes or by some other means. EISs may include an index for ease in using the statement.

C. Most of the text of an environmental impact statement shall discuss and compare the environmental impacts and their significance, rather than describe the proposal and the environmental setting. Detailed descriptions may be included in appendices or supporting documents.

D. The text of an EIS (Section 25.05.430 C) normally ranges from thirty (30) to fifty (50) pages and may be shorter. The EIS text shall not exceed seventy-five (75) pages; except for proposals of unusual scope or complexity, where the EIS shall not exceed one hundred fifty (150) pages. Appendices and background material shall be bound separately from the EIS if they exceed twenty-five (25) pages, except if the entire document does not exceed one hundred (100) pages or a FEIS is issued under Section 25.05.560 E (DEIS and addendum).

E. If the lead agency decides that additional descriptive material or supporting documentation may be helpful for readers, this background information may be placed in appendices or in separate documents, and shall be readily available to agencies and the public during the comment period.

F. Agencies shall incorporate material into an environmental impact statement by reference to cut down on bulk, if an agency can do so without impeding agency and public review of the action (Sections 25.05.600 and 25.05.635).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.430 Format.

A. A cover letter or memo from the lead agency shall precede the EIS (Section 25.05.435). A fact sheet (Section 25.05.440 A) shall be the first section of every EIS.

B. The following format should be used unless the lead agency determines that a different format would improve clear presentation of alternatives and environmental analysis for a particular proposal (except that the fact sheet shall always be the first section of an EIS):

1. Fact sheet;

2. Table of contents (may include the list of elements of the environment);

3. Summary;

4. Alternatives, including the proposed action;

5. Affected environment, significant impacts, and mitigation measures (other than those included in the proposed action);

6. Distribution list (may be included in appendix);

7. Appendices, if any (including, for FEIS, comment letters and any separate responses).

C. EIS Text. The EIS text is divided into two (2) sections: B4 and B5 above. Agencies have wide latitude to organize and present material as they see fit within these two (2) basic sections. Agencies are not required to discuss each subject in Section 25.05.440 D and E and Section 25.05.444 in a separate section of the EIS.

D. Additional Format Considerations.

1. Where relevant to the alternatives and impacts of proposal, the analysis specified in Section 25.05.440 shall be included regardless of the format of a particular statement.

2. The format of a FEIS may differ, as specified by Section 25.05.560.

3. Additional flexibility is provided in Sections 25.05.442 and 25.05.443 for environmental impact statements related to nonproject proposals.

4. The elements of the environment for purposes of analyzing environmental impacts are stated in Section 25.05.444.

5. Additional guidance on the distinction between environmental and other considerations is given in Sections 25.05.448 and 25.05.450.

6. EISs may be combined with other documents (Section 25.05.640).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.435 Cover letter or memo.

A. A cover letter or memo shall precede every EIS, but shall not be considered part of the EIS for adequacy purposes.

B. The cover letter or memo:

1. Shall not exceed two (2) pages;

2. Shall highlight the key environmental issues and options facing agency decisionmakers as known at the time of issuance;

3. May include beneficial, as well as adverse environmental impacts and may mention other relevant considerations for decisionmakers;

4. Shall identify, for SEISs, the EIS being supplemented.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.440 EIS contents.

An EIS shall contain the following, in the style and format prescribed in the preceding sections.

A. Fact Sheet. The fact sheet shall include the following information in this order:

1. A title and brief description (a few sentences) of the nature and location (by street address, if applicable) of the proposal, including principal alternatives;

2. The name of the person or entity making the proposal(s) and the proposed or tentative date for implementation;

3. The name and address of the lead agency, the responsible official, and the person to contact for questions, comments, and information;

4. A list of all licenses which the proposal is known to require. The licenses shall be listed by name and agency; the list shall be as complete and specific as possible;

5. Authors and principal contributors to the EIS and the nature or subject area of their contributions;

6. The date of issue of the EIS;

7. The date comments are due (for DEISs);

8. The time and place of public hearings or meetings, if any and if known;

9. The date final action is planned or scheduled by the lead agency, if known. Agencies may indicate that the date is subject to change. The nature or type of final agency action should be stated unless covered in subsection 1 above;

10. The type and timing of any subsequent environmental review to which the lead agency or other agencies have made commitments, if any;

11. The location of a prior EIS on the proposal, EIS technical reports, background data, adopted documents, and materials incorporated by reference for this EIS, if any;

12. The cost to the public for a copy of the EIS.

B. Table of Contents.

1. The table of contents should list, if possible, any documents which are appended, adopted, or serve as technical reports for this EIS (but need not list each comment letter).

2. The table of contents may include the list of elements of the environment (Section 25.05.444), indicating those elements or portions of elements which do not involve significant impacts.

C. Summary. The EIS shall summarize the contents of the statement and shall not merely be an expanded table of contents. The summary shall briefly state the proposal's objectives, specifying the purpose and need to which the proposal is responding, the major conclusions, significant areas of controversy and uncertainty, if any, and the issues to be resolved, including the environmental choices to be made among alternative courses of action and the effectiveness of mitigation measures. The summary need not mention every subject discussed in the EIS, but shall include a summary of the proposal, impacts, alternatives, mitigation measures, and significant adverse impacts that cannot be mitigated. The summary shall state when the EIS is part of a phased review, if known, or the lead agency is relying on prior or future environmental review (which should be generally identified). The lead agency shall make the summary significantly broad to be useful to the other agencies with jurisdiction.

D. Alternatives Including the Proposed Action.

1. This section of the EIS describes and presents the proposal (or preferred alternative, if one (1) or more exists) and alternative courses of action.

2. Reasonable alternatives shall include actions that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation.

   a. The word "reasonable" is intended to limit the number and range of alternatives, as well as the amount of detailed analysis for each alternative.

   b. The "no-action" alternative shall be evaluated and compared to other alternatives.

   c. Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts either directly, or indirectly through requirement of mitigation measures.

3. This section of the EIS shall:

   a. Describe the objective(s), proponent(s), and principal features of reasonable alternatives. Include the proposed action, including mitigation measures that are part of the proposal;

   b. Describe the location of the alternatives including the proposed action, so that a lay person can understand it. Include a map, street address, if any, and legal description (unless long or in metes and bounds);

   c. Identify any phases of the proposal, their timing, and previous or future environmental analysis on this or related proposals, if known;

   d. Tailor the level of detail of descriptions to the significance of environmental impacts. The lead agency should retain any detailed engineering drawings and technical data, that have been submitted, in agency files and make them available on request;

   e. Devote sufficiently detailed analysis to each reasonable alternative to permit a comparative evaluation of the alternatives including the proposed action. The amount of space devoted to each alternative may vary. One (1) alternative (including the proposed action) may be used as a benchmark for comparing alternatives. The EIS may indicate the main reasons for eliminating alternatives from detailed study;

   f. Present a comparison of the environmental impacts of the reasonable alternatives, and include the no action alternative. Although graphics may be helpful, a matrix or chart is not required. A range of alternatives or a

few representative alternatives, rather than every possible reasonable variation, may be discussed;

g. Discuss the benefits and disadvantages of reserving for some future time the implementation of the proposal, as compared with possible approval at this time. The agency perspective should be that each generation is, in effect, a trustee of the environment for succeeding generations. Particular attention should be given to the possibility of foreclosing future options by implementing the proposal;

4. When a proposal is for a private project on a specific site, the lead agency shall be required to evaluate only the no-action alternative plus other reasonable alternatives for achieving the proposal's objective on the same site. This subsection shall not apply when the proposal includes a rezone, unless the rezone is for a use allowed in an existing comprehensive plan that was adopted after review under SEPA. Further, alternative sites may be evaluated if other locations for the type of proposed use have not been included or considered in existing planning or zoning documents.

E. Affected Environment, Significant Impacts, and Mitigation Measures.

1. This section of the EIS shall describe the existing environment that will be affected by the proposal, analyze significant impacts of alternatives including the proposed action, and discuss reasonable mitigation measures that would significantly mitigate these impacts. Elements of the environment that are not significantly affected need not be discussed. Separate sections are not required for each subject (see Section 25.05.430 C).

2. General requirements for this section of the EIS.

a. This section shall be written in a nontechnical manner which is easily understandable to lay persons whenever possible, with the discussion commensurate with the importance of the impacts. Only significant impacts must be discussed; other impacts may be discussed.

b. Although the lead agency should discuss the affected environment, environmental impacts, and other mitigation measures together for each element of the environment where there is a significant impact, the responsible official shall have the flexibility to organize this section in any manner useful to decisionmakers and the public (see Section 25.05.430 C).

c. This subsection is not intended to duplicate the analysis in subsection E and shall avoid doing so to the fullest extent possible.

3. This section of the EIS shall:

a. Succinctly describe the principal features of the environment that would be affected, or created, by the alternatives including the proposal under consideration. Inventories of species should be avoided, although rare, threatened, or endangered species should be indicated;

b. Describe and discuss significant impacts that will narrow the range or degree of beneficial uses of the environment or pose long-term risks to human health or the environment, such as storage, handling, or disposal of toxic or hazardous material;

c. Clearly indicate those mitigation measures (not described in the previous section as part of the proposal or alternatives), if any, that could be implemented or might be required, as well as those, if any, that agencies or applicants are committed to implement;

d. Indicate what the intended environmental benefits of mitigation measures are for significant impacts, and may discuss their technical feasibility and economic practicability, if there is concern about whether a mitigation measure is capable of being accomplished. The EIS need not analyze mitigation measures in detail unless they involve substantial changes to the proposal causing significant adverse impacts, or new information regarding significant impacts, and those measures will not be subsequently analyzed under SEPA (see Section 25.05.660 B). An EIS may briefly mention nonsignificant impacts or mitigation measures to satisfy other environmental review laws or requirements covered in the same document (Section 25.05.402 H and Section 25.05.640);

e. Summarize significant adverse impacts that cannot or will not be mitigated.

4. This section shall incorporate, when appropriate:

a. A summary of existing plans (for example: land use and shoreline plans) and zoning regulations applicable to the proposal, and how the proposal is consistent and inconsistent with them;

b. Energy requirements and conservation potential of various alternatives and mitigation measures, including more efficient use of energy, such as insulating, as well as the use of alternate and renewable energy resources;

c. Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures;

d. Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

5. Significant impacts on both the natural environment and the built environment must be analyzed, if relevant (Section 25.05.444). This involves impacts upon and the quality of the physical surroundings, whether they are in wild, rural, or urban areas. Discussion of significant impacts shall include the cost of and effects on public services, such as utilities, roads, fire, and police protection, that may result from a proposal. EIS's shall also discuss significant environmental impacts upon land and shoreline use, which includes housing, physical blight, and significant impacts of projected population on environmental resources, as specified by RCW 43.21C.110(1)(d) and (f), as listed in Section 25.05.444.

6. Analysis of the following social, cultural, and economic issues shall be included in every EIS unless eliminated by the scoping process (Section 25.05.408):

a. Economic factors, including but not limited to employment, public investment, and taxation where appropriate, provided that this section shall not authorize the City to require disclosure of financial information relating to the private applicant or the private applicant's proposal;

b. Regional, City, and neighborhood goals, objectives, and policies adopted or recognized by the appropriate local governmental authority prior to the time the proposal is initiated;

c. The level of detail used in discussing these additional elements should be proportionate to the impacts the proposal may have if approved.

F. Appendices. Comment letters and responses shall be circulated with the FEIS as specified by Section 25.05.560. Technical reports and supporting documents need not be circulated with an EIS (Sections 25.05.425 D and 25.05.440 A11), but shall be readily available to agencies and the public during the comment period.

G. Additional Analysis. The lead agency may at its option include, in an EIS or appendix, the analysis of any impact relevant to the agency's decision, whether or not environmental. The inclusion of such analysis may be based upon comments received during the scoping process. The provision for combining documents may be used (Section 25.05.640). The EIS shall comply with the format requirements of this subchapter. The decision whether to include such information and the adequacy of any such additional analysis shall not be used in determining whether an EIS meets the requirements of SEPA.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.442 Contents of EIS on nonproject proposals.

A. The lead agency shall have more flexibility in preparing EIS's on nonproject proposals, because there is normally less detailed information available on their environmental impacts and on any subsequent project proposals. The EIS may be combined with other planning documents.

B. The lead agency shall discuss impacts and alternatives in the level of detail appropriate to the scope of the nonproject proposal and to the level of planning for the proposal. Alternatives should be emphasized. In particular, agencies are encouraged to describe the proposal in terms of alternative means of accomplishing a stated objective (see Section 25.05.060 C). Alternatives including the proposed action should be analyzed at a roughly comparable level of detail, sufficient to evaluate their comparative merits (this does not require devoting the same number of pages in an EIS to each alternative).

C. If the nonproject proposal concerns a specific geographic area, site specific analyses are not required, but may be included for areas of specific concern. The EIS should identify subsequent actions that would be undertaken by other agencies as a result of the nonproject proposal, such as transportation and utility systems.

D. The EIS's discussion of alternatives for a comprehensive plan, community plan, or other areawide zoning or for shoreline or land use plans shall be limited to a general discussion of the impacts of alternate proposals for policies contained in such plans, for land use or shoreline designations, and for implementation measures. The lead agency is not required under SEPA to examine all conceivable policies, designations, or implementation measures but should cover a range of such topics. The EIS content may be limited to a discussion of alternatives which have been formally proposed or which are, while not formally proposed, reasonably related to the proposed plan.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.443 EIS contents when prior nonproject EIS.

A. The provisions for phased review (Section 25.05.060 E) and use of existing environmental documents, Subchapter VI, apply to EIS's on nonproject proposals.

B. A nonproject proposal may be approved based on an EIS assessing its broad impacts. When a project is then proposed that is consistent with the approved nonproject action, the EIS on such a project shall focus on the impacts and alternatives including mitigation measures specific to the subsequent project and not analyzed in the nonproject EIS. The scope shall be limited accordingly. Procedures for use of existing documents shall be used as appropriate, see Subchapter VI.

C. When preparing a project EIS under the preceding subsection, the lead agency shall review the nonproject EIS to ensure that the analysis is valid when applied to the current proposal, knowledge, and technology. If it is not valid, the analysis shall be reanalyzed in the project EIS.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.444 Elements of the environment.

A. Natural Environment.

1. Earth:
    a. Geology;
    b. Soils;
    c. Topography;
    d. Unique physical features;
    e. Erosion/enlargement of land area (accretion).
2. Air:
    a. Air quality;
    b. Odor;
    c. Climate.
3. Water:
    a. Surface water movement/quantity/ quality;
    b. Runoff/absorption;
    c. Floods;
    d. Groundwater movement/quantity/quality;
    e. Public water supplies.
4. Plants and animals:
    a. Habitat for and numbers or diversity of species of plants, fish, or other wildlife;
    b. Unique species;
    c. Fish or wildlife migration routes.
5. Energy and natural resources:
    a. Amount required/rate of use/efficiency;
    b. Source/availability;

c. Nonrenewable resources;

d. Conservation and renewable resources;

e. Scenic resources.

B. Built Environment.

1. Environmental health:

a. Noise;

b. Risk of explosion;

c. Releases or potential releases to the environment affecting public health, such as toxic or hazardous materials.

2. Land and shoreline use:

a. Relationship to existing land use plans and to estimated population;

b. Housing;

c. Light and glare;

d. Aesthetics;

e. Recreation;

f. Historic and cultural preservation;

g. Agricultural crops.

3. Transportation:

a. Transportation systems;

b. Vehicular traffic;

c. Waterborne, rail, and air traffic;

d. Parking;

e. Movement/circulation of people or goods;

f. Traffic hazards.

4. Public services and utilities:

a. Fire;

b. Police;

c. Schools;

d. Parks or other recreational facilities;

e. Maintenance;

f. Communications;

g. Water/storm water;

h. Sewer/solid waste;

i. Other governmental services or utilities.

C. Elements May Be Combined. To simplify the EIS format, reduce paperwork and duplication, improve readability, and focus on the significant issues, some or all of the elements of the environment in Section 25.05.444 may be combined.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.448 Relationship of EIS to other considerations.

A. SEPA contemplates that the general welfare, social, economic, and other requirements and essential considerations of state policy will be taken into account in weighing and balancing alternatives and in making final decisions. However, the environmental impact statement is not required to evaluate and document all of the possible effects and considerations of a decision or to contain the balancing judgments that must ultimately be made by the decisionmakers. Rather, an environmental impact statement analyzes environmental impacts and must be used by agency decisionmakers, along with other relevant considerations or documents, in making final decisions on a proposal. The EIS provides a basis upon which the responsible agency and officials can make the balancing judgment mandated by SEPA, because it provides information on the environmental costs and impacts. SEPA does not require that an EIS be an agency's only decisionmaking document.

B. The term "socioeconomic" is not used in the statute or in these rules because the term does not have a uniform meaning and has caused a great deal of uncertainty. Areas of urban environmental concern which must be considered are specified in RCW 43.21C.110(1)(f), the environmental checklist (Section 25.05.960) and Sections 25.05.440 and 25.05.444. (See Section 25.05.440 E6.)

C. Examples of information that are not required to be discussed in an EIS are: Methods of financing proposals, economic competition, profits and personal income and wages, and social policy analysis such as fiscal and welfare policies and nonconstruction aspects of education and communications. EIS's may include whether housing is low, middle, or high income.

D. Agencies have the option to combine EIS's with other documents or to include additional analyses in EIS's, that will assist in making decisions (Sections 25.05.440 G and 25.05.640). Agencies may use the scoping process to help identify issues of concern to citizens. (Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.450 Cost-benefit analysis.

A cost-benefit analysis (Section 25.05.726) is not required by SEPA. If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered by an agency for the proposal, it may be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. For purposes of complying with SEPA, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.455 Issuance of DEIS.

A. A draft EIS shall be issued by the responsible official and sent to the following:

1. The Department of Ecology (two (2) copies);

2. Each federal agency with jurisdiction over the proposal;

3. Each agency with jurisdiction over or environmental expertise on the proposal;

4. Each city/county in which adverse environmental impacts identified in the EIS may occur, if the proposal were implemented;

5. Each local agency or political subdivision whose public services would be changed as a result of implementation of the proposal;

6. The applicable local, area-wide, or regional agency, if any, that has been designated under federal law to conduct intergovernmental review and coordinate federal activities with state or local planning;

7. Any person requesting a copy of the EIS from the lead agency (fee may be charged for DEIS, see Section 25.05.504);

8. Any affected tribe;

9. The SEPA Public Information Center.

B. The lead agency is encouraged to send a notice of availability or a copy of the DEIS to any person, organization or governmental agency that has expressed an interest in the proposal, is known by the lead agency to have an interest in the type of proposal being considered, or receives governmental documents (for example, local and regional libraries). This is not meant to duplicate subsection A7 of this section.

C. The lead agency should make additional copies available at its offices to be reviewed or obtained.

D. The date of issue is the date the DEIS is publicly available and sent to the Department of Ecology, other agencies with jurisdiction and the SEPA Public Information Center.

E. Notice that a DEIS is available shall be given under Section 25.05.510.

F. Any person or agency shall have thirty (30) days from the date of issue in which to review and comment upon the DEIS.

G. Upon request, the lead agency may grant an extension of up to fifteen (15) days to the comment period. Agencies and the public must request any extension before the end of the comment period.

H. The rules for notice, costs, commenting, and response to comments on EIS's are stated in Subchapter V of these rules.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.460 Issuance of FEIS.

A. A final EIS (FEIS) shall be issued by the responsible official and sent to the Department of Ecology (two (2) copies), to all agencies with jurisdiction, to all agencies who commented on the DEIS, to the SEPA Public Information Center, and to anyone requesting a copy of the FEIS. (Fees may be charged for the FEIS, see Section 25.05.504.)

B. The responsible official shall send the FEIS, or a notice that the FEIS is available, to anyone who commented on the DEIS and to those who received but did not comment on the DEIS. If the agency receives petitions from a specific group or organization, a notice or EIS may be sent to the group or organization, a notice or EIS may be sent to the group and not to each petitioner. Failure to notify any individual under this subsection shall not affect the legal validity of an agency's SEPA compliance.

C. The lead agency should make additional copies available in its offices for review.

D. The date of issue is the date the FEIS, or notice of availability, is sent to the persons, agencies and SEPA Public Information Center specified in the preceding subsections and the FEIS is publicly available. Copies sent to the Department of Ecology shall satisfy the statutory requirement of availability to the Governor and to the Ecological Commission.

E. Agencies shall not act on a proposal for which an EIS has been required prior to seven (7) days after issuance of the EIS.

F. The lead agency shall issue the FEIS within sixty (60) days of the end of the comment period for the DEIS, unless the proposal is unusually large in scope, the environmental impact associated with the proposal is unusually complex, or extensive modifications are required to respond to public comments.

G. The form and content of the FEIS is specified in Section 25.05.560.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter V

Commenting

25.05.500 Purpose of this subchapter.

This subchapter provides rules for:

A. Notice and public availability of environmental documents, especially environmental impact statements;

B. Consultation and comment by agencies and members of the public on environmental documents;

C. Public hearings and meetings; and

D. Lead agency response to comments and preparation of final environmental impact statements. Review, comment, and responsiveness to comments on a draft EIS are the focal point of the act's commenting process because the DEIS is developed as a result of scoping and serves as the basis for the final statement.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.502 Inviting comment.

A. Involving Other Agencies and the Public. Agency efforts to involve other agencies and the public in the SEPA process should be commensurate with the type and scope of the environmental document.

B. Agency Response. Consulted agencies have a responsibility to respond in a timely and specific manner to requests for comments (Sections 25.05.545, 25.05.550 and 25.05.724).

C. Threshold Determinations.

1. Agencies shall send DNS's to other agencies with jurisdiction, if any, as required by Section 25.05.340 B and 25.05.355.

2. For DNS's issued under Section 25.05.340 B, agencies shall provide public notice under Section 25.05.510 and receive comments on the DNS for fourteen (14) days.

D. Scoping.

1. Agencies shall circulate the DS and invite comments on the scope of an EIS, as required by Sections 25.05.360, 25.05.408, and 25.05.510.

2. Agencies may use other reasonable methods to inform agencies and the public, such as those indicated in Section 25.05.410.

3. The lead agency determines the method for commenting (Sections 25.05.408 and 25.05.410).

E. DEIS.

1. Agencies shall invite comments on and circulate DEIS's as required by Section 25.05.455.

2. The commenting period shall be thirty (30) days unless extended by the lead agency under Section 25.05.455.

3. Agencies shall comment and respond as stated in this subchapter. This meets the Act's formal consultation and comment requirement in RCW 43.21C.030(2)(d).

F. Public Hearings and Meetings.

1. Public hearings or meetings may be held (Section 25.05.535). Notice of such public hearings shall be given under Section 25.05.510 and may be combined with other agency notice.

2. In conjunction with the requirements of Section 25.05.510, notice of public hearings shall be published no later than ten (10) days before the hearing. For nonproject proposals, notice of the public hearing shall be published in the City official newspaper. For nonproject proposals having a regional or state-wide applicability, copies of the notice shall be given to the Olympia Bureaus of the Associated Press and United Press International.

G. FEIS. Agencies shall circulate FEIS's as required by Section 25.05.460.

H. Supplements.

1. Notice for and circulation of draft and final SEIS's shall be done in the same manner as other draft and final EIS's.

2. When a DNS is issued after a DS has been withdrawn (Section 25.05.360 D), agencies shall give notice under Section 25.05.510 and receive comments for fourteen (14) days.

3. An addendum need not be circulated unless required under Section 25.05.625.

I. Appeals. Notice provisions for appeals are in Section 25.05.680.

J. Circulating Documents. Agencies may circulate any other environmental documents for the purpose of providing information or seeking comment, as an agency deems appropriate.

K. Additional Notification. In addition to any required notice of circulation, agencies may use any other reasonable methods, to inform agencies and the public that environmental documents are available or that hearings will occur.

L. Combining Notices. Agencies may combine SEPA notices with other agency notices. However, the SEPA information must be identifiable.
(Ord. 119096 § 29, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.504 Availability and cost of environmental documents.

A. SEPA documents required by these rules shall be retained by the lead agency and made available in accordance with Chapter 42.17 RCW.

B. The lead agency shall make copies of any environmental document available in accordance with Chapter 42.17 RCW, charging only those costs allowed plus mailing costs. However, no charge shall be levied for circulation of documents to other agencies as required by these rules.

Agencies shall waive the charge for one (1) copy of an environmental document (not including the SEPA Register) provided to a public interest organization.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.508 SEPA Register.

A. The Department of Ecology (DOE) shall prepare a SEPA Register at least weekly, giving notice of all environmental documents required to be sent to the DOE under these rules, specifically:

1. DNS's under Section 25.05.340 B;

2. DS's (scoping notices) under Section 25.05.408;

3. EIS's under Sections 25.05.455, 25.05.460, 25.05.620, and 25.05.630;

4. Notices of Action under RCW 43.21C.080 and 43.21C.087; and

5. Notices of the early review DNS process under Section 25.05.355 B and E.

B. All agencies shall submit the environmental documents listed in subsection A of this section to DOE promptly and in accordance with procedures established by the DOE.

C. Agencies are encouraged to refer to the SEPA Register for notice of SEPA documents which may affect them.

D. DOE is authorized by WAC 197-11-508:

1. To establish the method for distributing the SEPA Register, which may include listing on Internet, publishing and mailing to interested persons, or any other method deemed appropriate by DOE;

2. To establish a reasonable format for the SEPA Register;

3. To charge a reasonable fee for the SEPA Register as allowed by law, in at least the amount allowed by Chapter 42.17 RCW, from agencies, members of the public, and interested organizations.

E. Members of the public, citizen and community groups, and educational institutions are encouraged by WAC 197-11-508 to refer to the SEPA Register for notice of SEPA actions which may affect them.
(Ord. 119096 § 30, 1998: Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.510 Public notice.

A. Notice for Master Use Permits and Council Land Use Decisions. For proposals requiring a Master Use Permit (MUP) or Council Land Use Decision under Chapter 23.76, a notice of availability of environmental documents, administrative SEPA appeals and SEPA public hearings shall be given pursuant to Chapter 23.76. These notice procedures shall be in lieu of the requirements of subsections C and D of this section. The general mailed releases (GMRs) constitute the City SEPA Register for these actions, as required by subsection B3 of this section, but do not satisfy publiction in the SEPA Register as required by subsection E of this section.

B. SEPA Public Information Center.

1. The Department of Construction and Land Use shall be responsible for

establishing and maintaining the City's SEPA Public Information Center at a location readily accessible to the public, and for making the existence and location of the Center known to the general public and City employees, and for satisfying the public information requirements of WAC 197-11-510.

2. The following documents shall be maintained at the SEPA Public Information Center:

   a. Copies of all declarations of significance and declarations of nonsignificance filed by the City, for a period of one (1) year;

   b. Copies of all EIS's prepared by or on behalf of the City, for a period of three (3) years;

   c. Copies of all decisions in administrative appeals wherein SEPA issues were raised;

   d. Copies of all adoption notices and addenda issued under Subchapter VI of these rules;

   e. Copies of all general mailed releases (notice of master use permit applications) relating to master use permit applictions requiring SEPA compliance;

   f. For City of Seattle-sponsored projects, any programmatic EIS's adopted by the City.

3. In addition, the Department of Construction and Land Use shall maintain the following registers at the SEPA Public Information Center, each register including for each proposal its location, a brief (one (1) sentence or phrase) description of the nature of the proposal, the date first listed on the register, and the contact person or office from which further information may be obtained:

   a. A "Declaration of Nonsignificance Register" which shall contain a listing of all declarations of nonsignificance made by the City during the previous year;

   b. An "EIS in Preparation Register" which shall contain a listing of all proposals for which the City is currently preparing an EIS, and the date by which the EIS is expected to be available to the public;

   c. An "EIS Available Register" which shall contain a listing of all draft and final EIS's prepared by or on behalf of the City during the previous six (6) months, including thereon the date by which comments must be received on draft EIS's, and the date for any public hearing scheduled for the proposal.

4. Each of the registers shall be kept current and maintained at the SEPA Public Information Center for public inspection. In addition, the registers, or updates thereof containing new entries added since the last mailing, shall be mailed once every week to those organizations and individuals who make written request unless no new entries are made on the register, in which event a copy of the register or update shall be mailed when a new entry is added. The Department of Construction and Land Use may charge a periodic fee for the service of mailing the registers or updates, which shall be reasonably related to the costs of reproduction and mailing.

5. The documents required to be maintained at the SEPA Public Information Center shall be available for public inspection and copies thereof shall be provided upon written request. The City shall charge a fee for copies in the manner provided by ordinance, and for the cost of mailing.

6. Copies of all documents filed and registers maintained at the SEPA Public Information Center shall be maintained at the main branch of the Seattle Public Library.

C. Notice of Declarations of Nonsignificance. Notice of Declarations of Nonsignificance shall be provided as follows:

1. The SEPA Public Information Center shall maintain a "Declaration of Nonsignificance Register" which shall contain a listing of all DNS's. The register shall be maintained and used in accordance with the provisions of subsection D.

2. The information in the register or its update, along with notice of the right to appeal a DNS in accordance with Section 25.05.680 shall be published once every week in the City official newspaper. In addition, notice of a DNS and notice of the right to appeal a DNS in accordance with Section 25.05.680, shall be submitted in a timely manner to at least one (1) community newspaper with distribution in the area impacted by the proposal for which the DNS was adopted, and shall be posted in a conspicuous place in the Department of Construction and Land Use.

D. Notice of Scoping, Declarations of Significance (DS), Draft and Final Eis's.

1. Upon publication, notice of scoping, DS (excluding those for MUPs), and the draft and the final EIS shall be filed by the responsible official with the City's SEPA Public Information Center.

2. Notice of a draft EIS shall be published in the official newspaper. Notice of a final EIS and the procedures for appeal pursuant to Section 25.05.680 shall be similarly published. In addition, such notices shall be submitted in a timely manner to at least one (1) community newspaper with distribution in the area impacted by the

proposal for which the EIS was prepared. Notice shall be mailed to those organizations and individuals who make written request thereof, and shall be posted in a conspicuous place in the Department of Construction and Land Use.

E. Publication in the SEPA Register. Documents which are required to be sent to the Department of Ecology under these rules will be published in the SEPA Register, which will also constitute a form of public notice. However, publication in the SEPA Register shall not, in itself, be considered compliance with this section.
(Ord. 114057 § 1(part), 1988: Ord. 112522 § 20(part), 1985: Ord. 111866 § 1(part), 1984.)

25.05.535 Public hearings and meetings.

A. If a public hearing on the proposal is held under some other requirement of law, such hearing shall be open to consideration of the environmental impact of the proposal, together with any environmental document that is available. This does not require extension of the comment periods for environmental documents.

B. A public hearing shall be held on every draft EIS.

C. In all other cases a public hearing on the environmental impact of a proposal shall be held whenever the lead agency determines, in its sole discretion, that a public hearing would assist it in meeting its responsibility to implement the purposes and policies of SEPA and these rules.

D. Whenever a public hearing is held under subsection B of this section, it shall occur no earlier than twenty-one (21) days from the date the draft EIS is issued, nor later than fifty (50) days from its issuance. Notice shall be given under Section 25.05.502 F and as provided for a draft EIS in Section 25.05.510 D2 and may be combined with other agency notice.

E. If a public hearing is required under this chapter, it shall be open to discussion of all environmental documents and any written comments that have been received by the lead agency prior to the hearing. A copy of the environmental document shall be available at the public hearing.

F. Comments at public hearings should be as specific as possible (see Section 25.05.550).

G. Agencies and their designees may hold informal public meetings or workshops. Such gatherings may be more flexible than public hearings and are not subject to the above notice and similar requirements for public hearings.

H. Public meetings held by local governments under Chapter 36.70B RCW may be used to meet SEPA public hearing requirements as long as the requirements for public hearings in this section are met. A public hearing under this section need not be an open record hearing as defined in RCW 36.70B.020(3).
(Ord. 119096 § 31, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.545 Effect of no comment.

A. Consulted Agencies. If a consulted agency does not respond with written comments within the time periods for commenting on environmental documents, the lead agency may assume that the consulted agency has no information relating to the potential impact of the proposal as it relates to the consulted agency's jurisdiction or special expertise. Any consulted agency that fails to submit substantive information to the lead agency in response to a draft EIS is thereafter barred from alleging any defects in the lead agency's compliance with Subchapter IV of these rules.

B. Other Agencies and the Public. Lack of comment by other agencies or members of the public on environmental documents, within the time periods specified by these rules, shall be construed as lack of objection to the environmental analysis, if the requirements of Section 25.05.510 (public notice) are met. Other agencies and the public shall comment in the manner specified in Section 25.05.550. Each commenting citizen need not raise all possible issues independently. Appeals to the Hearing Examiner are considered de novo; the only limitation is that the issues on appeal shall be limited to those cited in the notice of appeal. (See Section 25.05.680 B3.)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.550 Specificity of comments.

A. Contents of Comments. Comments on an EIS, DNS, scoping notice or proposal shall be as specific as possible and may address either the adequacy of the environmental document or the merits of the alternatives discussed or both.

B. Documents Referenced. Commenters shall briefly describe the nature of any documents referenced in their comments, indicating the material's relevance, and should indicate where the material can be reviewed or obtained.

C. Methodology. When an agency criticizes a lead agency's predictive methodology, the commenting agency should describe, when possible, the alternative methodology which it prefers and why.

D. Additional Information. A consulted agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs, to the extent permitted by the details available on the proposal.

E. Mitigation Measures. When an agency with jurisdiction objects to or expresses concerns about a proposal, it shall specify the mitigation measures, if any are possible, it considers necessary to allow an agency to grant or approve applicable licenses.

F. Comments by Other Agencies. Commenting agencies that are not consulted agencies shall specify any additional information or mitigation measures the commenting agency

believes are necessary or desirable to satisfy its concerns.

G. Citizen Comments. Recognizing their generally more limited resources, members of the public shall make their comments as specific as possible and are encouraged to comment on methodology needed, additional information, and mitigation measures in the manner indicated in this section.

H. Responding to Comments. An agency shall consider and may respond to comments as the agency deems appropriate; the requirements for responding in a FEIS shall be met (Section 25.05.560).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.560 FEIS response to comments.

A. The lead agency shall prepare a final environmental impact statement whenever a DEIS has been prepared, unless the proposal is withdrawn or indefinitely postponed. The lead agency shall consider comments on the proposal and shall respond by one (1) or more of the means listed below, including its response in the final statement. Possible responses are to:

1. Modify alternatives including the proposed action;

2. Develop and evaluate alternatives not previously given detailed consideration by the agency;

3. Supplement, improve, or modify the analysis;

4. Make factual corrections;

5. Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons that support the agency's response and, if appropriate, indicate those circumstances that would trigger agency reappraisal or further response.

B. All substantive comments received on the draft statement shall be appended to the final statement or summarized, where comments are repetitive or voluminous, and the summary appended. If a summary of the comments is used, the names of the commenters shall be included (except for petitions).

C. In carrying out subsection A, the lead agency may respond to each comment individually, respond to a group of comments, cross-reference comments and corresponding changes in the EIS, or use other reasonable means to indicate an appropriate response to comments. When extensive corrections or revisions to the DEIS are made, the affected sections of the FEIS shall be rewritten in full, with corrections and revisions indicated by underlining, italics or other method.

D. If the lead agency does not receive any comments critical of the scope or content

of the DEIS, the lead agency may so state in an updated fact sheet (Section 25.05.440 A), which shall be circulated under Section 25.05.460. The FEIS shall consist of the DEIS and updated fact sheet.

E. If changes in response to comments are minor and are largely confined to the responses described in subsections A4 and A5 of this section, agencies may prepare and attach an addendum, which shall consist of the comments, the responses, the changes, and an updated fact sheet.

The FEIS, consisting of the DEIS and the addendum, shall be issued under Section 25.05.460, except that only the addendum need be sent to anyone who received the DEIS.

F. An FEIS shall be issued and circulated under Section 25.05.460. (Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.570 Consulted agency costs to assist lead agency.

A consulted agency shall not charge the lead agency for any costs incurred in complying with Section 25.05.550, including providing relevant data to the lead agency and copying documents for the lead agency. This section shall not prohibit a consulted agency from charging those costs allowed by Chapter 42.17 RCW and SMC Section 3.104.010 for copying any environmental document requested by an agency other than the lead agency or by an individual or private organization. This section does not prohibit agencies from making interagency agreements on cost or personnel sharing to provide environmental information to each other. (Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter VI

Using Existing Environmental Documents

25.05.600 When to use existing environmental documents.

A. This section contains criteria for determining whether an environmental document must be used unchanged and describes when existing documents may be used to meet all or part of an agency's responsibilities under SEPA.

B. An agency may use environmental documents that have previously been prepared in order to evaluate proposed actions, alternatives, or environmental impacts, provided that the information in the existing document(s) is accurate and reasonably up-to-date. The proposals may be the same as, or different than, those analyzed in the existing documents.

C. Any agency acting on the same proposal shall use an environmental document unchanged, except in the following cases:

1. For DNS's, an agency with jurisdiction is dissatisfied with the DNS, in which case it may assume lead agency status (Section 25.05.340 B, C and Section 25.05.948).

2. For DNS's and EIS's, preparation of a new threshold determination or supplemental EIS is required if there are:

a. Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts (or lack of significant adverse impacts, if a DS is being withdrawn); or

b. New information indicating a proposal's probable significant adverse environmental impacts. (This includes discovery of misrepresentation or lack of material disclosure.) A new threshold determination or SEIS is not required if probable significant adverse environmental impacts are covered by the range of alternatives and impacts analyzed in the existing environmental documents.

3. For EIS's, the agency concludes that its written comments on the DEIS warrant additional discussion for purposes of its action than that found in the lead agency's FEIS (in which case the agency may prepare a supplemental EIS at its own expense).

D. Existing documents may be used for a proposal by employing one (1) or more of the following methods:

1. "Adoption," where an agency may use all or part of an existing environmental document to meet its responsibilities under SEPA. Agencies acting on the same proposal for which an environmental document was prepared are not required to adopt the document; or

2. "Incorporation by reference," where an agency preparing an environmental document includes all or part of an existing document by reference;

3. An addendum, that adds analyses or information about a proposal but does not substantially change the analysis of significant impacts and alternatives in the existing environmental document; or

4. Preparation of a SEIS if there are:

a. Substantial changes so that the proposal is likely to have significant adverse environmental impacts, or

b. New information indicating a proposal's probable significant adverse environmental impacts.

5. If a proposal is substantially similar to one covered in an existing EIS, that EIS may be adopted; additional information may be provided in an addendum or SEIS (see D3 and 4 of this subsection).

(Ord. 119096 § 32, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.610 Use of NEPA documents.

A. An agency may adopt any environmental analysis prepared under the National Environmental Policy Act (NEPA) by following Section 25.05.600 (when to use existing environmental documents) and Section 25.05.630 (adoption procedures).

B. A NEPA environmental assessment may be adopted to satisfy requirements for a determination of nonsignificance or EIS, if the requirements of Sections 25.05.600 and 25.05.630 are met.

C. An agency may adopt a NEPA EIS as a substitute for preparing a SEPA EIS if:

1. The requirements of Sections 25.05.600 and 25.05.630 are met (in which case the procedures in Subchapters III through V of these rules for preparing an EIS shall not apply); and

2. The federal EIS is not found inadequate: (a) By a court; (b) by the Council on Environmental Quality (CEQ) (or is at issue in a predecision referral to CEQ) under the NEPA regulations; or (c) by the administrator of the United States Environmental Protection Agency under Section 309 of the Clean Air Act, 42 U.S.C. 1857.

D. Subsequent use by another agency of a federal EIS, adopted under subsection C of this section, for the same (or substantially the same) proposal does not require adoption, unless the criteria in Section 25.05.600 D are met.

E. If the lead agency has not held a public hearing within its jurisdiction to obtain comments on the adequacy of adopting a federal environmental document as a substitute for preparing a SEPA EIS, a public hearing for such comments shall be held if, within thirty (30) days of circulating its statement of adoption, a written request is received from at least fifty (50) persons who reside within the agency's jurisdiction or are adversely affected by the environmental impact of the proposal. The agency shall reconsider its adoption of the federal document in light of public hearing comments.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.620 Supplemental environmental impact statement--Procedures.

A. An SEIS shall be prepared in the same way as a draft and final EIS (Sections 25.05.400 to 25.05.600), except that scoping is optional. The SEIS should not include analysis of actions, alternatives, or impacts that is in the previously prepared EIS.

B. The fact sheet and cover letter or memo for the SEIS shall indicate the EIS that is being supplemented.

C. Unless the SEPA lead agency wants to prepare the SEIS, an agency with jurisdiction which needs the SEIS for its action shall be responsible for SEIS preparation.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.625 Addenda--Procedures.

A. An addendum shall clearly identify the proposal for which it is written and the environmental document it adds to or modifies.

B. An agency is not required to prepare a draft addendum.

C. An addendum for a (EIS shall be circulated to recipients of the initial DEIS under Section 25.05.455.

D. If an addendum to a final EIS is prepared prior to any agency decision on a proposal, the addendum shall be circulated to the recipients of the final EIS.

E. Agencies shall circulate notice of addendum availability to interested persons. Unless otherwise provided in these rules, however, agencies are not required to circulate an addendum.

F. Any person, affected tribe, or agency may submit comments to the lead agency within fifteen (15) days of the date of issuance of an addendum.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.630 Adoption--Procedures.

A. The agency adopting an existing environmental document must independently review the content of the document and determine that it meets the adopting agency's environmental review standards and needs for the proposal. However, a document is not required to meet the adopting agency's own procedures for the preparation of environmental documents (such as circulation, commenting, and hearing requirements) to be adopted.

B. An agency shall adopt an environmental document by identifying the document and stating why it is being adopted, using the adoption form substantially as in Section 25.05.965. The adopting agency shall ensure that the adopted document is readily available to agencies and the public by:

1. Sending a copy to agencies with jurisdiction that have not received the document, as shown by the distribution list for the adopted document; and

2. Placing copies in libraries and other public offices, or by distributing copies to those who request one; and

3. Placing a copy in the SEPA Public Information Center.

C. When an existing EIS is adopted and:

1. A supplemental environmental impact statement or addendum is not being prepared, the agency shall circulate its statement of adoption as follows:

a. The agency shall send copies of the adoption notice to the Department of Ecology, to agencies with jurisdiction, to cities/counties in which the proposal will be implemented, to the SEPA Public Information Center, and to local agencies or political subdivisions whose public services would be changed as a result of implementation of the proposal.

b. The agency is required to send the adoption notice to persons or organizations that have expressed an interest in the proposal or are known by the agency to have an interest in the type of proposal being considered, or the lead agency should announce the adoption in agency newsletters or through other means.

c. No action shall be taken on the proposal until seven (7) days after the statement of adoption has been issued. The date of issuance shall be the date the statement of adoption has been sent to the Department of Ecology, the SEPA Public Information Center, and other agencies and is publicly available.

2. A SEIS is being prepared, the agency shall include the statement of adoption in the SEIS; or

3. An addendum is being prepared, the agency shall include the statement of adoption with the addendum and circulate both as in subsection C1 of this section.

D. A copy of the adopted document must accompany the current proposal to the decisionmaker; the statement of adoption may be included.

E. When a previous document (DNS or EIS) is adopted pursuant to this section and applied to a new project for which a decision has not been issued, the document can be appealed as an element of SEPA compliance for the new project (see Section 25.05.680 for appeal procedures and Section 25.05.510 for notice requirements).

F. Departments shall not adopt a portion of a document if the adequacy of that portion has been appealed to the City Hearing Examiner and is either pending the Hearing Examiner's decision or has been found by the Hearing Examiner to be inadequate. This does not preclude adoption of portions of the document which have not been challenged.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.635 Incorporation by reference--Procedures.

A. Agencies should use existing studies and incorporate material by reference

whenever appropriate.

B. Material incorporated by reference (1) shall be cited, its location identified, and its relevant content briefly described; and (2) shall be made available for public review during applicable comment periods.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.640 Combining documents.

The SEPA process shall be combined with the existing planning, review, and project approval processes being used by each agency with jurisdiction. When environmental documents are required, they shall accompany a proposal through the existing agency review processes. Any environmental document in compliance with SEPA may be combined with any other agency documents to reduce duplication and paperwork and improve decisionmaking. The page limits in these rules shall be met, or the combined document shall contain, at or near the beginning of the document, a separate summary of environmental considerations, as specified by Section 25.05.440 C. SEPA page limits need not be met for joint state-federal EIS's prepared under both SEPA and NEPA, in which case the NEPA page restrictions (40 CFR 1502.7) shall apply.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter VII

SEPA and Agency Decisions

25.05.650 Purpose of this subchapter.

The purpose of this subchapter is to:

A. Ensure the use of concise, high quality environmental documents and information in making decisions;

B. Integrate the SEPA process with other laws and decisions;

C. Encourage actions that preserve and enhance environmental quality, consistent with other essential considerations of state policy;

D. Provide basic, uniform principles for the exercise of substantive authority and appeals under SEPA.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.655 Implementation.

A. See RCW 43.21C.020, 43.21C.030(1), 43.21C.060, 43.21C.075, and 43.21C.080.

B. Relevant environmental documents, comments, and responses shall accompany proposals through existing agency review processes, as determined by agency practice and

procedure, so that agency officials use them in making decisions.

C. When a decisionmaker considers a final decision on a proposal:

1. The alternatives in the relevant environmental documents shall be considered.

2. The range of alternative courses of action considered by decisionmakers shall be within the range of alternatives discussed in the relevant environmental documents. However, mitigation measures adopted need not be identical to those discussed in the environmental document.

3. If information about alternatives is contained in another decision document which accompanies the relevant environmental documents to the decisionmaker, agencies are encouraged to make that information available to the public before the decision is made.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.660 Substantive authority and mitigation.

A. Any governmental action on public or private proposals that are not exempt may be conditioned or denied under SEPA to mitigate the environmental impact subject to the following limitations:

1. Mitigation measures or denials shall be based on policies, plans, rules, or regulations formally designated in Sections 25.05.665, 25.05.670 and 25.05.675 as a basis for the exercise of substantive authority and in effect when the DNS or DEIS is issued. (Compare Section 25.05.350 C).

2. Mitigation measures shall be related to specific, adverse environmental impacts clearly identified in an environmental document on the proposal and shall be stated in writing by the decisionmaker. The decisionmaker shall cite the City's SEPA policy that is the basis of any condition or denial under this chapter (for proposals of applicants). After its decision, each agency shall make available to the public a document that states the decision. The document shall state the mitigation measures, if any, that will be implemented as part of the decision, including any monitoring of environmental impacts. Such a document may be the license itself, or may be combined with other agency documents, or may reference relevant portions of environmental documents.

3. Mitigation measures shall be reasonable and capable of being accomplished.

4. Responsibility for implementing mitigation measures may be imposed upon an applicant only to the extent attributable to the identified adverse impacts of its proposal. Voluntary additional mitigation may occur.

5. Before requiring mitigation measures, agencies shall consider whether local, state,

or federal requirements and enforcement would mitigate an identified significant impact.

6. To deny a proposal under SEPA, an agency must find that:

a. The proposal would be likely to result in significant adverse environmental impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and

b. Reasonable mitigation measures are insufficient to mitigate the identified impact.

7. If, during project review, the City as lead agency determines that the requirements for environmental analysis, protection, and mitigation measures in the City's development regulations, or in other applicable local, state or federal laws or rules, provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action under RCW 43.21C.240, the City as lead agency shall not impose additional mitigation under this chapter.

B. Decisionmakers should judge whether possible mitigation measures are likely to protect or enhance environmental quality. EISs should briefly indicate the intended environmental benefits of mitigation measures for significant impacts (Section 25.05.440 E). EISs are not required to analyze in detail the environmental impacts of mitigation measures, unless the mitigation measures:

1. Represent substantial changes in the proposal so that the proposal is likely to have significant adverse environmental impacts, or involve significant new information indicating, or on, a proposal's probable significant adverse environmental impacts; and

2. Will not be analyzed in a subsequent environmental document prior to their implementation.

C. The City Clerk shall prepare a document that contains the City's SEPA policies (Sections 25.05.665, 25.05.670 and 25.05.675) so that applicants and members of the public know what these policies are. This document (and any documents referenced in it) shall be readily available to the public and shall be available to applicants prior to preparing a draft EIS.

D. Required mitigation measures or denials under this section shall be an additional ground for or issue in appeals of decisions otherwise provided by City ordinance; provided that for proposals involving more than one (1) action, such issue may be raised only with regard to the first decision which weighed the environmental impacts of the proposal or, the first decision of each phase if phased review is employed.
(Ord. 119096 § 33, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.665 SEPA policies--Overview.

A. Purpose of the SEPA Policies.

1. It is the City's policy to protect the environment and provide for reasonable property development while enhancing the predictability of land use regulation. In order to provide predictability, it is the City's intent to incorporate environmental concerns into its codes and development regulations to the maximum extent possible. However, comprehensive land use controls and other regulations cannot always anticipate or effectively mitigate all adverse environmental impacts.

2. The policies set forth in this part of the SEPA Rules shall serve as the basis for exercising substantive SEPA authority pursuant to SMC Section 25.05.660. Based on these policies, a decisionmaker may condition a proposal to reduce or eliminate its environmental impacts. The decisionmaker may deny a proposed project if an environmental impact statement has been prepared and if reasonable mitigating measures are insufficient to mitigate significant, adverse impacts identified in the environmental impact statement. Conditioning or denial of project proposals will occur pursuant to RCW 43.21C.060, WAC 197-11-660 and SMC Section 25.05.660.

B. Relationship to Other City Policies. Nothing in these SEPA policies shall diminish the independent effect and authority of other environmentally related policies adopted by the City. Such City policies shall be considered together with these SEPA policies to guide discretionary land use decisions such as conditional uses and legislative actions such as rezones, adoption of area plans and siting of City facilities. Such adopted City policies may serve as the basis for exercising substantive SEPA authority with respect to a project only to the extent that they are explicitly referenced herein.

C. Relationship to Neighborhood and Business District Plans. Neighborhood and business district plans which have been adopted by the City Council may serve as the basis for exercising substantive SEPA authority, subject to the following:

1. New Plans. A plan approved subsequent to the passage of this chapter1 may serve as the basis of exercising substantive SEPA authority only to the extent that the provisions of the plan explicitly identify any of its elements intended to have application for SEPA purposes.

2. Existing Plans. A plan existing prior to the date of passage of this chapter2 may be used as a basis for the exercise of substantive SEPA authority only to the extent that:

a. The plan identifies unusual circumstances such as substantially different site size or shape, topography, or inadequate infrastructure which would result in adverse environmental impacts which substantially exceed those anticipated by the code or zoning, or

b. The plan establishes a different balance of environmental and other goals than is characteristic of the land use code as a whole;

Provided that the authority and conditions based upon an existing plan do not exceed the limitations contained in the cumulative effects policy and the specific environmental policies contained in Sections 25.05.670 and 25.05.675 of this chapter, respectively; and

3. All Plans. SEPA conditions based upon a neighborhood or business district plan shall be consistent with any rezone action taken by the City Council subsequent to the adoption of the plan.

D. Relationship to City Codes. Many environmental concerns have been incorporated in the City's codes and development regulations. Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation subject to the limitations set forth in subparagraphs D1 through D7 below. Unless otherwise specified in the Policies for Specific Elements of the Environment (SMC Section 25.05.675), denial or mitigation of a project based on adverse environmental impacts shall be permitted only under the following circumstances:

1. No City code or regulation has been adopted for the purpose of mitigating the environmental impact in question; or

2. The applicable City code or regulation has been judicially invalidated; or

3. The project site presents unusual circumstances such as substantially different site size or shape, topography, or inadequate infrastructure which would result in adverse environmental impacts which substantially exceed those anticipated by the applicable City code or zoning; or

4. The development proposal presents unusual features, such as unforeseen design, new technology, or a use not identified in the applicable City code, which would result in adverse environmental impacts which substantially exceed those anticipated by the applicable City code or zoning; or

5. The project is located near the edge of a zone, and results in substantial problems of transition in scale or use which were not specifically addressed by the applicable City code or zoning; or

6. The project is vested to a regulation which no longer reflects the City's policy with respect to the relevant environmental impact because of the adoption of more recent policies, provided that the new policies are in effect prior to the issuance of a DNS or DEIS for the project; or

7. The project creates undue impacts based on cumulative effects as provided for in SMC Section 25.05.670.

E. Relationship to Federal, State and Regional Regulations. Many of the environmental impacts addressed by these SEPA policies are also the subject of federal, state and regional regulations. In deciding whether these regulations provide sufficient impact mitigation, the City shall consult orally or in writing with the responsible federal, state or other agency with jurisdiction and environmental expertise and may expressly defer to that agency. The City shall base or condition its project decision on compliance with these other existing rules or laws. The City shall not so defer if such regulations did not anticipate or are otherwise inadequate to address a particular impact of a project.

(Ord. 118012 § 62, 1996; Ord. 114057 § 1(part), 1988.)

1. Editor's Note: Ordinance 114057 was passed by the City Council on July 11, 1988.

2. Editor's Note: The following neighborhood plans as constituted prior to the date of passage of this chapter shall be considered existing plans: Adams, Atlantic, Fremont, Leschi, Mount Baker, Harrison, Highland Park, Lawton Park, Madrona, Mann/Minor, North Beacon, North Delridge, North Greenwood, South Delridge, South Park, Stevens, Riverview, West Woodlawn, Eastlake, Capitol Hill, Queen Anne.

25.05.670 Cumulative effects policy.

A. Policy Background.

1. A project or action which by itself does not create undue impacts on the environment may create undue impacts when combined with the cumulative effects of prior or simultaneous developments; further, it may directly induce other developments, due to a causal relationship, which will adversely affect the environment.

2. An individual project may have an adverse impact on the environment or public facilities and services which, though acceptable in isolation, could not be sustained given the probable development of subsequent projects with similar impacts.

B. Policies.

1. The analysis of cumulative effects shall include a reasonable assessment of:

a. The present and planned capacity of such public facilities as sewers, storm drains, solid waste disposal, parks, schools, streets, utilities, and parking areas to serve the area affected by the proposal;

b. The present and planned public services such as transit, health, police and fire protection and social services to serve the area affected by the proposal;

c. The capacity of natural systems-such as air, water, light, and land-to absorb the direct and reasonably anticipated indirect impacts of the proposal; and

d. The demand upon facilities, services and natural systems of present,

simultaneous and known future development in the area of the project or action.

2. Subject to the policies for specific elements of the environment (SMC 25.05.675), an action or project may be conditioned or denied to lessen or eliminate its cumulative effects on the environment:

a. When considered together with prior, simultaneous or induced future development; or

b. When, taking into account known future development under established zoning, it is determined that a project will use more than its share of present and planned facilities, services and natural systems.

C. Unless otherwise specified in the Policies for Specific Elements of the Environment (SMC 25.05.675), if the scope of substantive SEPA authority is limited with respect to a particular element of the environment, the authority to mitigate that impact in the context of cumulative effects is similarly limited.
(Ord. 114057 § 1(part), 1988.)

25.05.675 Specific environmental policies.

A. Air Quality.

1. Policy Background.

a. Air pollution can be damaging to human health, plants and animals, visibility, aesthetics, and the overall quality of life.

b. Seattle's air quality is adversely affected primarily by vehicular emissions which create "hot spots" and nonattainment areas (such as downtown Seattle, Northgate, and the University District) that are identifiable through quarterly monitoring.

c. Seattle's air quality is also affected by particulates from industries, power plants, and wood stoves, the burning of toxics or wastes, and other emissions, including odor impacts.

d. Federal auto emission controls, the state inspection/maintenance program, and public transportation improvements are the primary means of mitigating air quality impacts from motor vehicles.

e. The Puget Sound Air Pollution Control Agency is responsible for monitoring air quality in the Seattle area, setting standards and regulating development to achieve regional air quality goals.

f. Federal, state and regional regulations and programs cannot always anticipate or adequately mitigate adverse air quality impacts.

2. Policies.

a. It is the City's policy to minimize or prevent adverse air quality impacts.

b. For any project proposal which has a substantial adverse effect on air quality, the decisionmaker shall, in consultation with appropriate agencies with expertise, assess the probable effect of the impact and the need for mitigating measures. "Nonattainment areas" identified by the Puget Sound Air Pollution Control Agency shall be given special consideration.

c. Subject to the Overview Policy set forth in SMC 25.05.665, if the decisionmaker makes a written finding that the applicable federal, state and/or regional regulations did not anticipate or are inadequate to address the particular impact(s) of the project, the decisionmaker may condition or deny the proposal to mitigate its adverse impacts.

d. Mitigating measures may include but are not limited to:

i. The use of alternative technologies, including toxic air control technologies;

ii. Controlling dust sources with paving, landscaping, or other means;

iii. Berming, buffering and screening;

iv. Landscaping and/or retention of existing vegetation; and

v. A reduction in size or scope of the project or operation.

B. Construction Impacts.

1. Policy Background.

a. For many projects, the construction process itself creates temporary adverse impacts on the site and the surrounding area.

b. Seattle's Street Use Ordinance,[1] Building Code[2] and Environmentally Critical Areas Ordinance[2A] are intended to address many of the impacts caused by the construction process. The codes may not, however, adequately address all construction impacts such as those relating to pedestrian flow and safety due to sidewalk and street closures, excessive mud and dust, noise, drainage, increased truck traffic, erosion, water quality degradation, and habitat disruption.

2. Policies.

a. It is the City's policy to minimize or prevent temporary adverse impacts associated with construction activities.

b. The decisionmaker may require, as part of the environmental review of a project, an assessment of noise, drainage, erosion, water quality degradation, habitat disruption, pedestrian circulation and transportation, and mud and dust impacts likely to result from the construction phase.

c. Based on such assessments, the decisionmaker may, subject to the Overview Policy set forth in SMC Section 25.05.665, condition or deny a project to mitigate adverse impacts of the construction process.

d. Noise. Mitigating measures to address adverse noise impacts during construction include, but are not limited to:

i. Limiting the hours of construction;

ii. Specifying the time and duration of loud noise;

iii. Specifying a preferred type of construction equipment; and

iv. Requiring sound buffering and barriers.

e. Drainage. Mitigating measures to address adverse drainage impacts during construction may include, but are not limited to:

i. Sedimentation traps and filters;

ii. Sedimentation tanks or ponds;

iii. Oil separators;

iv. Retention facilities;

v. Maintenance programs;

vi Performance bonds; and

vii. Nondisturbance areas.

f. Pedestrian Circulation. Mitigating measures to address adverse impacts relating to pedestrian circulation during construction may include, but are not limited to:

i. Covered sidewalks or alternate safe, convenient and adequate pedestrian routes; and

ii. Limits on the duration of disruptions to pedestrian flow.

g. Transportation. Mitigating measures to address transportation impacts during construction may include, but are not limited to:

i. A construction phase transportation plan which addresses ingress and egress of construction equipment and construction worker vehicles at the project site;

ii. Traffic control and street maintenance in the vicinity of the construction site;

iii. Rerouting of public vehicular and pedestrian circulation in the vicinity of the construction site;

iv. Providing a temporary High Occupancy Vehicle (HOV) incentive program for construction workers at the site to reduce the number of their vehicles taking parking places in the vicinity of the construction site; and

v. HOV discounts for members of the public who were displaced from a traditional parking area by the construction activity.

C. Drainage.

1. Policy Background.

a. Property development and redevelopment often create increased volumes and rates of stormwater runoff, which may cause property damage, safety hazards, nuisance problems and water quality degradation.

b. Pollution, mechanical damage, excessive flows, and other conditions in drainage basins will increase the rate of down-cutting and/or the degree of turbidity, siltation, habitat destruction, and other forms of pollution in wetlands, riparian corridors and lakes. They may also reduce low flows or low water levels to a level which endangers aquatic or benthic life within these wetlands, riparian corridors and lakes.

c. The aesthetic quality and educational value of the water and watercourses, as well as the suitability of waters for contact recreation and wildlife habitat, may be destroyed.

d. Authority provided through the Grading and Drainage Control Ordinance[3] and the Environmentally Critical Areas Ordinance[2A] is intended to achieve mitigation of drainage impacts in most cases, although these ordinances may not anticipate or eliminate all impacts.

2. Policies.

a. It is the City's policy to protect wetlands, riparian corridors, lakes, drainage basins, wildlife habitat, slopes, and other property from adverse drainage impacts.

b. The decisionmaker may condition or deny projects to mitigate their adverse drainage impacts consistent with the Overview Policy set forth in SMC Section 25.05.665; provided, that in addition to projects which meet one (1) or more of the threshold criteria set forth in the Overview Policy, the following may be conditioned or denied:

i. Projects located in environmentally critical areas and areas tributary to them;

ii. Projects located in areas where downstream drainage facilities are known to be inadequate; and

iii. Projects draining into streams identified by the State Department of Fisheries or Wildlife as bearing anadromous fish.

c. To mitigate adverse drainage impacts associated with the projects identified in the policy set forth in subsection C2 above, projects may be required to provide drainage control measures designed to a higher standard than the design storm specified in the Grading and Drainage Control Ordinance[3] and the Environmentally Critical Areas Ordinance[2A]. Mitigating measures may include, but are not limited to:

i. Reducing the size or scope of the project;

ii. Requiring landscaping and/or retention of existing vegetation;

iii. Requiring additional drainage control or drainage improvements either on or off site; and

iv. Soil stabilization measures.

D. Earth.

1. Policy Background.

a. Property development and redevelopment sometimes contribute to landslides, accelerated soil creep, settlement and subsidence, and abnormal erosion. They may also be subject to seismic hazards such as strong ground motion and liquefaction.

b. The Grading and Drainage Control Ordinance[3] was specifically developed to prevent or minimize impacts resulting from earth fills and excavations and the Environmentally Critical Areas Ordinance[2A] was developed to minimize impacts resulting from activity in environmentally critical areas; however, these ordinances may not anticipate or adequately mitigate such impacts in all cases.

c. Drainage impacts, which are closely related to earth movement hazards, are addressed separately in subsection C of these policies.

2. Policies.

a. It is the City's policy to protect life and property from loss or damage by landslides, strong ground motion and soil liquefaction, accelerated soil creep, settlement and subsidence, abnormal erosion, and other hazards related to earth movement and instability.

b. The decisionmaker may condition or deny projects to mitigate impacts related to earth movement or earth instability consistent with the Overview Policy set forth in SMC Section 25.05.665; provided, that in addition to projects which meet one (1) or more of the threshold criteria set forth in the Overview Policy, projects located in environmentally sensitive areas and areas tributary to them may be conditioned or denied.

c. Mitigating measures may include, but are not limited to:

i. Reducing the size or scope of the operation or project;

ii. Limiting the duration of the project or the hours of operation;

iii. Requiring landscaping, the retention of existing vegetation or revegetation of the site;

iv. Requiring additional drainage-control measures or drainage facilities;

v. Requiring water quality and erosion controls on or off site to control earth movement; and

vi. Requiring additional stabilization measures.

E. Energy.

1. Policy Background.

a. The City's Energy Code[4] is intended to regulate the design of buildings for adequate thermal resistance and low air leakage. It requires the design and selection of mechanical, electrical, water, heating and illumination systems which will enable the efficient use of energy. Application of the Energy Code results in projects which achieve substantial energy savings.

b. Industrial processes and manufacturing activities may have significant adverse energy impacts that are not addressed by the Seattle Energy Code.[4]

c. Energy conservation measures may conflict, in some cases, with the goal of preserving structures of historical significance.

2. Policies.

a. It is the City's policy to promote energy conservation and the most efficient possible use and production of energy.

b. All major projects shall be required to analyze and disclose their energy impacts by fuel type and end-use.

c. For projects with significant adverse energy impacts which involve activities not covered by the Energy Code,[4] such as heavy industrial activities, or which meet one (1) or more of the conditions set forth in the Overview Policy, SMC Section 25.05.665 D, the decisionmaker may require that the environmental review include a reasonable assessment of alternatives and mitigating measures.

d. Subject to the Overview Policy set forth in SMC Section 25.05.665, the decision- maker may condition or deny projects with significant adverse impacts relating to the use of the electrical energy in order to mitigate their adverse impacts to the City's electric utility system. Mitigating measures may include, but are not limited to conservation measures such as the use of alternative technologies.

e. In applying these policies to the rehabilitation of structures with historical significance, the decisionmaker shall be flexible in the application of energy conservation measures which may be in conflict with historical preservation goals and shall attempt to achieve a balance in meeting these competing objectives.

F. Environmental Health.

1. Policy Background.

a. The use, discharge, disposal, emission or application of toxic or hazardous materials may pose hazards to human health and to plants, animals and ecological systems. Hazardous materials include such things as pesticides, herbicides, and electromagnetic transmissions.

b. Federal, state and regional regulations are the primary means of mitigating risks associated with hazardous and toxic materials. However, such regulations cannot always be developed and implemented to anticipate or eliminate adverse impacts from hazardous materials and transmissions. Public knowledge regarding such hazardous materials and transmissions may develop more quickly than the regulations.

c. To the extent that personal wireless and fixed wireless facilities comply with the Federal Communications Commission regulations concerning radiofrequency emissions, the City may not regulate placement, construction, and modification of such facilities on the basis of the environmental effects of such emissions, according to the Federal Telecommunications Act of 1996.

2. Policies.

a. It is the City's policy to minimize or prevent adverse impacts resulting from toxic or hazardous materials and transmissions, to the extent permitted by federal and state law.

b. For all proposed projects involving the use, treatment, transport, storage, disposal, emission, or application of toxic or hazardous chemicals, materials, wastes or transmissions, the decisionmaker shall, in consultation with appropriate agencies with expertise, assess the extent of potential adverse impacts and the need for mitigation, where permitted by federal and state law.

c. Subject to the Overview Policy set forth in SMC Section 25.05.665, if the decisionmaker makes a written finding that applicable federal, state and regional laws and regulations did not anticipate or do not adequately address the adverse impacts of a proposed project, the project may be conditioned or denied to mitigate its adverse impacts. Mitigating measures may include, but are not limited to:

i. Use of an alternative technology;

ii. Reduction in the size or scope of a project or operation;

iii. Limits on the time and/or duration of operation; and

iv. Alternative routes of transportation.

G. Height, Bulk and Scale.

1. Policy Background.

a. The purpose of the City's adopted land use regulations is to provide for smooth transition between industrial, commercial, and residential areas, to preserve the character of individual city neighborhoods and to reinforce natural topography by controlling the height, bulk and scale of development.

b. However, the City's land use regulations cannot anticipate or address all substantial adverse impacts resulting from incongruous height, bulk and scale. For example, unanticipated adverse impacts may occur when a project is located on a site with unusual topographic features or on a site which is substantially larger than the prevalent platting pattern in an area. Similarly, the mapping of the City's zoning designations cannot always provide a reasonable transition in height, bulk and scale between development in adjacent zones.

2. Policies.

a. It is the City's policy that the height, bulk and scale of development projects should be reasonably compatible with the general character of development anticipated by the goals and policies set forth in Section B of the land use element of the Seattle Comprehensive Plan regarding Land Use Categories, the shoreline goals and policies set forth in Section D-4 of the land use element of the Seattle Comprehensive Plan, the procedures and locational criteria for shoreline environment redesignations set forth in SMC Sections 23.60.060 and 23.60.220, and the adopted land use regulations for the area in which they are located, and to provide for a reasonable transition between areas of less intensive zoning and more intensive zoning.

b. Subject to the overview policy set forth in SMC Section 25.05.665, the decision-maker may condition or deny a project to mitigate the adverse impacts of substantially incompatible height, bulk and scale. Mitigating measures may include but are not limited to:

i. Limiting the height of the development;

ii. Modifying the bulk of the development;

iii. Modifying the development's facade including but not limited to color and finish material;

iv. Reducing the number or size of accessory structures or relocating accessory structures including but not limited to towers, railings, and antennae;

v. Repositioning the development on the site; and

vi. Modifying or requiring setbacks, screening, landscaping or other techniques to offset the appearance of incompatible height, bulk and scale.

c. The Citywide design guidelines (and any Council-approved, neighborhood design guidelines) are intended to mitigate the same adverse height, bulk and scale impacts addressed in these policies. A project that is approved pursuant to the design review process is presumed to comply with these height, bulk and scale policies. This presumption may be rebutted only by clear and convincing evidence that height, bulk and scale impacts documented through environmental review have not been adequately mitigated. Any additional mitigation imposed by the decisionmaker pursuant to these height, bulk and scale policies on projects that have undergone design review shall comply with design guidelines applicable to the project.

H. Historic Preservation.

1. Policy Background.

a. Historic buildings, special historic districts, and sites of archaeological significance are found within Seattle. The preservation of these buildings, districts and sites is important to the retention of a living sense and appreciation of the past.

b. Historic sites, structures, districts and archaeological sites may be directly or indirectly threatened by development or redevelopment projects.

c. Historic buildings are protected by the Landmarks Preservation Ordinance,[5] as administered by the Landmarks Preservation Board. However, not all sites and structures meeting the criteria for historic landmark status have been designated yet.

d. Special districts have been established to protect certain areas which are unique in their historical and cultural significance, including for example Pike Place Market, Pioneer Square and the International District. These areas are subject to development controls and project review by special

district review boards.

e. Archaeologically significant sites present a unique problem because protection of their integrity may, in some cases, eliminate any economic opportunity on the site.

2. Policies.

a. It is the City's policy to maintain and preserve significant historic sites and structures and to provide the opportunity for analysis of archaeological sites.

b. For projects involving structures or sites which have been designated as historic landmarks, compliance with the Landmarks Preservation Ordinance[5] shall constitute compliance with the policy set forth in subsection H2a above.

c. For projects involving structures or sites which are not yet designated as historical landmarks but which appear to meet the criteria for designation, the decisionmaker or any interested person may refer the site or structure to the Landmarks Preservation Board for consideration. If the Board approves the site or structure for nomination as an historic landmark, consideration of the site or structure for designation as an historic landmark and application of controls and incentives shall proceed as provided by the Landmarks Preservation Ordinance.[5] If the project is rejected for nomination, the project shall not be conditioned or denied for historical preservation purposes, except pursuant to paragraphs d or e of this subsection.

d. When a project is proposed adjacent to or across the street from a designated site or structure, the decisionmaker shall refer the proposal to the City's Historic Preservation Officer for an assessment of any adverse impacts on the designated landmark and for comments on possible mitigating measures. Mitigation may be required to insure the compatibility of the proposed project with the color, material and architectural character of the designated landmark and to reduce impacts on the character of the landmark's site. Subject to the Overview Policy set forth in SMC Section 25.05.665, mitigating measures may be required and are limited to the following:

i. Sympathetic facade treatment;

ii. Sympathetic street treatment;

iii. Sympathetic design treatment; and

iv. Reconfiguration of the project and/or relocation of the project on the project site;

provided, that mitigating measures shall not include reductions in a project's gross floor area.

e. On sites with potential archaeological significance, the decisionmaker may require an assessment of the archaeological potential of the site. Subject to the criteria of the Overview Policy set forth in SMC Section 25.05.665, mitigating measures which may be required to mitigate adverse impacts to an archaeological site include, but are not limited to:

i. Relocation of the project on the site;

ii. Providing markers, plaques, or recognition of discovery;

iii. Imposing a delay of as much as ninety (90) days (or more than ninety (90) days for extraordinary circumstances) to allow archaeological artifacts and information to be analyzed; and

iv. Excavation and recovery of artifacts.

I. Housing.

1. Policy Background. Demolition or rehabilitation of low-rent housing units or conversion of housing for other uses can cause both displacement of low-income persons and reduction in the supply of housing.

2. Policies.

a. It is the City's policy to encourage preservation of housing opportunities, especially for low income persons, and to ensure that persons displaced by redevelopment are relocated.

b. Proponents of projects shall disclose the on-site and off-site impacts of the proposed projects upon housing, with particular attention to low-income housing.

c. Compliance with legally valid City ordinance provisions relating to housing relocation, demolition and conversion shall constitute compliance with this housing policy.

d. Housing preservation shall be an important consideration in the development of the City's public projects and programs. The City shall give high priority to limiting demolition of low-income housing in the development of its own facilities.

J. Land Use.

1. Policy Background.

a. The City has adopted land use regulations that are designed, in part, to minimize or prevent impacts resulting from incompatible land use. However, the adopted Land Use Code (Title 23) cannot identify or anticipate all possible uses and all potential land use impacts. For example, adverse cumulative land use impacts may result when a particular use or uses permitted under the Zoning Code occur in an area to such an extent that they foreclose opportunities for higher-priority, preferred uses called for in Section B of the land use element of the Comprehensive Plan and the shoreline goals and policies set forth in section D-4 of the land use element of the Comprehensive Plan.

b. Density-related impacts of development are addressed under the policies set forth in subsections G (height, bulk and scale), M (parking), R (traffic) and O (public services and facilities) of this section and are not addressed under this policy.

2. Policies.

a. It is the City's policy to ensure that proposed uses in development projects are reasonably compatible with surrounding uses and are consistent with any applicable, adopted City land use regulations, the goals and policies set forth in Section B of the land use element of the Seattle Comprehensive Plan regarding Land Use Categories, and the shoreline goals and policies set forth in section D-4 of the land use element of the Seattle Comprehensive Plan for the area in which the project is located.

b. Subject to the overview policy set forth in SMC Section 25.05.665, the decisionmaker may condition or deny any project to mitigate adverse land use impacts resulting from a proposed project or to achieve consistency with the applicable City land use regulations, the goals and policies set forth in Section B of the land use element of the Seattle Comprehensive Plan regarding Land Use Categories, the shoreline goals and policies set forth in Section D-4 of the land use element of the Seattle Comprehensive Plan, the procedures and locational criteria for shoreline environment redesignations set forth in SMC Sections 23.60.060 and 23.60.220, respectively, and the environmentally critical areas policies.

K. Light and Glare.

1. Policy Background.

a. Development projects sometimes include lighting and/or reflective surface materials which can adversely affect motorists, pedestrians, and the surrounding area. Such adverse impacts may be mitigated by alternative lighting techniques and surface materials.

b. The City's Land Use Code specifically addresses the issue of light and glare control associated with commercial and industrial projects.

2. Policies.

a. It is the City's policy to minimize or prevent hazards and other adverse impacts created by light and glare.

b. If a proposed project may create adverse impacts due to light and glare, the decisionmaker shall assess the impacts and the need for mitigation.

c. Subject to the Overview Policy set forth in SMC Section 25.05.665, the decisionmaker may condition or deny a proposed project to mitigate its adverse impacts due to light and glare.

d. Mitigating measures may include, but are not limited to:

i. Limiting the reflective qualities of surface materials that can be used in the development;

ii. Limiting the area and intensity of illumination;

iii. Limiting the location or angle of illumination;

iv. Limiting the hours of illumination; and

v. Providing landscaping.

L. Noise.

1. Policy Background.

a. Noise may be injurious to the public health, safety and welfare. It may have adverse impacts on commerce; the use, value and enjoyment of property; sleep and repose; and the physiological and psychological well-being of those who live and work in Seattle.

b. The Noise Control Ordinance[6] effectively addresses most noise impacts. However, some noise impacts are not addressed by the Noise Control Ordinance, such as the continual or repetitive noise of a project's operation.

c. The Land Use Code addresses noise generators and noise impacts associated with commercial and industrial uses. However, all noise impacts may not be anticipated and mitigated by the Land Use Code.

2. Policies.

a. It is the City's policy to minimize or prevent adverse noise impacts resulting from new development or uses.

b. The decisionmaker may require, as part of the environmental review of a project, an assessment of noise impacts likely to result from the project.

c. Based in part on such assessments, and in consultation with appropriate agencies with expertise, the decisionmaker shall assess the extent of adverse impacts and the need for mitigation.

d. Subject to the Overview Policy set forth in SMC Section 25.05.665, the decisionmaker may condition or deny a proposal to mitigate its adverse noise impacts.

e. Mitigating measures may include, but are not limited to:

i. Use of an alternative technology;

ii. Reduction in the size or scope of a project or operation;

iii. Limits on the time and/or duration of operation; and

iv. Requiring buffering, landscaping, or other techniques to reduce noise impacts off-site.

M. Parking.

1. Policy Background.

a. Increased parking demand associated with development projects may adversely affect the availability of parking in an area.

b. Parking regulations to mitigate most parking impacts and to accommodate most of the cumulative effects of future projects on parking are implemented through the City's Land Use Code. However, in some neighborhoods, due to inadequate off-street parking, streets are unable to absorb parking spillover. The City recognizes that the cost of providing additional parking may have an adverse effect on the affordability of housing.

2. Policies.

a. It is the City's policy to minimize or prevent adverse parking impacts associated with development projects.

b. Subject to the overview and cumulative effects policies set forth in SMC Sections 25.05.665 and 25.05.670, the decisionmaker may condition a project to mitigate the effects of development in an area on parking; provided that:

i. No SEPA authority is provided to mitigate the impact of development on parking availability in the downtown zones;

ii. In the Seattle Mixed (SM) zone and for residential uses located within the Pike/Pine Overlay District, no SEPA authority is provided for the decisionmaker to require more parking than the minimum required by the Land Use Code;

iii. Parking impact mitigation for multifamily development, except in the Alki area, as described in subsection M2c below, may be required only where on-street parking is at capacity, as defined by Seattle Transportation or where the development itself would cause on-street parking to reach capacity as so defined.

c. For the Alki area, as identified on Exhibit 2, a higher number of spaces per unit than is required by SMC Section 23.54.015 may be required to mitigate the adverse parking impacts of specific multifamily projects. Projects that generate a greater need for parking and that are located in places where the street cannot absorb that need -- for example, because of proximity to the Alki Beach Park -- may be required to provide additional parking spaces to meet the building's actual need. In determining that need, the size of the development project, the size of the units and the number of bedrooms in the units shall be considered.

d. Parking impact mitigation for projects outside of downtown zones may include but is not limited to:

i. Transportation management programs;

ii. Parking management and allocation plans;

iii. Incentives for the use of alternatives to single-occupancy vehicles, such as transit pass subsidies, parking fees, and provision of bicycle parking space;

iv. Increased parking ratios, unless the project is located within the Seattle Mixed (SM) zone or the Pike/Pine Overlay District; and

v. Reduced development densities to the extent that it can be shown that reduced parking spillover is likely to result; provided, that parking impact mitigation for multifamily development may not include reduction in development density.

N. Plants and Animals.

1. Policy Background.

a. Many species of birds, mammals, fish, and other classes of animals and plants living in the urban environments are of aesthetic, educational, ecological and in some cases economic value.

b. Local wildlife populations are threatened by habitat loss through destruction and fragmentation of living and breeding areas and travelways, and by the reduction of habitat diversity.

c. Substantial protection of wildlife habitats and travel corridors within the City is provided by the Seattle Shoreline Master Program.

2. Policies.

a. It is the City's policy to minimize or prevent the loss of wildlife habitat and other vegetation which have substantial aesthetic, educational, ecological, and/or economic value. A high priority shall be given to the preservation and protection of special habitat types. Special habitat types include, but are not limited to, wetlands and associated areas (such as upland nesting areas), and spawning, feeding, or nesting sites. A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.

b. For projects which are proposed within an identified plant or wildlife habitat or travelway, the decisionmaker shall assess the extent of adverse impacts and the need for mitigation.

c. When the decisionmaker finds that a proposed project would reduce or damage rare, uncommon, unique or exceptional plant or wildlife habitat, wildlife travelways, or habitat diversity for species (plants or animals) of substantial aesthetic, educational, ecological or economic value, the decisionmaker may condition or deny the project to mitigate its adverse impacts. Such conditioning or denial is permitted whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665.

d. Mitigating measures may include but are not limited to:

i. Relocation of the project on the site;

ii. Reducing the size or scale of the project;

iii. Preservation of specific on-site habitats, such as trees or vegetated areas;

iv. Limitations on the uses allowed on the site;

v. Limitations on times of operation during periods significant to the affected species (i.e., spawning season, mating season, etc.); and

vi. Landscaping and/or retention of existing vegetation.

O. Public Services and Facilities.

1. Policy Background. A single development, though otherwise consistent with zoning regulations, may create excessive demands upon existing public services and facilities. "Public services and facilities" in this context includes facilities such as sewers, storm drains, solid waste disposal facilities, parks, schools, and streets and services such as transit, solid waste collection, public health services, and police and fire protection, provided by either a public agency or private entity.

2. Policies.

a. It is the City's policy to minimize or prevent adverse impacts to existing public services and facilities.

b. The decisionmaker may require, as part of the environmental review of a project, a reasonable assessment of the present and planned condition and capacity of public services and facilities to serve the area affected by the proposal.

c. Based upon such analyses, a project which would result in adverse impacts on existing public services and facilities may be conditioned or denied to lessen its demand for services and facilities, or required to improve or add services and/or facilities for the public, whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665.

P. Public View Protection.

1. Policy Background.

a. Seattle has a magnificent natural setting of greenery, mountains, and water; visual amenities and opportunities are an integral part of the City's environmental quality.

b. The City has developed particular sites for the public's enjoyment of views of mountains, water and skyline and has many scenic routes and other public places where such views enhance one's experience.

c. Obstruction of public views may occur when a proposed structure is located in close proximity to the street property line, when development occurs on lots situated at the foot of a street that terminates or changes direction because of a shift in the street grid pattern, or when development along a street creates a continuous wall separating the street from the view.

d. Authority provided through the Landmarks Preservation Ordinance[5] is intended to preserve sites and structures which reflect significant elements of the City's historic heritage and to designate and regulate such sites and structures as historic landmarks.

e. The Land Use Code provides for the preservation of specified view corridors through setback requirements.

f. Adopted Land Use Codes attempt to protect private views through height and bulk controls and other zoning regulations but it is impractical to protect private views through project-specific review.

2. Policies.

a. i. It is the City's policy to protect public views of significant natural and human-made features: Mount Rainer, the Olympic and Cascade Mountains, the downtown skyline, and major bodies of water including Puget Sound, Lake Washington, Lake Union and the Ship Canal, from public places consisting of the specified viewpoints, parks, scenic routes, and view corridors, identified in Attachment 1. (Attachment 1 is located at the end of this Section 25.05.675.) This subsection does not apply to the Space Needle, which is governed by subsection P2c of this section.

ii. The decisionmaker may condition or deny a proposal to eliminate or reduce its adverse impacts on designated public views, whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665; provided that downtown projects may be conditioned or denied only when public views from outside of downtown would be blocked as a result of a change in the street grid pattern.

b. i It is the City's policy to protect public views of historic landmarks designated by the Landmarks Preservation Board which, because of their prominence of location or contrasts of siting, age, or scale, are easily identifiable visual features of their neighborhood or the City and contribute to the distinctive quality or identity of their neighborhood or the City. This subsection does not apply to the Space Needle, which is governed by subsection P2c of this section.

ii. A proposed project may be conditioned or denied to mitigate view impacts on historic landmarks, whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665.

c. It is the City's policy to protect public views of the Space Needle from the following public places. A proposed project may be conditioned or denied to protect such views, whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665.

i. Alki Beach Park (Duwamish Head)

ii. Bhy Kracke Park

iii. Gasworks Park

iv. Hamilton View Point

v. Kerry Park

vi. Myrtle Edwards Park

vii. Seacrest Park

ix. Seattle Center

x. Volunteer Park

d. Mitigating measures may include, but are not limited to:

i. Requiring a change in the height of the development;

ii. Requiring a change in the bulk of the development;

iii. Requiring a redesign of the profile of the development;

iv. Requiring on-site view corridors or requiring enhancements to

off-site view corridors;

v. Relocating the project on the site;

vi. Requiring a reduction or rearrangement of walls, fences or plant material; and

vii. Requiring a reduction or rearrangement of accessory structures including, but not limited to towers, railings and antennae.

Q. Shadows on Open Spaces.

1. Policy Background.

a. Access to sunlight, especially in Seattle's climate, is an amenity of public open spaces.

b. It is possible to design and locate structures to minimize the extent to which they block light from public open spaces.

c. The Downtown Land Use Code[7] provides some protections against shadow impacts created by development in downtown. However, due to the scale of development permitted in downtown, it is not practical to prevent such blockage at all public open spaces downtown.

d. The City's Land Use Code (Title 23) attempts to protect private property from undue shadow impacts through height, bulk and setback controls, but it is impractical to protect private properties from shadows through project-specific review.

2. Policies. It is the City's policy to minimize or prevent light blockage and the creation of shadows on open spaces most used by the public.

a. Areas outside of downtown to be protected are as follows:

i. Publicly owned parks;

ii. Public schoolyards;

iii. Private schools which allow public use of schoolyards during non-school hours; and

iv. Publicly owned street ends in shoreline areas.

b. Areas in downtown where shadow impacts may be mitigated are:

i. Freeway Park;

ii. Westlake Park and Plaza;

iii. Market (Steinbrueck) Park;

iv. Convention Center Park; and

v. Kobe Terrace Park and the publicly owned portions of the International District Community Garden.

c. The decisionmaker shall assess the extent of adverse impacts and the need for mitigation. The analysis of sunlight blockage and shadow impacts shall include an assessment of the extent of shadows, including times of the year, hours of the day, anticipated seasonal use of open spaces, availability of other open spaces in the area, and the number of people affected.

d. When the decisionmaker finds that a proposed project would substantially block sunlight from open spaces listed in subsections Q2a and Q2b above at a time when the public most frequently uses that space, the decisionmaker may condition or deny the project to mitigate the adverse impacts of sunlight blockage, whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665.

e. Mitigating measures may include, but are not limited to:

i. Limiting the height of the development;

ii. Limiting the bulk of the development;

iii. Redesigning the profile of the development;

iv. Limiting or rearranging walls, fences, or plant material;

v. Limiting or rearranging accessory structures, i.e., towers, railing, antennae; and

vi. Relocating the project on the site.

R. Traffic and Transportation.

1. Policy Background.

a. Excessive traffic can adversely affect the stability, safety and character of Seattle's communities.

b. Substantial traffic volumes associated with major projects may adversely impact surrounding areas.

c. Individual projects may create adverse impacts on transportation facilities which service such projects. Such impacts may result in a need for turn channelization, right-of-way dedication, street widening or other improvements including traffic signalization.

d. Seattle's land use policies call for decreasing reliance on the single occupant automobile and increased use of alternative transportation modes.

e. Regional traffic and transportation impacts arising as a result of downtown development have been addressed in substantial part by the Land Use Code[7].

f. The University District is an area of the City which is subject to particularly severe traffic congestion problems, as highlighted in the 1983 City-University Agreement, and therefore deserves special attention in the environmental review of project proposals.

2. Policies.

a. It is the City's policy to minimize or prevent adverse traffic impacts which would undermine the stability, safety and/or character of a neighborhood or surrounding areas.

b. In determining the necessary traffic and transportation impact mitigation, the decisionmaker shall examine the expected peak traffic and circulation pattern of the proposed project weighed against such factors as the availability of public transit; existing vehicular and pedestrian traffic conditions; accident history; the trend in local area development; parking characteristics of the immediate area; the use of the street as determined by the Seattle Department of Transportation's Seattle Comprehensive Transportation Plan; and the availability of goods, services and recreation within reasonable walking distance.

c. Mitigation of traffic and transportation impacts shall be permitted whether or not the project meets the criteria of the Overview Policy set forth in SMC Section 25.05.665.

d. Mitigation measures which may be applied to residential projects in downtown are limited to the following:

i. Signage;

ii. Provision of information on transit and ride-sharing programs; and

iii. Bicycle parking.

e. Mitigating measures which may be applied to nonresidential projects in downtown are limited to the following:

i. Provision of transit incentives including transit pass subsidies;

ii. Signage;

iii. Improvements to pedestrian and vehicular traffic operations, signalization, turn channelization, right-of-way dedication, street widening, or other improvements proportionate to the impact of the project; and

iv. Transportation management plans.

f. i. Mitigating measures which may be applied to projects outside of downtown may include, but are not limited to:

(A) Changes in access;

(B) Changes in the location, number and size of curb cuts and driveways;

(C) Provision of transit incentives including transit pass subsidies;

(D) Bicycle parking;

(E) Signage;

(F) Improvements to pedestrian and vehicular traffic operations including signalization, turn channelization, right-of-way dedication, street widening, or other improvements proportionate to the impacts of the project; and

(G) Transportation management plans.

ii. For projects outside downtown which result in adverse impacts, the decisionmaker may reduce the size and/or scale of the project only if the decisionmaker determines that the traffic improvements outlined under subparagraph R2fi above would not be adequate to effectively mitigate the adverse impacts of the project.

S. Water Quality.

1. Policy Background.

a. Seattle's water quality is adversely affected primarily by the dumping of pollutants and drainage-related sewage overflows into Puget Sound, Lake Union, the Lake Washington Ship Canal, the Duwamish Waterway and all lakes, riparian corridors, wetlands, and other systems draining into these bodies of water.

b. Seattle's water quality is also adversely affected by storm drainage runoff; nonpoint-source discharges from streets, parking lots and other impervious surfaces; construction site runoff; and sewage and graywater discharge from recreational and commercial watercraft.

c. Federal, state, local and regional water quality regulations and programs cannot always anticipate or eliminate adverse impacts to water quality.

2. Policies.

a. It is the City's policy to minimize or prevent adverse water quality impacts.

b. For any project proposal which poses a potential threat to water quality in Seattle, the decisionmaker shall assess the probable effect of the impact and the need for mitigating measures. The assessment shall be completed in consultation with appropriate agencies with expertise.

c. Subject to the Overview Policy set forth in SMC Section 25.05.665, if the decision-maker makes a written finding that the applicable federal, state and regional regulations did not anticipate or are inadequate to address the particular impact(s) of a project, the decisionmaker may condition or deny the project to mitigate its adverse impacts.

d. Mitigating measures may include, but are not limited to:

i. Use of an alternative technology;

ii. Reduction in the size or scope of the project or operation;

iii. Landscaping; and

iv. Limits on the time and duration of the project or operation.

(Ord. 121782 § 37, 2005; Ord. 121700 § 10, 2004; Ord. 121420 § 6, 2004; Ord. 120928 § 45, 2002; Ord. 120692 § 1, 2001; Ord. 120605 § 1, 2001; Ord. 120000 § 1, 2000; Ord. 119481 § 2, 1999; Ord. 119096 § 34, 1998; Ord. 118794 §§ 57, 58, 1997; Ord. 118414 §§ 66, 67, 1996; Ord.

118409 § 218, 1996: Ord. 118408 § 12, 1996; Ord. 118294 § 1, 1996; Ord. 117929 §§ 13, 14, 1995; Ord. 116909 § 11, 1993; Ord. 116254 § 1, 1992; Ord. 116243 § 1, 1992; Ord. 116168 § 2, 1992; Ord. 116142 § 1, 1992; Ord. 114057 § 1(part), 1988.)

1. Editor's Note: The Street Use Ordinance is codified in Title 15, Subtitle I of this Code.
2. Editor's Note: The current Seattle Building Code is adopted in Section 22.100.010, and subsequent amendments thereto are on file in the City Clerk's Office.

2A. The Environmentally Critical Areas Ordinance is set out at Chapter 25.09 of this title.

3. Editor's Note: The Grading and Drainage Control Ordinance is codified in Title 22, Subtitle VIII of this Code.
4. The Energy Code is codified in Title 22, Subtitle VII (Chapter 22.700) of this Code.
5. Editor's Note: The Landmarks Preservation Ordinance is codified in Chapter 25.12 of this Code.
6. Editor's Note: The Noise Control Ordinance is codified in Chapter 25.08 of this Code.
7. Editor's Note: The Downtown Land Use Code is codified in Chapter 23.49 of this Code.

ATTACHMENT 1

Alki Beach Park

Alki Avenue S.W.

Atlantic City Park

S. Henderson and Seward Park S.

Bagley Viewpoint

10th Avenue E. and E. Roanoke

Ballard High School

N.W. 65th Street and 14th Avenue N.W.

Banner Place

N.E. Banner Place off N.E. 75th Street

Bayview Playground

24th Avenue W. and W. Raye Street

Beacon Hill Playground

S. Holgate and 14th Avenue S.

Belvidere Viewpoint

S.W. Admiral Way and S.W. Olga

Bhy Kracke Park

Bigelow North and Comstock Place

Bitter Lake Playground

N. 130th and Linden Avenue N.

Briarcliff Elementary School

W. Dravus and 38th Avenue W.

Broadview Elementary School

12515 Greenwood Avenue N.

Carkeek Park

N.W. 110th off N. Greenwood

Cleveland High School Playfield

S. Lucile and 15th Avenue S.

Colman Park

36th S. and Lakeside S.

Colman Playground

23rd Avenue S. and S. Grant

Commodore Park

W. Commodore Way and W. Gilman

Denny Blaine Park

Lake Washington Boulevard E. and 40th E.

Discovery Park

36th W. and W. Government Way

Emerson Elementary School

9709 60th Avenue S.

Emma Schmitz Overlook

Beach Drive S.W. and S.W. Alaska

Four Columns

Pike and Boren at I-5

Frink Park

Lake Washington Boulevard and S. Jackson

Gasworks Park

N. Northlake Way and Meridian Avenue N.

Genesee Park

45th Avenue S. and S. Genesee

Golden Gardens Park

North end of Seaview Avenue N.W.

Green Lake

Beaches (E. Green Lake Drive N. and W. Green Lake Drive N.)

Playfield (E. Green Lake Drive N. and Latona Avenue N.E.)

Park (N. 73rd Street and Green Lake Drive N.)

Community Center (Latona Avenue N.E. and E. Green Lake Drive N.)

Hamilton Viewpoint

California Avenue S.W. and S.W. Donald

Harborview Hospital Viewpoint

Eighth and Jefferson

Harbor Vista Park

1660 Harbor Avenue S.W.

Highland Park Playground

S.W. Thistle and 11th S.W.

Hughes Elementary School

S.W. Holden and 32nd Avenue S.W.

Inverness Ravine

Inverness Drive N.E. off N.E. 85th Street

Jose Rizal Park

S. Judkins and 12th Avenue S.

Kerry Park

W. Highland and Second Avenue W.

Kinnear Park

Seventh W. and W. Olympic Place

Kobe Terrace Park and the publicly owned portions of the International District Community Garden

Sixth Avenue and Washington Street

Lakeview Park

Lake Washington Boulevard E. and E. McGilvra

Lawton Playground

W. Emerson and Williams Avenue W.

Leschi Park

Lakeside W. off E. Alder

Lincoln Park

Fauntleroy S.W. and S.W. Webster

Louisa Boren Lookout/Boren-Interlaken Park

15th E. and E. Garfield

Lowman Beach

Beach Drive S.W. and 48th Avenue S.W.

Lynn Street-end Park

Lynn Street at east side of Lake Union

McCurdy Park

E. Hamlin and E. Park Drive

Madison Park Beach

E. Madison and Lake Washington Boulevard E.

Madrona Park Beach

Lake Washington Boulevard and Madrona Drive

Magnolia Elementary School Playground

W. Smith Street and 27th Avenue W.

Maple Leaf Playground

N.E. 82nd and Roosevelt Way N.E.

Marshall Park-Betty Bowen Viewpoint-Parsons Gardens Park

Seventh W. and W. Highland

Martha Washington Park

S. Holly Street and 57th Avenue S.

Mathews Beach

N.E. 93rd and Sand Point Way N.E.

Mayfair Park

Second Avenue N. and Raye Street

Mee-Kwa-Mooks

Beach Drive S.W. and S.W. Oregon

Montlake Park

E. Shelby and E. Park Drive E.

Montlake Playfield

16th Avenue E. and E. Calhoun

Mount Baker Park

S. McClellan and Lake Park Drive S.

Myrtle Edwards Park

Alaskan Way and Bay Street

Myrtle Street Reservoir

S.W. Myrtle and 35th S.W.

Newton Street-end Park

Newton Street at east side of Lake Union

North and South Passage Point Park

Sixth Avenue N.E. and N.E. Northlake Way

Fuhrman E. and Fairview E.

Othello Park

43rd Avenue S. and S. Othello

Pritchard Beach

55th Avenue S. and S. Grattan

Riverview Playfield

7000 Block of 12th Avenue S.W.

Roanoke Street-end Park

Roanoke Street at east side of Lake Union

Rogers Park

Third Avenue W. and W. Fulton Street

Sand Point Park/Beach

Sand Point Way N.E. and N.E. 65th Street

Schmitz Park

Admiral Way S.W. and S.W. Stevens

Seward Park Beach

Lake Washington Boulevard S. and S. Juneau

Smith Cove Park

Pier 91

Soundview Terrace Park

11th W. and W. Wheeler

Sunset Hill Viewpoint

N.W. 77th and 34th Avenue N.W.

Twelfth Avenue South Viewpoint

12th Avenue S. and S. McClellan Street

U.S. Public Health Service Hospital

1131 14th Avenue S.

Victor Steinbrueck (Market) Park

Virginia Street and Western Avenue

Viretta Park

39th Avenue E. and E. John

Volunteer Park (Tower)

1400 E. Prospect

Wallingford Playfield

N. 43rd Street and Wallingford Avenue N.

Washington Park-Arboretum

E. Madison and Lake Washington Boulevard S.

Waterfront Park

Pier 57 On Alaskan Way

West Crest Park

S.W. Henderson Street and Eighth Avenue S.W.

West Seattle Municipal Golf Course

West Seattle Recreation Area

West Seattle Reservoir

S.W. Trenton Street and Eighth Avenue S.W.

West Seattle Rotary Viewpoint

S.W. Oregon Street and 35th Avenue S.W.

Woodland Park

N. 50th Street and Phinney Avenue N.

Scenic routes (1) described by Seattle Transportation, Traffic Division Map and by Ordinance 97027, and (2) identified as protected view rights-of-way in the Mayor's April 1987 Open Space Policies Recommendation. (See Exhibit 1 immediately following for a map of the designated SEPA Scenic Routes described above.)

GRAPHIC UNAVAILABLE: Exhibit 1--SEPA Scenic Routes Map--North Seattle

GRAPHIC UNAVAILABLE: Exhibit 1--SEPA Scenic Routes Map--South Seattle

GRAPHIC UNAVAILABLE: Exhibit 2--Alki Parking Area Overlay

25.05.680 Appeals.

Appeal provisions in SEPA are found in RCW 43.21C.060, 43.21C.075 and 43.21C.080, and WAC 197-11-680. The following provisions attempt to construe and interpret the statutory and administrative rule provisions. In the event a court determines that code provisions are inconsistent with statutory provisions or administrative rule, or with the framework and policy of SEPA, the statute or rule will control. Persons considering either administrative or judicial appeal of any decision which involves SEPA at all are advised to read the statutory and rule sections cited above.

A. Master Use Permits and Council Land Use Decisions.

1. For proposals requiring a Master Use Permit under SMC Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, for which the Department of Construction and Land Use or a non-City agency is the lead agency, SEPA appeal procedures shall be as provided in Chapter 23.76.

2. For proposals requiring Master Use Permits or Council Land Use Decisions for which a City department other than the Department of Construction and Land Use is lead agency and is a project proponent or is funding a project and where the City department chooses to conduct SEPA review prior to submitting an application for the Master Use Permit or Council Land Use Decision:

a. The following agency environmental determinations shall be subject to appeal to the Hearing Examiner by any interested person as provided in this subsection:

i. Determination of Nonsignificance (DNS);

ii. Adequacy of the Final EIS as filed in the SEPA Public Information Center.

b. An appeal shall be commenced by filing of a notice of appeal with the Office of the Hearing Examiner no later than five (5:00) p.m. the fourteenth day following the filing of the decision in the SEPA Public Information Center or publication of the decision in the City official newspaper, whichever is later; provided that when a fourteen (14) day DNS comment period is required pursuant to this chapter, appeals may be filed no later than the twenty-first day following such filing or publication. The appeal notice shall set forth in a clear and concise manner the alleged errors in the decision. Upon timely notice of appeal the Hearing Examiner

shall set a date for hearing and send notice to the parties. Filing fees for appeals to the Hearing Examiner are established in Section 3.02.125.

B. Decisions Not Related to Master Use Permits or Council Land Use Decisions.

1. The following agency decisions on proposals not requiring a Master Use Permit shall be subject to appeal to the Hearing Examiner by any interested person as provided in this subsection:

a. Determination of Nonsignificance.

b. Adequacy of the final EIS as filed in the SEPA Public Information Center. Notice of all decisions described in this subsection shall be filed promptly by the responsible official in the City's SEPA Public Information Center.

2. An appeal shall be commenced by the filing of a notice of appeal with the office of the Hearing Examiner no later than the fifteenth day following the filing of the decision in the SEPA Public Information Center or publication of the decision in the City official newspaper, whichever is later; provided that when a fourteen (14) day DNS comment period is required pursuant to this chapter, appeals may be filed no later than the twenty-first day following such filing or publication. The appeal notice shall set forth in a clear and concise manner the alleged errors in the decision. Upon timely notice of appeal the Hearing Examiner shall set a date for hearing and send notice to the parties. Filing fees for appeals to the Hearing Examiner are established in Section 3.02.125.

3. Appeals shall be considered de novo and limited to the issues cited in the notice of appeal. The determination appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. The Hearing Examiner shall have authority to affirm or reverse the administrative decisions below, to remand cases to the appropriate department with directions for further proceedings, and to grant other appropriate relief in the circumstances. Within fifteen (15) days after the hearing, the Hearing Examiner shall file and transmit to the parties written findings of fact, conclusions of law, and a decision.

4. The Hearing Examiner is authorized to promulgate rules and procedures to implement the provisions of this section. The rules shall be promulgated pursuant to Chapter 3.02 of this code.

5. If the agency has made a decision on a proposed action, the Hearing Examiner shall consolidate any allowed appeals of procedural and substantive determinations under SEPA with any hearing or appeal on the underlying City action. For example, an appeal of the adequacy of an EIS must be consolidated with a hearing or appeal on the agency's decision or recommendation on the proposed action, if both proceedings are allowed by ordinance.

C. Judicial Appeals.

1. SEPA authorizes judicial appeals of both procedural and substantive compliance with SEPA.

2. When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA (SEPA issues) and those which do not (non-SEPA issues). If there is a time limit established by statute or ordinance for appealing the underlying governmental action, then appeals (or portions thereof) raising SEPA issues must be filed within such time period. If there is no time period for appealing the underlying governmental action, and a notice of action under RCW 43.21C.080 is used, appeals must be commenced within the time period specified by RCW 43.21C.080.

3. If the proposal requires more than one (1) governmental decision that will be supported by the same SEPA documents, then RCW 43.21C.080 still only allows one (1) judicial appeal of procedural compliance with SEPA, which must be commenced within the applicable time to appeal the first governmental decision.

4. If there is no time limit established by statute or ordinance for appeal, and the notice of action provisions are not used, then SEPA provides no time limit for judicial appeals. Appeal times may still be limited, however, by general statutes of limitation or the common law.

5. For the purposes of this subsection, "a time limit established by statute or ordinance" does not include time limits established by the general statutes of limitation in Chapter 4.16 RCW.

D. Reserved.

E. Official Notice of the Date and Place for Commencing a Judicial Appeal.

1. Official notice of the date and place for commencing an appeal must be given if there is a time limit established by statute or ordinance for commencing an appeal of the underlying governmental action. The notice shall include the time limit for commencing an appeal, the statute or ordinance establishing the time limit and where an appeal may be filed.

2. Notice is given by:

a. Delivery of written notice to the applicant, all parties to any administrative appeal, and all persons who have requested notice of decisions with respect to the particular proposal in question; and

b. Following the agency's normal methods of notice for the type of governmental action taken.

3. Written notice containing the information required by subsection E1 of this section may be appended to the permit, decision documents, or SEPA compliance documents or may be printed separately.

4. Official notices required by this subparagraph shall not be given prior to final agency action.

(Ord. 119096 § 35, 1998: Ord. 118794 § 59, 1997; Ord. 118181 § 9, 1996; Ord. 118012 § 63, 1996; Ord. 117789 § 14, 1995; Ord. 114090 § 1, 1988: Ord. 114057 § 1(part), 1988: Ord. 112522 § 20(part), 1985; Ord. 111866 § 1(part), 1984.)

Subchapter VIII

Definitions

25.05.700 Definitions.

A. The terms used in WAC 197-11 are to be uniform throughout the state as applied to SEPA (WAC 197-11-040). The City may add to certain of those definitions in its procedures, to help explain how it carries out SEPA, but may not change those definitions (WAC 197-11-906).

B. Unless the context clearly requires otherwise:

1. Use of the singular shall include the plural and conversely.

2. "Preparation" of environmental documents refers to preparing or supervising the preparation of documents, including issuing, filing, printing, circulating, and related requirements.

3. "Impact" refers to environmental impact.

4. "Permit" means "license" (Section 25.05.760).

5. "Commenting" includes but is not synonymous with "consultation" (Subchapter V).

6. "Environmental cost" refers to adverse environmental impact and may or may not be quantified.

7. "EIS" refers to draft, final, and supplement EISs (Sections 25.05.405 and 25.05.738).

8. "Under" includes pursuant to, subject to, required by, established by, in accordance with, and similar expressions of legislative or administrative authorization or direction.

C. In these rules:

1. "Shall" is mandatory.

2. "May" is optional and permissive and does not impose a requirement.

3. "Includes" means "includes but not limited to."

D. The following terms are synonymous:

1. "Effect" and "impact" (Section 25.05.752);

2. "Environment" and "environmental quality" (Section 25.05.740);

3. "Major" and "significant" (Sections 25.05.764 and 25.05.794);

4. "Proposal" and "proposed action" (Section 25.05.784);

5. "Probable" and "likely" (Section 25.05.782).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.702 Act.

"Act" means the State Environmental Policy Act, Chapter 43.21C RCW, as amended, which is also referred to as "SEPA."

(Ord. 119096 § 36, 1998: Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.704 Action.

A. "Actions" include, as further specified below:

1. New and continuing activities (including projects and programs) entirely or partly financed, assisted, conducted, regulated, licensed, or approved by agencies;

2. New or revised agency rules, regulations, plans, policies, or procedures; and

3. Legislative proposals.

B. Actions fall within one (1) of two (2) categories:

1. Project Actions. A project action involves a decision on a specific project, such as a construction or management activity located in a defined geographic area. Projects include and are limited to agency decisions to:

a. License, fund, or undertake any activity that will directly modify the

environment, whether the activity will be conducted by the agency, an applicant, or under contract;

b. Purchase, sell, lease, transfer, or exchange natural resources, including publicly owned land, whether or not the environment is directly modified.

2. Nonproject Actions. Nonproject actions involve decisions on policies, plans, or programs:

a. The adoption or amendment of legislation, ordinances, rules, or regulations that contain standards controlling use or modification of the environment;

b. The adoption or amendment of comprehensive land use plans or zoning ordinances;

c. The adoption of any policy, plan, or program that will govern the development of a series of connected actions (Section 25.05.060), but not including any policy, plan, or program for which approval must be obtained from any federal agency prior to implementation;

d. Creation of a district or annexations to any city, town or district;

e. Capital budgets; and

f. Road, street, and highway plans.

3. "Actions" do not include the activities listed above when an agency is not involved. Actions do not include bringing judicial or administrative civil or criminal enforcement actions (certain categorical exemptions in Subchapter IX identify in more detail governmental activities that would not have any environmental impacts and for which SEPA review is not required).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.706 Addendum.

"Addendum" means an environmental document used to provide additional information or analysis that does not substantially change the analysis of significant impacts and alternatives in the existing environmental document. The term does not include supplemental EISs. An addendum may be used at any time during the SEPA process.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.708 Adoption.

"Adoption" means an agency's use of all or part of an existing environmental document to meet all or part of the agency's responsibilities under SEPA to prepare an EIS or other

environmental document.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.709 Aesthetics.

"Aesthetics" as listed in Section 25.05.444 B2d shall be interpreted to include all views whether available from public or private property.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.710 Affected tribe.

"Affected tribe" or "treaty tribe" means any Indian tribe, band, nation or community in The State of Washington that is federally recognized by the United States Secretary of the Interior and that will or may be affected by the proposal.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.712 Affecting.

"Affecting" means having, or may be having, an effect on (see Section 25.05.752 on "impacts"). For purposes of deciding whether an EIS is required and what the EIS must cover, "affecting" refers to having probable, significant adverse environmental impacts (RCW 43.21C.031 and 43.21C.110(1)(c)).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.714 Agency.

A. "Agency" as defined in WAC 197-11-714(1) means any state or local governmental body, board, commission, department, or officer authorized to make law, hear contested cases, or otherwise take the actions stated in Section 25.05.704, except the judiciary and state legislature. An agency is any state agency (Section 25.05.796) or local agency (Section 25.05.762) or the City or a City department or organizational unit of the City established by charter or ordinance.

B. "Agency with environmental expertise" means an agency with special expertise on the environmental impacts involved in a proposal or alternative significantly affecting the environment. These agencies are listed in Section 25.05.920; the list may be expanded in agency procedures (Section 25.05.906). The appropriate agencies must be consulted in the environmental impact statement process, as required by Section 25.05.502.

C. "Agency with jurisdiction" means an agency with authority to approve, veto, or finance all or part of a nonexempt proposal (or part of a proposal). The term does not include an agency authorized to adopt rules or standards of general applicability that could apply to a proposal, when no license or approval is required from the agency for the specific proposal. The term also does not include a local, state, or federal agency involved in approving a grant or loan, that serves only as a conduit between the primary administering agency and the recipient of the grant or loan. Federal agencies with jurisdiction are those from which a license or funding is

sought or required.

D. If a specific agency has been named in these rules, and the functions of that agency have changed or been transferred to another agency, the term shall mean any successor agency.

E. For those proposals requiring a hydraulic project approval under RCW 75.20.100, both the Department of Game and the Department of Fisheries shall be considered agencies with jurisdiction.
(Ord. 118012 § 64, 1996; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.716 Applicant.

"Applicant" means any person or entity, including an agency, applying for a license from an agency. Application means a request for a license.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.718 Built environment.

"Built environment" means the elements of the environment as specified by RCW 43.21C.110(1)(f) and SMC Section 25.05.444 B, which are generally built or made by people as contrasted with natural processes.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.720 Categorical exemption.

"Categorical exemption" means a type of action, specified in these rules, which does not significantly affect the environment (RCW 43.21C.110(1)(a)); categorical exemptions are found in Subchapter IX of these rules. Neither a threshold determination nor any environmental document, including an environmental checklist or environmental impact statement, is required for any categorically exempt action (RCW 43.21C.030). These rules provide for those circumstances in which a specific action that would fit within a categorical exemption shall not be considered categorically exempt (Section 25.05.305).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.721 Closed record appeal.

"Closed record appeal" means an administrative appeal held under Chapter 36.70B RCW that is on the record to a county/city body or officer, including the legislative body, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal arguments allowed. (RCW 36.70B.020(1).)
(Ord. 119096 § 37, 1998.)

25.05.722 Consolidated appeal.

"Consolidated appeal" means the procedure requiring a person to file an agency appeal challenging both procedural and substantive compliance with SEPA at the same time, as provided under RCW 43.21C.075(3)(b) and the exceptions therein. If an agency does not have an appeal procedure for challenging either the agency's procedural or its substantive SEPA determinations, the appeal cannot be consolidated prior to any judicial review. The requirement for a consolidated appeal does not preclude agencies from bifurcating appeal proceedings and allowing different agency officials to hear different aspects of the appeal. (Section 25.05.680).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.724 Consulted agency.

"Consulted agency" means any agency with jurisdiction or expertise that is requested by the lead agency to provide information during the SEPA process.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.726 Cost-benefit analysis.

"Cost-benefit analysis" means a quantified comparison of costs and benefits generally expressed in monetary or numerical terms. It is not synonymous with the weighing or balancing of environmental and other impacts or benefits of a proposal.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.728 County/city.

A. "County/city" means a county, city, or town. In WAC 197-11, duties and powers are assigned to a county, city, or town as a unit. The delegation of responsibilities among the various departments of a county, city, or town is left to the legislative or charter authority of the individual counties, cities, or towns.

B. A "GMA county/city" means a county, city or town planning under the Growth Management Act.
(Ord. 119096 § 38, 1998: (Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.730 Decisionmaker.

"Decisionmaker" means the agency official or officials who make the agency's decision on a proposal. The decisionmaker and responsible official are not necessarily synonymous, depending on the agency and its SEPA procedures (Sections 25.05.906 and 25.05.910).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.732 Department.

(See WAC 197-11-732)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.733 Department.

"Department" in this chapter means any City department or organizational unit of the City established by Charter or ordinance.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.734 Determination of nonsignificance (DNS).

"Determination of nonsignificance" (DNS) means the written decision by the responsible official of the lead agency that a proposal is not likely to have a significant adverse environmental impact, and therefore an EIS is not required (Sections 25.05.310 and 25.05.340).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.736 Determination of significance (DS).

"Determination of significance" (DS) means the written decision by the responsible official of the lead agency that a proposal is likely to have a significant adverse environmental impact, and therefore an EIS is required (Sections 25.05.310 and 25.05.360). The DS form is in Section 25.05.980 and must be used substantially in that form.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.738 EIS.

"EIS" means environmental impact statement. The term "detailed statement" in RCW 43.21C.030(2)(c) refers to a final EIS. The term "EIS" as used in these rules refers to draft, final, or supplemental EIS's (Section 25.05.405).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.740 Environment.

"Environment" means, and is limited to, those elements listed in Section 25.05.444, as required by RCW 43.21C.110(1)(f). Environment and environmental quality refer to the state of the environment and are synonymous as used in these rules and refer basically to physical environmental quality.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.742 Environmental checklist.

"Environmental checklist" means the form in Section 25.05.960. Rules for its use are in Section 25.05.315.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.744 Environmental document.

"Environmental document" means any written public document prepared under this chapter. Under SEPA, the terms environmental analysis, environmental study, environmental report, and environmental assessment do not have specialized meanings and do not refer to

particular environmental documents (unlike various other state or federal environmental impact procedures).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.746 Environmental review.

"Environmental review" means the consideration of environmental factors as required by SEPA. The "environmental review process" is the procedure used by agencies and others under SEPA for giving appropriate consideration to the environment in agency decisionmaking.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.747 Environmentally critical area.

"Environmentally critical area" means those areas designated by The City of Seattle Environmentally Critical Areas Policies and regulated and mapped in SMC Chapter 25.09, Regulations for Environmentally Critical Areas, and other City codes. Certain categorical exemptions do not apply within the following environmentally critical areas (Sections 25.05.305, 25.05.908, and Subchapter IX of these rules):

A. Landslide-prone areas, including, but not limited to, known landslide areas, potential landslide areas, and steep slopes of forty (40) percent average slope or greater;

B. Riparian corridors;

C. Wetlands; and

D. Fish and wildlife habitat conservation areas.
(Ord. 119096 § 39, 1998: Ord. 116254 § 2, 1992.)

25.05.750 Expanded scoping.

"Expanded scoping" is an optional process that may be used by agencies to go beyond minimum scoping requirements.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.751 GMA action.

"GMA action" for purposes of SEPA only, means policies, plans and regulations adopted or amended under RCW 36.70A.106 or 36.70A.210. Actions do not include preliminary determinations on the scope and content of GMA actions, appeals of GMA actions, actions by the Governor or by the Growth Management Hearings Boards, or the application of policies to projects. "GMA" means the Growth Managemerit Act, Chapter 36.70A RCW.
(Ord. 119096 § 41, 1998.)

25.05.752 Impacts.

"Impacts" are the effects or consequences of actions. Environmental impacts are effects upon the elements of the environment listed in Section 25.05.444.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.754 Incorporation by reference.

"Incorporation by reference" means the inclusion of all or part of any existing document in an agency's environmental documentation by reference (Sections 25.05.600 and 25.05.635).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.755 Interested person.

"Interested person" means any individual, partnership, corporation, association, or public or private organization of any character, significantly affected by or interested in proceedings before an agency, and shall include any party in a contested case.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.756 Lands covered by water.

"Lands covered by water" means lands underlying the water areas of the state below the ordinary high water mark, including salt waters, tidal waters, estuarine waters, natural water courses, lakes, ponds, artificially impounded waters, marshes, and swamps. Certain categorical exemptions do not apply to lands covered by water, as specified in Subchapter IX.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.758 Lead agency.

"Lead agency" means the agency with the main responsibility for complying with SEPA's procedural requirements (Sections 25.05.050 and 25.05.922). The procedures for determining lead agencies are in Subchapter X of these rules. "Lead agency" may be read as "responsible official" (Sections 25.05.788 and 25.05.910) unless the context clearly requires otherwise. Depending on the agency and the type of proposal, for example, there may be a difference between the lead agency's responsible official, who is at a minimum responsible for procedural determinations (such as Sections 25.05.330, 25.05.455, 25.05.460) and its decisionmaker, who is at a minimum responsible for substantive determinations (such as Sections 25.058.448, 25.05.655, and 25.05.660).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.760 License.

"License" means any form of written permission given to any person, organization, or agency to engage in any activity, as required by law or agency rule. A license includes all or part of any agency permit, certificate, approval, registration, charter, or plat approvals or rezones to facilitate a particular proposal. The term does not include a license required solely for revenue purposes.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.762 Local agency.

"Local agency" or "local government" means any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties and their legislative bodies. The term encompasses but does not refer specifically to the departments within a city or county.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.764 Major action.

"Major action" means an action that is likely to have significant adverse environmental impacts. "Major" reinforces but does not have a meaning independent of "significantly" (Section 25.05.794).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.766 Mitigated DNS.

"Mitigated DNS" means a DNS that includes mitigation measures and is issued as a result of the process specified in Section 25.05.350.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.768 Mitigation.

"Mitigation" means:

A. Avoiding the impact altogether by not taking a certain action or parts of an action;

B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

E. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or

F. Monitoring the impact and taking appropriate corrective measures.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.770 Natural environment.

"Natural environment" means those aspects of the environment contained in Section 25.05.444 A, frequently referred to as natural elements, or resources, such as earth, air, water, wildlife, and energy.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.772 NEPA.

"NEPA" means the National Environmental Policy Act of 1969 (42 USCA 4321 et seq., P.L. 91-190), that is like SEPA at the federal level. The federal NEPA regulations are located at 40 CFR 1500 et seq.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.774 Nonproject.

"Nonproject" means actions which are different or broader than a single site specific project, such as plans, policies, and programs (Section 25.05.704).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.775 Open record hearing.

"Open record hearing" means a hearing held under Chapter 36.70B RCW and conducted by a single hearing body or officer authorized by the County/City to conduct such hearings, that creates the County's/City's record through testimony and submission of evidence and information, under procedures prescribed by the County/City by ordinance. An open record hearing may be held prior to a County's/City's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit. (RCW 36.70B.020(3).)
(Ord. 119096 § 42, 1998.)

25.05.776 Phased review.

"Phased review" means the coverage of general matters in broader environmental documents, with subsequent narrower documents concentrating solely on the issues specific to the later analysis (Section 25.05.060 E). Phased review may be used for a single proposal or EIS (Section 25.05.060).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.778 Preparation.

"Preparation" of an environmental document means preparing or supervising the preparation of documents, including issuing, filing, printing, circulating, and related requirements (see Section 25.05.700 B).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.780 Private project.

"Private project" means any proposal primarily initiated or sponsored by an individual or entity other than an agency.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.782 Probable.

"Probable" means likely or reasonably likely to occur, as in "a reasonable probability of more than a moderate effect on the quality of the environment" (see Section 25.05.794 (Significant)). "Probable" is used to distinguish likely impacts from those that merely have a possibility of occurring, but are remote or speculative. This is not meant as a strict statistical probability test.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.784 Proposal.

"Proposal" means a proposed action. A proposal includes both actions and regulatory decisions of agencies as well as any actions proposed by applicants. A proposal exists at that state in the development of an action when an agency is presented with an application, or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and the environmental effects can be meaningfully evaluated. (See Section 25.05.055 and Section 25.05.060 C. A proposal may therefore be a particular or preferred course of action or several alternatives. For this reason, these rules use the phrase "alternatives including the proposed action." The term "proposal" may therefore include "other reasonable courses of action," if there is no preferred alternative and if it is appropriate to do so in the particular context.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.786 Reasonable alternative.

"Reasonable alternative" means an action that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation. Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts, either directly, or indirectly through requirement of mitigation measures. (See Sections 25.05.440 D and 25.05.660.) Also see the definition of "scope" for three (3) types of alternatives to be analyzed in EIS's (Section 25.05.792).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.788 Responsible official.

"Responsible official" means that officer or officers, committee, department, or section of the lead agency is designated by agency SEPA procedures to undertake its procedural responsibilities as lead agency (Section 25.05.910).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.790 SEPA.

"SEPA" means the State Environmental Policy Act (Chapter 43.21C RCW), which is also referred to as the Act. The "SEPA process" means all measures necessary for compliance with the Act's requirements.
(Ord. 119096 § 43, 1998: Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.792 Scope.

A. "Scope" means the range of proposed actions, alternatives, and impacts to be analyzed in an environmental document (Section 25.05.060 B (content of environmental review)).

B. To determine the scope of environmental impact statements, agencies consider three (3) types of actions, three (3) types of impacts, and three (3) types of alternatives.

1. Actions may be:

   a. Single (a specific action which is not related to other proposals or parts of proposals);

   b. Connected (proposals or parts of proposals which are closely related under Section 25.05.060 C or Section 25.05.305 A; or

   c. Similar (proposals that have common aspects and may be analyzed together under Section 25.05.060 C).

2. Alternatives may be:

   a. No action;

   b. Other reasonable courses of action; or

   c. Mitigation measures (not in the proposed action).

3. Impacts may be:

   a. Direct;

   b. Indirect; or

   c. Cumulative.

C. Section 25.05.060 provides general rules for the content of any environmental review under SEPA; Subchapter IV and Section 25.05.440 provide specific rules for the content of EIS's. The scope of an individual statement may depend on its relationship with other EIS's or on phased review.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.793 Scoping.

"Scoping" means determining the range of proposed actions, alternatives, and impacts to be discussed in an EIS. Because an EIS is required to analyze significant environmental impacts only, scoping is intended to identify and narrow the EIS to the significant issues. The required scoping process (Section 25.05.408) provides interagency and public notice of a DS, or equivalent notification, and opportunity to comment. The lead agency has the option of expanding the scoping process (Section 25.05.410), but shall not be required to do so. Scoping is used to encourage cooperation and early resolution of potential conflicts, to improve decisions, and to reduce paperwork and delay.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.794 Significant.

A. "Significant," as used in SEPA, means a reasonable likelihood of more than a moderate adverse impact on environmental quality.

B. Significance involves context and intensity (Section 25.05.330 (threshold determination process)) and does not limit itself to a formula or quantifiable test. The context may vary with the physical setting. Intensity depends on the magnitude and duration of an impact.

The severity of an impact should be weighed along with the likelihood of its occurrence. An impact may be significant if its chance of occurrence is not great, but the resulting environmental impact would be severe if it occurred.

C. Section 25.05.330 specifies a process, including criteria and procedures, for determining whether a proposal is likely to have a significant adverse environmental impact.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.796 State agency.

"State agency" means any state board, commission, department, or officer, including state universities, colleges, and community colleges, that is authorized by law to make rules, hear contested cases, or otherwise take the actions stated in Section 25.05.704, except the judiciary and state legislature.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.797 Threshold determination.

"Threshold determination" means the decision by the responsible official of the lead agency whether or not an EIS is required for a proposal that is not categorically exempt (Sections 25.05.310 and 25.05.330 A2).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.799 Underlying governmental action.

"Underlying government action" means the governmental action, such as zoning, or permit approvals, that is the subject of SEPA compliance.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter IX

Categorical Exemptions

25.05.800 Categorical exemptions.

The proposed actions contained in this subchapter are categorically exempt from threshold determination and ElS requirements, subject to the rules and limitations on categorical exemptions contained in Section 25.05.305.

A. Minor New Construction--Flexible Thresholds.

1. The exemptions in this subsection apply to all licenses required to undertake the construction in question, except when a rezone or any license governing emissions to the air or discharges to water is required. To be exempt under this section, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in subsection A2 of this section shall control. If the proposal is located in more than one (1) city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency.

2. The following types of construction shall be exempt, except when undertaken wholly or partly on lands covered by water or unless undertaken in environmentally critical areas (Section 25.05.908):

   a. The construction or location of residential structures of four (4) or fewer dwelling units, in all Single Family zones, Residential Small Lot (RSL), Lowrise Duplex/Triplex (LDT), Lowrise One (L1) and all Commercial zones; six (6) or fewer units in Lowrise Two (L2) zones; eight (8) or fewer units in Lowrise Three (L3) and Lowrise Four (L4) zones; and twenty (20) or fewer units in Midrise (MR), Highrise (HR), Seattle Cascade Mixed (SCM) and all Downtown zones;

   b. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering ten thousand (10,000) square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;

c. The construction of the following office, school, commercial, recreational, service or storage buildings:

i. In Commercial One (C1), Commercial Two (C2), Seattle Cascade Mixed (SCM), and Industrial zones, buildings with twelve thousand (12,000) square feet of gross floor area, and with associated parking facilities designed for twenty (20) automobiles,

ii. In all other zones, buildings with four thousand (4,000) square feet of gross floor area, and with associated parking facilities designed for twenty (20) automobiles;

d. The construction of a parking lot designed for twenty (20) automobiles, as well as the addition of twenty (20) spaces to existing lots if the addition does not remove the lot from an exempt class;

e. Any landfill or excavation of five hundred (500) cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder;

f. Mixed-use construction, including but not limited to projects combining residential and commercial uses, is exempt if each use, when considered separately, is exempt under the criteria of subsections A2a through A2d above, unless the uses in combination may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction (see Section 25.05.305 A2b);

g. In zones not specifically mentioned in this subsection, the construction of residential structures of four (4) or fewer dwelling units and commercial structures of four thousand (4,000) or fewer square feet.

B. Other Minor New Construction. The following types of construction shall be exempt except where undertaken wholly or in part on lands covered by water (unless specifically exempted in this subsection); the exemptions provided by this section shall apply to all licenses required to undertake the construction in question, except where a rezone or any license governing emissions to the air or discharges to water is required:

1. The construction or designation of bus stops, loading zones, shelters, access facilities and pull-out lanes for taxicabs, transit and school vehicles;

2. The construction and/or installation of commercial on-premises signs, and public signs and signals;

3. The construction or installation of minor road and street improvements such as pavement marking, freeway surveillance and control systems, railroad protective

devices (not including grade-separated crossings), grooving, glare screen, safety barriers, energy attenuators, transportation corridor landscaping (including the application of Washington State Department of Agriculture approved herbicides by licensed personnel for right-of-way weed control as long as this is not within watersheds controlled for the purpose of drinking water quality in accordance with WAC 248-54-660), temporary traffic controls and detours, correction of substandard curves and intersections within existing rights-of-way, widening of a highway by less than a single lane width where capacity is not significantly increased and no new right-of-way is required, adding auxiliary lanes for localized purposes, (weaving, climbing, speed change, etc), where capacity is not significantly increased and no new right-of-way is required, channelization and elimination of sight restrictions at intersections, street lighting, guard rails and barricade installation, installation of catchbasins and culverts, and reconstruction of existing roadbed (existing curb-to-curb in urban locations), including adding or widening of shoulders, addition of bicycle lanes, paths and facilities, and pedestrian walks and paths, but not including additional automobile lanes;

4. Grading, excavating, filling, septic tank installations, and landscaping necessary for any building or facility exempted by subsections A and B of this section, as well as fencing and the construction of small structures and minor accessory facilities;

5. Additions or modifications to or replacement of any building or facility exempted by subsections A and B of this section when such addition, modification or replacement will not change the character of the building or facility in a way that would remove it from an exempt class;

6. The demolition of any structure or facility, the construction of which would be exempted by subsections A and B of this section, except for structures or facilities with recognized historical significance;

7. The installation of impervious underground tanks, having a capacity of ten thousand (10,000) gallons or less;

8. The vacation of streets or roads;

9. The installation of hydrological measuring devices, regardless of whether or not on lands covered by water;

10. The installation of any property, boundary or survey marker, other than fences, regardless of whether or not on lands covered by water.

C. Repair, Remodeling And Maintenance Activities. The following activities shall be categorically exempt: the repair, remodeling, maintenance, or minor alteration of existing private or public structures, facilities or equipment, including utilities, involving no material expansions or changes in use beyond that previously existing; except that, where undertaken wholly or in

part on lands covered by water, only minor repair or replacement of structures may be exempt (examples include repair or replacement of piling, ramps, floats, or mooring buoys, or minor repair, alteration, or maintenance of docks). The following maintenance activities shall not be considered exempt under this subsection:

1. Dredging;

2. Reconstruction/maintenance of groins and similar shoreline protection structures; or

3. Replacement of utility cables that must be buried under the surface of the bedlands. Repair/rebuilding of major dams, dikes, and reservoirs shall also not be considered exempt under this subsection.

D. Water Rights. The following appropriations of water shall be exempt, the exemption covering not only the permit to appropriate water, but also any hydraulics permit, shoreline permit or building permit required for a normal diversion or intake structure, well and pumphouse reasonably necessary to accomplish the exempted appropriation, and including any activities relating to construction of a distribution system solely for any exempted appropriation:

1. Appropriations of fifty (50) cubic feet per second or less of surface water for irrigation purposes, when done without a government subsidy;

2. Appropriations of one (1) cubic foot per second or less of surface water, or of two thousand two hundred fifty (2,250) gallons per minute or less of ground water, for any purpose.

E. Purchase or Sale of Real Property. The following real property transactions by an agency shall be exempt:

1. The purchase or acquisition of any right to real property;

2. The sale, transfer or exchange of any publicly owned real property, but only if the property is not subject to an authorized public use;

3. The lease of real property when the use of the property for the term of the lease will remain essentially the same as the existing use, or when the use under the lease is otherwise exempted by this chapter.

F. Minor Land Use Decisions. The following land use decisions shall be exempt:

1. Except upon lands covered by water, the approval of short plats or short subdivisions pursuant to the procedures required by RCW 58.17.060, but not including further short subdivisions or short platting within a plat or subdivision previously exempted under this subsection;

2. Granting of variances based on special circumstances, not including economic hardship, applicable to the subject property, such as size, shape, topography, location or surroundings and not resulting in any change in land use or density;

3. Classifications of land for current use taxation under Chapter 84.34 RCW, and classification and grading of forest land under Chapter 84.33 RCW;

4. Annexation of territory by a city or town.

G. School Closures. The adoption and implementation of a plan, program, or decision for the closure of a school or schools shall be exempt. Demolition, physical modification or change of a facility from a school use shall not be exempt under this subsection.

H. Open Burning. Opening burning and the issuance of any license for open burning shall be exempt. The adoption of plans, programs, objectives or regulations by any agency incorporating general standards respecting open burning shall not be exempt.

I. Clean Air Act. The following actions under the Clean Air Act shall be exempt:

1. The granting of variances under RCW 70.94.181 extending applicable air pollution control requirements for one (1) year or less shall be exempt;

2. The issuance, renewal, reopening, or revision of an air operating permit under RCW 70.94.161.

J. Water Quality Certifications. The granting or denial of water quality certifications under the federal Clean Water Act (Federal Water Pollution Control Act Amendments of 1972, 33 USC 1341) shall be exempt.

K. Activities of the State Legislature. All actions of the state legislature are exempted. This subsection does not exempt the proposing of legislation by an agency (Section 25.05.704).

L. Judicial Activity. The following shall be exempt:

1. All adjudicatory actions of the judicial branch;

2. Any quasi-judicial action of any agency if such action consists of the review of a prior administrative or legislative decision. Decisions resulting from contested cases or other hearing processes conducted prior to the first decision on a proposal or upon any application for a rezone, conditional use permit or other similar permit not otherwise exempted by this chapter, are not exempted by this subsection.

M. Enforcement and Inspections. The following enforcement and inspection activities shall be exempt:

1. All actions, including administrative orders and penalties, undertaken to enforce a statute, regulation, ordinance, resolution or prior decision. No license shall be considered exempt by virtue of this subsection; nor shall the adoption of any ordinance, regulation or resolution be considered exempt by virtue of this subsection;

2. All inspections conducted by an agency of either private or public property for any purpose;

3. All activities of fire departments and law enforcement agencies except physical construction activity;

4. Any action undertaken by an agency to abate a nuisance or to abate, remove or otherwise cure any hazard to public health or safety. The application of pesticides and chemicals is not exempted by this subsection but may be exempted elsewhere in these guidelines. No license or adoption of any ordinance, regulation or resolution shall be considered exempt by virtue of this subsection;

5. Any suspension or revocation of a license for any purpose.

N. Business and Other Regulatory Licenses. The following business and other regulatory licenses are exempt:

1. All licenses to undertake an occupation, trade or profession;

2. All licenses required under electrical, fire, plumbing, heating, mechanical, and safety codes and regulations, but not including building permits;

3. All licenses to operate or engage in amusement devices and rides and entertainment activities, including but not limited to cabarets, carnivals, circuses and other traveling shows, dances, music machines, golf courses, and theaters, including approval of the use of public facilities for temporary civic celebrations, but not including licenses or permits required for permanent construction of any of the above;

4. All licenses to operate or engage in charitable or retail sales and service activities, including but not limited to peddlers, solicitors, second hand shops, pawnbrokers, vehicle and housing rental agencies, tobacco sellers, close out and special sales, fireworks, massage parlors, public garages and parking lots, and used automobile dealers;

5. All licenses for private security services, including but not limited to detective agencies, merchant and/or residential patrol agencies, burglar and/or fire alarm dealers, guard dogs, locksmiths, and bail bond services;

6. All licenses for vehicles for-hire and other vehicle related activities, including but not limited to taxicabs, ambulances, and tow trucks; provided, that regulation of common carriers by the utilities and transportation commission shall not be considered exempt under this subsection;

7. All licenses for food or drink services, sales, and distribution, including but not limited to restaurants, liquor, and meat;

8. All animal control licenses, including but not limited to pets, kennels, and pet shops. Establishment or construction of such a facility shall not be considered exempt by this subsection;

9. The renewal or reissuance of a license regulating any present activity or structure so long as no material changes are involved.

O. Activities of Agencies. The following administrative, fiscal and personnel activities of agencies shall be exempt:

1. The procurement and distribution of general supplies, equipment and services authorized or necessitated by previously approved functions or programs;

2. The assessment and collection of taxes;

3. The adoption of all budgets and agency requests for appropriation; provided, that if such adoption includes a final agency decision to undertake a major action, that portion of the budget is not exempted by this subsection;

4. The borrowing of funds, issuance of bonds, or applying for a grant and related financing agreements and approvals;

5. The review and payment of vouchers and claims;

6. The establishment and collection of liens and service billings;

7. All personnel actions, including hiring, terminations, appointments, promotions, allocations of positions, and expansions or reductions in force;

8. All agency organization, reorganization, internal operational planning or coordination of plans or functions;

9. Adoptions or approvals of utility, transportation and solid waste disposal rates;

10. The activities of school districts pursuant to desegregation plans or programs; however, construction of real property transactions or the adoption of any policy, plan or program for such construction of real property transaction shall not be considered exempt under this subsection (see also Section 25.05.800 G).

P. Financial Assistance Grants. The approval of grants or loans by one agency to another shall be exempt, although an agency may at its option require compliance with SEPA prior to making a grant or loan for design or construction of a project.

This exemption includes agencies taking nonproject actions that are necessary to apply for federal or other financial assistance.

Q. Local Improvement Districts. The formation of local improvement districts, unless such formation constitutes a final agency decision to undertake construction of a structure or facility not exempted under Sections 25.05.800 and 25.05.880.

R. Information Collection and Research. Basic data collection, research, resource evaluation, request for proposals (RFPs), and the conceptual planning of proposals shall be exempt. These may be strictly for information-gathering, or as part of a study leading to a proposal that has not yet been approved, adopted or funded; this exemption does not include any agency action that commits the agency to proceed with such a proposal. (Also see Section 25.05.070 (limitations on actions during SEPA process)).

S. Acceptance of Filings. The acceptance by an agency of any document or thing required or authorized by law to be filed with the agency and for which the agency has no discretionary power to refuse acceptance shall be exempt. No license shall be considered exempt by virtue of this subsection.

T. Procedural Actions. The proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be exempt. Agency SEPA procedures shall be exempt.

U. Building Codes. The adoption by ordinance of all codes as required by the State Building Code Act (Chapter 19.27 RCW).

V. Adoption of Noise Ordinances. The adoption by counties/cities of resolutions, ordinances, rules or regulations concerned with the control of noise which do not differ from regulations adopted by the Department of Ecology under Chapter 70.107 RCW. When a county/city proposes a noise resolution, ordinance, rule or regulation, a portion of which differs from the applicable state regulations (and thus requires approval of the Department of Ecology under RCW 70.107.060(4)), SEPA compliance may be limited to those items which differ from state regulations.

W. Review and Comment Actions. Any activity where one agency reviews or comments upon the actions of another agency or another department within an agency shall be exempt.

X. Utilities. The utility-related actions listed below shall be exempt, except for installation, construction, or alteration on lands covered by water. The exemption includes

installation and construction, relocation when required by other governmental bodies, repair, replacement, maintenance, operation or alteration that does not change the action from an exempt class:

1. All communications lines, including cable TV, but not including communication towers or relay stations;

2. All stormwater, water and sewer facilities, lines, equipment, hookups or appurtenances including, utilizing or related to lines eight inches (8") or less in diameter;

3. All electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty-five thousand (55,000) volts or less; and the overbuilding of existing distribution lines (55,000 volts or less) with transmission lines (more than 55,000 volts); and the undergrounding of all electrical facilities, lines, equipment or appurtenances;

4. All natural gas distribution (as opposed to transmission) lines and necessary appurtenant facilities and hookups;

5. All developments within the confines of any existing electrical substation, reservoir, pump station or well; provided, that additional appropriations of water are not exempted by this subsection;

6. Periodic use of chemical or mechanical means to maintain a utility or transportation right-of-way in its design condition; provided, that chemicals used are approved by the Washington State Department of Agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660;

7. All grants of rights-of-way by agencies to utilities for use for distribution (as opposed to transmission) purposes;

8. All grants of franchises by agencies to utilities;

9. All disposals of rights-of-way by utilities.

Y. Natural Resources Management. In addition to the other exemptions contained in this section, the following natural resources management activities shall be exempt:

1. All Class I, II III forest practices as defined by RCW 76.09.050 or regulations thereunder;

2. Issuance of new grazing leases covering a section of land or less, and issuance of all grazing leases for land that has been subject to a grazing lease within the

previous ten (10) years;

3. Licenses or approvals to remove firewood;

4. Issuance of agricultural leases covering one hundred sixty (160) contiguous acres or less;

5. Issuance of leases for Christmas tree harvesting or brush picking;

6. Issuance of leases for school sites;

7. Issuance of leases for, and placement of, mooring buoys designed to serve pleasure craft;

8. Development of recreational sites not specifically designed for all-terrain vehicles and not including more than twelve (12) campsites;

9. Periodic use of chemical or mechanical means to maintain public park and recreational land; provided, that chemicals used are approved by the Washington State Department of Agriculture and applied by licensed personnel. This exemption shall not apply to the use of chemicals within watersheds that are controlled for the purpose of drinking water quality in accordance with WAC 248-54-660;

10. Issuance of rights-of-way, easements and use permits to use existing roads in nonresidential areas;

11. Establishment of natural area preserves to be used for scientific research and education and for the protection of rare flora and fauna, under the procedures of Chapter 79.70 RCW;

Z. Watershed Restoration Projects. Actions pertaining to watershed restoration projects as defined in RCW 89.08.460(2) are exempt; provided, they implement a watershed restoration plan which has been reviewed under SEPA (RCW 89.08.460(1)).

AA. Personal Wireless Service Facilities.

1. The siting of personal wireless service facilities are exempt if the facility:

a. Is a microcell and is to be attached to an existing structure that is not a residence or school and does not contain a residence or a school;

b. Includes personal wireless service antennas, other than a microcell, and is to be attached to an existing structure (that may be an existing tower) that is not a residence or school and does not contain a residence or school, and the existing structure to which it is to be attached is located in a

commercial or industrial zone; or

c. Involves constructing a personal wireless service tower less than sixty (60) feet in height that is located in a commercial or industrial zone.

2. For the purposes of this subsection:

a. "Personal wireless services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

b. "Personal wireless service facilities" means facilities for the provision of personal wireless services.

c. "Microcell" means a wireless communication facility consisting of an antenna that is either:

i. Four (4) feet in height and with an area of not more than five hundred eighty (580) square inches; or

ii. If a tubular antenna, no more than four (4) inches in diameter and no more than six (6) feet in length.

3. This exemption does not apply to projects within an environmentally critical area designated under GMA (RCW 36.70A.060).

(Ord. 119096 § 44, 1998; Ord. 118294 § 2, 1996; Ord. 116254 § 4, 1992; Ord. 114090 § 2, 1988; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.810 Exemptions and nonexemptions applicable to specific state agencies.

(See WAC 197-11-820 through 197-11-875.)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.880 Emergencies.

Actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt. Agencies may specify these emergency actions in their procedures.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.890 Petitioning DOE to change exemptions.

(See WAC 197-11-890.)
(Ord. 119096 § 45, 1998: Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter X

Agency Compliance

25.05.900 Purpose of Seattle SEPA rules sections.

(See WAC 197-11-900).

A. The City's SEPA policies designated as possible bases for the exercise of substantive authority under SEPA are set forth in Sections 25.05.665, 25.05.670 and 25.05.675.

B. The City's environmentally critical areas and the categorical exemptions which are inapplicable in such areas are set forth in Section 25.05.908.

C. Rules for designating the responsible department and responsible official when the City is the lead agency are provided in Section 25.05.910.

D. Procedures on requests for consultation are provided in Section 25.05.912.

E. Fees and costs for SEPA compliance for private projects are provided for in Section 25.05.914.

F. The application of these rules to ongoing actions is provided in Section 25.05.916.

G. Agencies with environmental expertise are provided in Section 25.05.920.

H. Rules for determining the lead agency are provided in Sections 25.05.922 through 25.05.948.

(Ord. 119096 § 46, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984).

25.05.902 Agency SEPA policies.

(See WAC 197-11-902 and Sections 25.05.665, .670 and .675.)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.904 Agency SEPA procedures.

(See WAC 197-11-904.)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.906 Content and consistency of agency procedures.

(See WAC 197-11-906.)
(Ord. 111866 § 1(part), 1984.)

25.05.908 Environmentally critical areas.

A. The following environmentally critical areas located in the City and regulated and mapped in of SMC Chapter 25.09, Regulations for Environmentally Critical Areas, and other City codes are subject to the provisions of this chapter:

1. Landslide-prone areas, including, but not limited to, known landslide areas, potential landslide areas, and steep slopes of forty (40) percent average slope or greater;

2. Riparian corridors;

3. Wetlands; and

4. Fish and wildlife habitat conservation areas.Within these areas, certain categorically exempt activities listed in Section 25.05.908 C could have a significant adverse environmental impact, require additional environmental review to determine impacts, and may require mitigation beyond the development standards required by all applicable City codes.

B. The scope of environmental review of actions within these environmental critical areas shall be limited to:

1. Documenting whether the proposal is consistent with The City of Seattle Regulations for Environmentally Critical Areas, SMC Chapter 25.09; and

2. Evaluating potentially significant impacts on the environmentally critical area resources not adequately addressed in The City of Seattle Environmentally Critical Areas Policies or the requirements of SMC Chapter 25.09, Regulations for Environmentally Critical Areas, including in additional mitigation measures needed to protect the environmentally critical areas in order to achieve consistentcy with SEPA and other applicable environmental review laws.

C. The following types of development shall not be categorically exempt in designated environmentally critical areas (see Section 25.05.800), unless a development site has been determined to be exempt under the exemption provisions contained in Chapter 25.09, Regulations for Environmentally Critical Areas:

1. Minor new construction:

a. One (1) single-family dwelling unit exceeding nine thousand (9,000) square feet of development coverage, or two (2) or more dwelling units,

b. Agricultural structures,

c. Office, school, commercial, recreational, service and storage buildings,

d. Parking lots,

e. Landfill or excavation;

2. Other minor new construction: construction/installation of minor road and street improvements, transportation corridor landscaping and herbicides for weed control;

3. Minor land use decisions: Short plats or short subdivisions;

4. Utilities: Chemical means to maintain design condition;

5. Natural resources management: Issuance of agricultural leases of one hundred (100) acres or less;

6. Issuance of leases for school sites;

7. Development of non-ATV recreational sites (twelve (12) campsites or less);

8. Chemical means to maintain public park or recreation land.

D. The Official Land Use Map of The City of Seattle contains overlays identifying the general boundaries of all known environmentally critical areas within the city, which reference The City of Seattle's Environmentally Critical Areas Maps to determine the general boundaries of each environmentally critical area. The Environmentally Critical Areas Maps specify those designated areas which are subject to SEPA pursuant to WAC 25.05.908. A copy of the maps shall be maintained in the SEPA Public Information Center.

The maps shall be used and amended as follows:

1. The maps shall be advisory and used by the Director of DCLU to provide guidance in determining applicability of SEPA to a property. Likewise, environmentally critical areas which are incorrectly mapped may be exempted from SEPA by the Director of DCLU when the provisions of subsection D of Section 25.09.040 of the regulations for environmentally critical areas apply.

2. The boundaries and contents of these designated environmentally critical areas maps may be amended by the Director following the environmentally critical areas maps amendment process as set forth in subsection C of Section 25.09.020 of the regulations for environmentally critical areas.

E. Proposals that will be located within environmentally critical areas are to be treated no differently than other proposals under this chapter, except as stated in the prior subsection. A threshold determination shall be made for all such actions, and an EIS shall not be automatically required for a proposal merely because it is proposed for location in an

environmentally critical area.
(Ord. 119096 § 47, 1998: Ord. 118794 § 60, 1997; Ord. 117789 § 15, 1995; Ord. 116976 § 1, 1993; Ord. 116254 § 5, 1992; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.910 Designation of responsible department and responsible official where City is lead agency.

(See WAC 197-11-910).

A. For each proposal where the City is the lead agency, the responsible department shall be designated prior to designation of the responsible official.

B. In designating the responsible department:

1. The first department receiving or initiating a proposal which involves a major action, and for which the City is the lead agency, shall determine the responsible department for that proposal;

2. If that department determines that another department is the responsible department, it shall immediately notify such department of its determination;

3. When a department determines that it is the responsible department, it shall immediately notify all other departments with jurisdiction over the proposal;

4. Except for the Legislative Department, the responsible department for all proposals initiated by a department shall be the department making the proposal. In the event that two (2) or more departments share in the initiation of a proposal, the departments shall by agreement determine which department will assume the status of responsible department;

5. When the proposal will involve both private and public construction activity, it shall be characterized as either a private or a public project for the purposes of responsible department designation, depending upon whether the primary sponsor or initiator of the project is a department or from the private sector. Any project in which department and private interests are too intertwined to make this characterization shall be considered a public project.

6. For proposals for private projects which require licenses from more than one (1) department, the responsible department shall be the department with responsibility for making the final recommendation or report on the first major action of the proposal or the first action which would result in irreversible commitment to the proposal; or in the event these conditions do not apply, the responsible department shall be the department whose action, license, or licenses will have the greatest effect on the environment;

7. Nothing in this section shall prohibit a department from assuming the role of

responsible department as the result of an agreement among all departments with jurisdiction;

8. In the event that the departments with jurisdiction are unable to determine which department is the responsible department under this subchapter, any department with jurisdiction may petition the Mayor for such determination. The petition shall clearly describe the proposal in question and include a list of all licenses and approvals required for the proposal. The petition shall be filed with the Mayor within fifteen (15) days after receipt by the petitioning department of the determination to which it objects. Within fifteen (15) days of receipt of a petition, the Mayor shall designate the responsible department.

C. The responsible official shall be the official within the responsible department who is responsible for making the final recommendation or report on the first major action of the proposal or on the first action which would result in irreversible commitment to the proposal. The department head shall designate for each proposed action, or for classes of actions, the responsible official in accordance with the criteria of this subsection.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.912 Procedures of consulted agencies.

(See WAC 197-11-912).

Any request for consultation with the City by another agency shall be directed to the Mayor. The Mayor shall establish and promulgate procedures for responding to such requests.
(Ord. 119096 § 48, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.914 SEPA costs and fees.

(See WAC 197-11-914).

A. For the purpose of reimbursing the City for necessary costs and expenses related to its compliance with the SEPA rules and this chapter in connection with private projects, the following schedule of fees, in addition to those otherwise provided by ordinance, is established:

1. For a threshold determination which requires information in addition to that contained in or accompanying the environmental checklist, a fee in an amount equal to the actual costs and expenses incurred by the City in conducting any studies or investigations necessary to provide such information; provided that the fee shall not be less than Twenty Dollars ($20) nor more than Five Hundred Dollars ($500);

2. For all private projects requiring an EIS for which the City is the lead agency and for which the responsible official determines that the EIS shall be prepared by employees of the City, or that the City will contract directly with a consultant or consultants for the preparation of an EIS, a fee in an amount equal to the actual

costs and expenses incurred by the City in preparing the EIS. Such fee shall also apply when the applicant prepares the EIS, and the responsible official determines that substantial rewriting or reassessing of impacts must be performed by employees of the City to insure compliance with the provisions of the SEPA Guidelines and this subchapter.

3. When the responsible official is the Director of Construction and Land Use, fees shall be paid as described in the Permit Fee Ordinance (SMC Chapter 22.900).

B. If the responsible official determines that an EIS is required, and that the EIS shall be prepared by employees of the City or by a consultant or consultants retained by the City, or that the applicant-prepared EIS shall be substantially rewritten by employees of the City, the private applicant shall be advised by the responsible official of the estimated costs and expenses of preparing or rewriting the EIS prior to actual preparation or rewriting, and the private applicant shall post bond or otherwise insure payment of such costs and expenses. The ultimate charge to the applicant shall not exceed the estimate. A consultant or consultants shall be selected by the responsible official in consultation with the private applicant.

C. All fees owed the City under this section shall be paid in full by the private applicant prior to final action by the City on the private project. Any fee owed the City under subsection A1 shall be paid by the private applicant prior to the initiation of actual preparation of an EIS (if required) or actual rewriting of an applicant-prepared EIS by the City of its consultant(s). If the private applicant disputes the amount of fee charged, the fee may be paid under protest and without prejudice to the applicant's right to file a claim and bring an action to recover the fee.

D. Proceeds from fees and charges imposed pursuant to this subchapter shall be transmitted to the City Director of Executive Administration and shall be deposited in the General Fund; provided, that proceeds from fees and charges collected by the Director of Construction and Land Use shall be deposited in the Department of Construction and Land Use Fund.
(Ord. 120794 § 296, 2002; Ord. 116368 § 308, 1992; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.916 Application to ongoing actions.

A. These SEPA procedures shall apply to any proposal initiated after the effective date of these SEPA procedures or those of the agency proposing the action.

B. For proposals made before the effective date of these agency SEPA procedures, the revised procedures shall apply to those elements of SEPA compliance initiated after the procedures went into effect. Agency procedures adopted under RCW 43.21.120 and these rules shall not be applied to invalidate or require modification of any threshold determination, EIS or other element of SEPA compliance undertaken or completed before the effective date of these procedures or those of the agency proposing the action.

C. Agencies are responsible for compliance with any statutory requirements that went into effect before the adoption of these rules and agency SEPA procedures (for example, the statutory requirements for appeals).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.917 Relationship of Chapter 197-11 WAC with Chapter 197-10 WAC.

(See WAC 197-11-917).
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.918 Lack of agency procedures.

(See WAC 197-11-918)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.920 Agencies with environmental expertise.

The following agencies shall be regarded as possessing special expertise relating to those categories of the environment under which they are listed:

A. Air Quality.

1. Department of Ecology.

2. Department of Natural Resources (only for burning in forest areas).

3. Department of Social and Health Services.

4. Regional air pollution control authority or agency.

B. Water Resources and Water Quality.

1. Department of Wildlife.

2. Department of Ecology.

3. Department of Natural Resources (state-owned tidelands, shorelands, harbor areas or beds of navigable waters).

4. Department of Social and Health Services (public water supplies, sewer systems, shellfish habitats).

5. Department of Fisheries.

6. Municipality of Metropolitan Seattle (METRO).

C. Hazardous and Toxic Substances (including radiation).

1. Department of Ecology.

2. Department of Social and Health Services.

3. Department of Agriculture (foods or pesticides).

4. Department of Fisheries (introduction into waters).

5. Department of Wildlife (introduction into waters).

D. Solid and Hazardous Waste.

1. Department of Ecology.

2. Department of Fisheries (dredge spoils).

3. Department of Social and Health Services.

4. Department of Wildlife (dredge spoils).

E. Fish and Wildlife.

1. Department of Wildlife.

2. Department of Fisheries.

F. Natural Resources Development.

1. Department of Commerce and Economic Development.

2. Department of Ecology.

3. Department of Natural Resources.

4. Department of Fisheries.

5. Department of Wildlife.

G. Energy Production, Transmission and Consumption.

1. Department of Ecology.

2. Department of Natural Resources (geothermal, coal, uranium).

3. State Energy Office.

4. Energy Facility Site Evaluation Council.

5. Utilities and Transportation Commission.

H. Land Use and Management.

1. Department of Commerce and Economic Development.

2. Department of Ecology.

3. Department of Fisheries (affecting surface or marine waters).

4. Department of Natural Resources (tidelands, shorelands, or state-owned or managed lands).

5. Planning and Community Affairs Agency.

6. Department of Wildlife.

I. Noise.

1. Department of Ecology.

2. Department of Social and Health Services.

J. Recreation.

1. Department of Commerce and Economic Development.

2. Department of Wildlife.

3. Department of Fisheries.

4. Parks and Recreation Commission.

5. Department of Natural Resources.

K. Archaeological/historical.

1. Office of Archaeology and Historic Preservation.

2. Washington State University at Pullman (Washington Archaeological Research Center).

L. Transportation.

1. Department of Transportation.

2. Utilities and Transportation Commission.

3. Municipality of Metropolitan Seattle (METRO).

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.922 Lead agency rules.

The rules for deciding when and how an agency is the lead agency (Section 25.05.050) are contained in this subchapter. The method and criteria for lead agency selection are in Section 25.05.924. Lead agency rules for different types of proposals as well as for specific proposals are in Sections 25.05.926 through 25.05.940. Rules for interagency agreements are in Sections 25.05.942 through 25.05.944. Rules for asking the Department of Ecology to resolve lead agency disputes are in WAC 197-11-946. Rules for the assumption of lead agency status by another agency with jurisdiction are in Section 25.05.948. Rules for designation of responsible department where the City is the lead agency are in Section 25.05.910.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.924 Determining the lead agency.

A. The first agency receiving an application for or initiating a nonexempt proposal shall determine the lead agency for that proposal, unless the lead agency has been previously determined, or the agency receiving the proposal is aware that another agency is determining the lead agency. The lead agency shall be determined by using the criteria in Sections 25.05.926 through 25.05.944.

B. If an agency determines that another agency is the lead agency, it shall mail to such lead agency a copy of the application it received, together with its determination of lead agency and an explanation. If the agency receiving this determination agrees that it is the lead agency, it shall notify the other agencies with jurisdiction. If it does not agree, and the dispute cannot be resolved by agreement, the agencies shall immediately petition the Department of Ecology (DOE) for a lead agency determination under Section 25.05.946.

C. Any agency receiving a lead agency determination to which it objects shall either resolve the dispute, withdraw its objection, or petition DOE for a lead agency determination within fifteen (15) days of receiving the determination. Any such petition on behalf of the City shall be initiated by the Mayor or the Mayor's designee.

D. An applicant may also petition DOE to resolve the lead agency dispute under Section 25.05.946.

E. To make the lead agency determination, an agency must determine to the best of its ability the range of proposed actions for the proposal (Section 25.05.060) and the other

agencies with jurisdiction over some or all of the proposal. This can be done by:

1. Describing or requiring an applicant to describe the main features of the proposal;

2. Reviewing the list of agencies with expertise;

3. Contacting potential agencies with jurisdiction either orally or in writing.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.926 Lead agency for governmental proposals.

A. When an agency initiates a proposal, it is the lead agency for that proposal. If two (2) or more agencies share in the implementation of a proposal, the agencies shall by agreement determine which agency will be the lead agency. For the purposes of this section, a proposal by an agency does not include proposals to license private activity.

B. Whenever possible, agency people carrying out SEPA procedures should be different from agency people making the proposal.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.928 Lead agency for public and private proposals.

When the proposal involves both private and public activities, it shall be characterized as either a private or a public project for the purposes of lead agency designation, depending upon whether the primary sponsor or initiator of the project is an agency or from the private sector. Any project in which agency and private interests are too intertwined to make this characterization shall be considered a public project. The lead agency for all public projects shall be determined under Section 25.05.926.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.930 Lead agency for private projects with one agency with jurisdiction.

For proposed private projects for which there is only one (1) agency with jurisdiction, the lead agency shall be the agency with jurisdiction.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.932 Lead agency for private projects requiring licenses from more than one agency when one of the agencies is a county/city.

For proposals for private projects that require nonexempt licenses from more than one (1) agency, when at least one (1) of the agencies requiring such a license is a county/city, the lead agency shall be that county/city within whose jurisdiction is located the greatest portion of the proposed project area, as measured in square feet. For the purposes of this section, the jurisdiction of a county shall not include the areas within the limits of cities or towns within such county.

(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.934 Lead agency for private projects requiring licenses from a local agency not a county/city, and one or more state agencies.

(See WAC 197-11-934)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.936 Lead agency for private projects requiring licenses from more than one state agency.

(See WAC 197-11-936)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.938 Lead agencies for specific proposals.

(See WAC 197-11-938)
(Ord. 119096 § 49, 1998: Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.940 Transfer of lead agency status to a state agency.

(See WAC 197-11-940)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.942 Agreements on lead agency status.

Any agency may assume lead agency status if all agencies with jurisdiction agree.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.944 Agreements on division of lead agency duties.

Two (2) or more agencies may by agreement share or divide the responsibilities of lead agency through any arrangement agreed upon. In such event, however, the agencies involved shall designate one (1) of them as the nominal lead agency, which shall be responsible for complying with the duties of the lead agency under these rules. Other agencies with jurisdiction shall be notified of the agreement and determination of the nominal lead agency.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.946 DOE resolution of lead agency disputes.

A. If the agencies with jurisdiction are unable to determine which agency is the lead agency under the rules, any agency with jurisdiction may petition the Department of Ecology (DOE) for a determination. The petition shall clearly describe the proposal in question, and include a list of all licenses and approvals required for the proposal. The petition shall be filed with DOE within fifteen (15) days after receipt by the petitioning agency of the determination to which it objects. Copies of the petition shall be mailed to any applicant involved, as well as to all other agencies with jurisdiction over the proposal. The applicant and agencies with jurisdiction

may file with DOE a written response to the petition within ten (10) days of the date of the initial filing.

B. Within fifteen (15) days of receipt of a petition, DOE shall make a written determination of the lead agency, which shall be mailed to the applicant and all agencies with jurisdiction. DOE shall make its determination in accordance with these rules and considering the following factors (which are listed in order of descending importance):

1. Magnitude of an agency's involvement;

2. Approval/disapproval authority over the proposal;

3. Expertise concerning the proposal's impacts;

4. Duration of an agency's involvement;

5. Sequence of an agency's involvement.

C. For resolution of interdepartmental lead agency disputes see Section 25.05.910.
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.948 Assumption of lead agency status.

A. An agency with jurisdiction over a proposal, upon review of a DNS (Section 25.05.340) may transmit to the initial lead agency a completed "Notice of Assumption of Lead Agency Status." This notice shall be substantially similar to the form in Section 25.05.985. Assumption of lead agency status shall occur only within the fourteen (14) day comment period on a DNS issued under Section 25.05.340 B1, or during the comment period on a notice of application when the early review DNS process in Section 25.05.355 is used, and must be approved by the Mayor or the Mayor's designee.

B. The DS by the new lead agency shall be based only upon information contained in the environmental checklist attached to the DNS transmitted by the first lead agency or the notice of application if the early review DNS process is used on the matters contained in the environmental checklist.

C. Upon transmitting the DS and notice of assumption of lead agency status, the consulted agency with jurisdiction shall become the "new" lead agency and shall expeditiously prepare an EIS. In addition, all other responsibilities and authority of a lead agency under this chapter shall be transferred to the new lead agency.
(Ord. 119096 § 50, 1998; Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

25.05.955 Effective date.

(See WAC 197-11-955 for effective date of WAC 197-11)
(Ord. 114057 § 1(part), 1988: Ord. 111866 § 1(part), 1984.)

Subchapter XI

Forms

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GRAPHIC UNAVAILABLE: Determination of Nonsignificance (DNS)

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GRAPHIC UNAVAILABLE: Notice of Assumption of Lead Agency Status

GRAPHIC UNAVAILABLE: Notice of Action

Chapter 25.06

FLOODPLAIN DEVELOPMENT

Sections:

25.06.010 Title.

This chapter shall be known and may be cited as the "Seattle Floodplain Development Ordinance."
(Ord. 114395 § 1(part), 1989.)

25.06.020 Purpose.

The purpose of this chapter is to regulate development in areas of special flood hazard in accordance with standards established by the National Flood Insurance Program and the Washington State Department of Ecology. This chapter is intended to promote the public health, safety and welfare and is not intended to protect or benefit any individual or any class or group of persons specifically, or to create or form the basis for any liability on the part of the City or its officers, employees or agents in connection with administration of this chapter. This chapter shall be administered by affected City departments and interpreted to accomplish its stated purpose.
(Ord. 114395 § 1(part), 1989.)

25.06.030 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage. For purposes of this chapter, the following words or phrases shall be defined as described below:

A. "Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

B. "Area of special flood hazard" means the land subject to a one (1) percent or greater chance of flooding in any given year. Designation on the Flood Insurance Rate Map (FIRM) for areas of special flood hazard always includes the letters A or V.

C. "Base flood level" and "base flood elevation" both mean the level or elevation above mean sea level, as calculated by reference to the National Geodetic Vertical Datum (NGVD), of floodwaters in a particular area during flood having a one (1) percent chance of

occurring in any given year.

D. "Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, nonresidential installations which produce, use or store hazardous materials or hazardous waste.

E. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage equipment or materials.

F. "Director" means the Director of the Department of Design, Construction and Land Use. As used in this chapter, the term includes authorized representatives of the Director of the Department of Design, Construction and Land Use.

G. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or

2. The unusual and rapid accumulation of runoff of surface waters from any source.

H. "Flood Insurance Rate Map (FIRM)" means the official map dated May 16, 1995, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to The City of Seattle.

I. "Flood Insurance Study" means the official report, entitled "The Flood Insurance Study for King County, Washington and Incorporated Areas," dated May 16, 1995, provided by the Federal Insurance Administration, that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

J. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

K. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of applicable nonelevation design requirements of subsection A2 of Section 25.06.110.

L. "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" also includes travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

M. "Manufactured home park" or "manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

N. "New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.[1]

O. Recreational vehicle means a vehicle that is (a) built on a single chassis; (b) four hundred (400) square feet or less in area when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

P. "Start of construction" means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. "Permanent construction" does not include site preparation, such as a clearing, grading or filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Q. "Structure" means anything that is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

R. 1. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

a. Before the improvement or repair is started; or

b. If the structure has been damaged and is being restored, before the damage occurred.

2. For the purpose of this definition, a "substantial improvement" commences when the first alteration on any wall, ceiling, floor or other structural part of the building is made, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

a. Any project for improvement of a structure to comply with existing state

or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or

b. Any alteration of a structure which is listed on the National Register of Historic Places or a State Inventory of Historic Places, which is designated as a landmark pursuant to SMC Chapter 25.12 or which is included in a landmark or historic district.

(Ord. 121115 § 1, 2003: Ord. 114395 § 1(part), 1989.)

1. Editor's Note: Ordinance 114395 was passed by the Council on March 6, 1989 and approved by the Mayor on March 17, 1989.

25.06.040 Applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of The City of Seattle.
(Ord. 114395 § 1(part), 1989.)

25.06.050 Identification of areas of special flood hazard.

Areas of special flood hazard in The City of Seattle are identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for King County, Washington and Incorporated Areas," dated May 16, 1995, with accompanying Flood Insurance Rate Maps. The study and maps are filed in C.F. 296948 and are hereby adopted by reference and declared to be a part of this chapter. The study and maps shall be maintained on file at the Department of Design, Construction and Land Use and the Seattle Public Utilities and may be maintained on file at the Seattle Park Department, the Seattle-King County Department of Public Health, and other City offices.
(Ord. 121115 § 2, 2003: Ord. 118396 § 193, 1996: Ord. 114395 § 1(part), 1989.)

25.06.060 Floodplain development approval required.

Construction or development shall not be undertaken within any area of special flood hazard established in Section 25.06.050 without approval under this chapter. For development where no other permit or authorization from The City of Seattle or its departments or agencies is necessary to begin or to accomplish the work, the approval shall be documented by issuance of a floodplain development license. For development where some other permit or authorization from The City of Seattle or its departments or agencies is required to begin or accomplish the work, including but not limited to development performed by City departments, the floodplain development approval shall be incorporated in such other permit or authorization.
(Ord. 114395 § 1(part), 1989.)

25.06.070 Application for floodplain development approval or license.

Application for a floodplain development license or for floodplain development approval shall be made on forms furnished by the Administrators. The application shall include, but shall not be limited to, the following information:

A. Elevation prepared by a licensed surveyor or a registered professional civil engineer in relation to mean sea level, as calculated based on the National Geodetic Vertical Datum (NGVD), of the lowest floor (including basement) of all structures;

B. Elevation prepared by a licensed surveyor or a registered professional civil engineer in relation to mean sea level, as calculated based on the National Geodetic Vertical Datum (NGVD), to which any structure has been or will be floodproofed;

C. Certification by a registered professional civil engineer that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 25.06.110; and

D. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
(Ord. 114395 § 1(part), 1989.)

25.06.080 Designation of Administrators.

Each City department which has responsibility for review and approval of any development or which performs any development in areas of special flood hazard in The City of Seattle is designated as an Administrator of this chapter and shall approve or deny floodplain development proposals only in accordance with the provisions of this chapter. Each Administrator shall be responsible for enforcing the provisions of this chapter as they apply to that Administrator's jurisdiction. The Director shall approve or deny applications for floodplain development licenses in accordance with the provisions of this chapter.
(Ord. 114395 § 1(part), 1989.)

25.06.090 Functions of the Administrators.

Functions of the Administrators under this chapter shall include the following:

A. Review development proposals to determine that the requirements of this chapter have been satisfied;

B. Review development proposals to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

C. When base flood elevation data has not been provided in accordance with Section 25.06.050, obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 25.06.110 and 25.06.120;

D. Where base flood elevation data is provided through the Flood Insurance Study or required and obtained through subsection C above, obtain and record the actual (as-built) elevation (in relation to mean seal level as calculated based on the National Geodetic Vertical

Datum) of the lowest floor, including basement, of all new or substantially improved structures, and indicate whether or not the structure contains a basement;

E. For all new or substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level as calculated based on the National Geodetic Vertical Datum), and

2. Maintain the floodproofing certifications required in subsection C of Section 25.06.070;

F. Maintain for public inspection all records pertaining to the provisions of this chapter;

G. Notify affected communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

H. Require that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity is not diminished;
(Ord. 121115 § 3, 2003; Ord. 114395 § 1(part), 1989.)

25.06.100 General standards.

In all areas of special flood hazards, the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage.

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during

conditions of flooding.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

4. Where base flood elevation data has not been provided or is not available from another authoritative source, the applicant shall provide such data for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less).

E. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, proposed construction shall be reasonably safe from flooding. The evaluation of reasonableness shall include consideration of historical data, high water marks, photographs of past flooding, and similar information where available.
(Ord. 114395 § 1(part), 1989.)

25.06.110 Standards involving base flood elevations.

In all areas of special flood hazards where base flood elevation data has been provided under Section 25.06.050 or subsection C of Section 25.06.090, the following are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to two (2) feet or more above

base flood elevation.

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional civil engineer or architect or must meet or exceed the following minimum criteria:

a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;

b. The bottom of all openings shall be no higher than one (1) foot above grade;

c. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. Nonresidential and Live-work Unit Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure (including a structure with one or more live-work units) shall either have the lowest floor, including basement, elevated to two feet (2') or more above the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below two feet (2') above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional civil engineer that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided as set forth in subsection C of Section 25.06.070.

Nonresidential structures or structures with one (1) or more live-work units that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection A2 above. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot (1') below the floodproofed level (e.g., a building floodproofed to one foot (1') above the base flood level will be rated as at the base flood level).

C. Critical Facilities. Construction of new critical facilities shall be located outside

the limits of the areas of special flood hazard where possible. Construction of new critical facilities shall be permissible within areas of special flood hazard if no feasible alternative site is available. Critical facilities constructed within areas of special flood hazard shall have the lowest floor elevated to three (3) feet above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes to all critical facilities shall be elevated to or above the level of the base flood elevation to the extent possible.

D. Manufactured Homes. All manufactured homes within Zones A1-30, AH, and AE on the FIRM shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is two (2) feet or more above the base flood elevation, and shall be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 25.06.100 A.

E. Recreational Vehicles. Recreational vehicles placed on sites within areas of special flood hazard shall either (1) be on the site for fewer than one hundred eighty (180) consecutive days; (2) be fully licensed and ready for highway use, on their wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and be without permanently attached additions; or (3) meet the requirements for manufactured homes specified in Subsection 25.06.110 D above.
(Ord. 121828 § 15, 2005; Ord. 121196 § 32, 2003; Ord. 121115 § 4, 2003; Ord. 118396 § 194, 1996: Ord. 116255 § 1, 1992; Ord. 114395 § 1(part), 1989.)

25.06.120 Standards for floodways.

Areas designated as floodways are areas of special flood hazard established in Section 25.06.050. The following provisions apply to development in designated floodways:

A. Encroachments, including fill, new construction, substantial improvements, and other development, are prohibited unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge.

B. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (1) repairs, reconstruction, or improvements to a structure which do not increase the ground-floor area; and (2) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty (50) percent of the market value of the structure either (a) before the repair, reconstruction or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. Work done on structures to comply with existing health, sanitary or safety codes, or to structures identified as historic or landmark structures may be excluded from the fifty (50) percent requirement.

C. If the certification of subsection A of this section above is obtained, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.

(Ord. 121115 § 5, 2003; Ord. 114395 § 1(part), 1989.)

25.06.130 Standards for shallow flooding areas.

Areas designated as AO zones on the Flood Insurance Rate Maps are areas of shallow flooding. The following provisions apply to such areas of shallow flooding:

A. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building one (1) foot or more above the depth number specified on the FIRM, or if no depth number is specified, at least two (2) feet.

B. New construction and substantial improvements of nonresidential structures with one (1) or more live-work units within AO zones shall either (1) have the lowest floor (including basement) elevated above the highest adjacent grade of the building site one (1) foot or more above the depth number specified on the FIRM, or if not depth number is specified, at least two (2) feet; or (2) together with attendant utility and sanitary facilities, be completely floodproofed so that any space below the level specified in subsection (1) above is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If floodproofing is used, compliance with these standards must be certified by a registered professional engineer or architect.

C. Adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures shall be required.
(Ord. 121196 § 33, 2003; Ord. 114395 § 1(part), 1989.)

25.06.140 Penalties for noncompliance.

No development shall occur in an area of special flood hazard in The City of Seattle without full compliance with the terms of this chapter and other applicable regulations. Any person who violates this chapter or fails to comply with any of its requirements shall be subject to cumulative civil penalty in the amount of Fifty Dollars ($50.00) per day for each day from the date the violation began until the date compliance with the requirements of this chapter is achieved. Nothing herein contained shall prevent The City of Seattle from taking such other lawful action as is necessary to prevent or remedy any violation.
(Ord. 114395 § 1(part), 1989.)

25.06.150 Wetlands management.

To the maximum extent possible, development shall avoid the short-term and long-term adverse impacts associated with the destruction or modification of wetlands, especially development which limits or disrupts the ability of wetland to alleviate flooding impacts. The Administrators shall implement the following process:

A. Review proposals for development within areas of special flood hazard for their

possible impacts on wetlands located within such areas;

B. Ensure that development activities in or around wetlands do not negatively affect public safety, health and welfare by disrupting the wetland's ability to reduce flood and storm drainage;

C. Request technical assistance from the Department of Ecology in identifying wetland areas.

(Ord. 114395 § 1(part), 1989.)

Chapter 25.08

NOISE CONTROL

Sections:

Statutory Reference: For statutory provisions on noise control, see RCW Ch. 70.107.

Severability: Should any section, subsection, paragraph, sentence, clause or phrase of this chapter or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter or its application to any other person or situation.
(Ord. 106360 § 1002, 1977.)

Subchapter I

General Provisions

25.08.010 Declaration of policy.

It is the policy of the City to minimize the exposure of citizens to the physiological and psychological dangers of excessive noise and to protect, promote and preserve the public health, safety and welfare. It is the express intent of the City Council to control the level of noise in a manner which promotes commerce; the use, value and enjoyment of property; sleep and repose; and the quality of the environment.
(Ord. 106360 § 101, 1977.)

25.08.020 Findings of special conditions.

The problem of noise in the City has been studied since 1974 by the City Council. On the basis of this experience and knowledge of conditions within the City, the City Council finds that special conditions exist within the City which make necessary any and all differences between this chapter and the regulations adopted by the Department of Ecology.
(Ord. 106360 § 102, 1977.)

25.08.030 Chapter additional to other law.

The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise, but shall be deemed additional to existing legislation and common law on noise.
(Ord. 106360 § 1001, 1977.)

Subchapter II

Definitions

25.08.040 Definitions generally--Gender.

All technical terminology used in this chapter, not defined in this subchapter, shall be

interpreted in conformance with American National Standards Institute Specifications, Section 1.1-1960 and Section 1.4-1971. Words used in the masculine gender include the feminine and words used in the feminine gender include the masculine. For the purposes of this chapter the words and phrases used herein shall have the meanings set forth in the following sections of this subchapter.
(Ord. 106360 § 200, 1977.)

25.08.050 Administrative Code.

"Administrative Code" means the Administrative Code of The City of Seattle (Ordinance 102228)[1] as now or hereafter amended.
(Ord. 106360 § 201, 1977.)
1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.08.060 Administrator.

"Administrator" means the Director of the Department of Planning and Development or his or her authorized representative, except that the Director of the Public Health--Seattle and King County or his or her authorized representative shall continue to be the "Administrator" of Subchapter VII Variances through December 31, 1993.
(Ord. 121276 § 28, 2003; Ord. 116621 § 1, 1993; Ord. 106360 § 202, 1977.)

25.08.070 Commercial agriculture.

"Commercial agriculture" means the production of livestock or agricultural commodities on lands defined as "farm and agricultural" by RCW 84.34.020(2) and the offering of the livestock and agricultural commodities for sale.
(Ord. 112976 § 5, 1986: Ord. 106360 § 203, 1977.)

25.08.080 Construction.

"Construction" means any site preparation, assembly, erection, demolition, substantial repair, maintenance, alteration, or similar action for or of public or private rights-of-way, structures, utilities, or similar property.
(Ord. 112976 § 5, 1986: Ord. 111458 § 5, 1983: Ord. 106360 § 204, 1977.)

25.08.090 dB(A).

"dB(A)" means the sound level measured in decibels, using the "A" weighting network.
(Ord. 106360 § 205, 1977.)

25.08.100 Districts.

"District" means the land use zones to which the provisions of this chapter are applied. For the purposes of this chapter:

A. "Rural District" includes zones designated in the King County Zoning Code as A,

F-R, F-P, S-E, G, and S-R greater than thirty-five thousand (35,000) square feet.

B. "Residential District" includes zones designated in the King County Zoning Code as R-S, R-D, R-M, B-N, and S-R less than thirty-five thousand (35,000) square feet, and zones defined as residential zones and NC1 zones in The Seattle Land Use Code, Title 23.

C. "Commercial District" includes zones designated in the King County Zoning Code as B-C, C-G, M-L, and M-P, and zones designated as NC2, NC3, C1, C2, DOC1, DOC2, DRC, DMC, PSM, IDM, DH1, DH2, PMM, and IB in the Seattle Land Use Code, Title 23.

D. "Industrial District" includes zones designated in the King County Zoning Code as M-H, Q-M, and unclassified uses and zones designated as IG1, IG2, and IC in the Seattle Land Use Code, Title 23.(Ord 115041 § 1, 1990: Ord. 106360 § 206, 1977.)

25.08.110 Emergency work.

"Emergency work" means work required to restore property to a safe condition following a public calamity, work required to protect persons or property from an imminent exposure to danger, or work by private or public utilities for providing or restoring immediately necessary utility service.
(Ord. 115041 § 1, 1990: Ord. 106360 § 207, 1977.)

25.08.120 Equipment.

"Equipment" means any stationary or portable device or any part thereof capable of generating sound.
(Ord. 106360 § 208, 1977.)

25.08.130 Gross combination weight rating (GCWR).

"Gross combination weight rating" (GCWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a combination vehicle.
(Ord. 106360 § 209, 1977.)

25.08.140 Gross vehicle weight rating (GVWR).

"Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a single vehicle.
(Ord. 106360 § 210, 1977.)

25.08.150 Impulsive sound.

"Impulsive sound" means sound having the following qualities: the peak of the sound level is less than one (1) second and short compared to the occurrence rate; the onset is abrupt; the decay rapid; and the peak value exceeds the ambient level by more than ten (10) dB(A).
(Ord. 106360 § 211, 1977.)

25.08.160 L eq.

"L eq" means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. The time period applicable must be specified.
(Ord. 108552 § 1, 1979: Ord. 106360 § 211.5, 1977.)

25.08.170 Motorcycle.

"Motorcycle" means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground; except that farm tractors and vehicles powered by engines of less than five (5) horsepower shall not be included.
(Ord. 106360 § 214, 1977.)

25.08.180 Motor vehicle.

"Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways and required to be licensed under RCW 46.16.010. (Aircraft, watercraft and vehicles used exclusively on stationary rails or tracks are not motor vehicles as that term is used in this chapter.)
(Ord. 106360 § 212, 1977.)

25.08.190 Motor vehicle racing event.

"Motor vehicle racing event" means any competition between motor vehicles and/or off-highway vehicles under the auspices of a sanctioning body recognized by the Administrator under rules adopted in accordance with the Administrative Code.[1]
(Ord. 106360 § 213, 1977.)
1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.08.200 Muffler.

"Muffler" means a device consisting of a series of chambers or other mechanical designs for the purpose of receiving exhaust gas from an internal combustion engine, or for the purpose of introducing water to the flow of the exhaust gas and which is effective in reducing sound resulting therefrom.
(Ord. 109099 § 1, 1980: Ord. 106360 § 215, 1977.)

25.08.210 New motor vehicle.

"New motor vehicle" means a motor vehicle manufactured after December 31, 1975, the equitable or legal title of which has never been transferred to a person who, in good faith, purchases the new motor vehicle for purposes other than resale.
(Ord. 106360 § 216, 1977.)

25.08.220 Noise.

"Noise" means the intensity, duration and character of sounds from any and all sources.
(Ord. 106360 § 217, 1977.)

25.08.225 Residential disturbance.

"Residential disturbance" means a gathering of more than one (1) person at a residential property located in a single family or multifamily zone, as defined in SMC Section 23.84.048 between the hours of ten (10:00) p.m. (eleven (11:00) p.m. on Friday and Saturday nights) and seven (7:00) a.m. at which noise associated with the gathering is frequent, repetitive or continuous and is audible to a person of normal hearing at a distance of seventy -five (75) feet or more from the property.
(Ord. 121192 § 2, 2003.)

25.08.230 Off-highway vehicle.

"Off-highway vehicle" means any self-propelled motor-driven vehicle not used primarily for transporting persons or property upon public highways nor required to be licensed under RCW 46.16.010. The term "off-highway vehicle" shall not include special construction vehicles.
(Ord. 106360 § 218, 1977.)

25.08.240 Periodic sound.

"Periodic sound" means sound having the following qualities: the sound level varies repetitively, with a period of one (1) minute or less, and the peak value is more than five (5) dB(A) above the minimum value.
(Ord. 106360 § 219, 1977.)

25.08.250 Person.

"Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.
(Ord. 106360 § 220, 1977.)

25.08.260 Property boundary.

"Property boundary" means an imaginary line exterior to any enclosed structure, at ground surface, which separates the property of one (1) or more persons from that owned by others, and its vertical extension.
(Ord. 106360 § 221, 1977.)

25.08.270 Public highway.

"Public highway" means the entire width between the boundary lines of every way publicly maintained by the Department of Highways or any county or city when any part thereof is generally open to the use of the public for purposes of vehicular travel as a matter of right.

(Ord. 106360 § 222, 1977.)

25.08.280 Public nuisance noise.

"Public nuisance noise" means any unreasonable sound which either annoys, injures, interferes with or endangers the comfort, repose, health or safety of an entire community or neighborhood, although the extent of damage may be unequal.
(Ord. 110047 § 1, 1981: Ord. 106360 § 223, 1977.)

25.08.290 Pure tone component.

"Pure tone component" means a sound having the following qualities: a one-third (1/3) octave band sound pressure level in the band with the tone that exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) decibels for center frequencies of five hundred (500) Hz and above, by eight (8) decibels for center frequencies between one hundred sixty (160) and four hundred (400) Hz, and by fifteen (15) decibels for center frequencies less than or equal to one hundred twenty-five (125) Hz.
(Ord. 106360 § 224, 1977.)

25.08.300 Real property.

"Real property" means an interest or aggregate of rights in land which is guaranteed and protected by law; for purposes of this chapter, the term "real property" includes a leasehold interest.
(Ord. 106360 § 225, 1977.)

25.08.310 Receiving property.

"Receiving property" means real property within which sound originating from sources outside the property is received.
(Ord. 106360 § 226, 1977.)

25.08.315 Shoreline.

"Shoreline" means the existing intersection of water with the ground surface or with any permanent, shore-connected facility.
(Ord. 109099 § 5, 1980: Ord. 106360 § 226.5, 1977.)

25.08.320 Sound level.

"Sound level" means the weighted sound pressure level measured by the use of a metering characteristic and weighted as specified in American National Standards Institute Specifications, Section 1.4-1971. The sound pressure level of a sound expressed in decibels is twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound to the reference sound pressure of twenty (20) micropascals. In the absence of any specific modifier, the level is understood to be that of a mean-square pressure.

(Ord. 106360 § 227, 1977.)

25.08.330 Sound level meter.

"Sound level meter" means a sound level measuring device, either Type I or Type II, as defined by American National Standards Institute Specifications, Section 1.4-1971.
(Ord. 106360 § 228, 1977.)

25.08.340 Special construction vehicle.

"Special construction vehicle" means any vehicle which is designed and used primarily for grading, paving, earth moving, and other construction work; and which is not designed or used primarily for the transportation of persons or property on a public highway; and which is only incidentally operated or moved over the highway.
(Ord. 106360 § 229, 1977.)

25.08.350 Use.

"Use" means the nature of the occupancy, the type of activity, or the character and form of improvements to which land is devoted or may be devoted.
(Ord. 106360 § 230, 1977.)

25.08.360 Warning device.

"Warning device" means any device intended to provide public warning of potentially hazardous, emergency or illegal activities, including but not limited to a burglar alarm or vehicle back-up signal, but not including any fire alarm.
(Ord. 106360 § 231, 1977.)

25.08.370 Watercraft.

"Watercraft" means any contrivance, including aircraft taxiing but excluding aircraft in the act of actual landing or takeoff, used or capable of being used as a means of transportation or recreation on water, powered by an internal or external combustion engine.
(Ord. 109099 § 2, 1980: Ord. 106360 § 232, 1977.)

25.08.380 Weekday.

"Weekday" means any day Monday through Friday which is not a legal holiday.
(Ord. 106360 § 233, 1977.)

25.08.390 Weekend.

"Weekend" means Saturday and Sunday or any legal holiday.
(Ord. 106360 § 234, 1977.)

Subchapter III

Environmental Sound Levels

25.08.400 Unlawful sounds.

It is unlawful for any person to cause sound, or for any person in possession of property to permit sound originating from such property, to intrude into the real property of another person whenever such sound exceeds the maximum permissible sound levels established by this subchapter.
(Ord. 106360 § 301, 1977.)

25.08.410 Maximum permissible sound levels.

For sound sources located within the City or King County, the maximum permissible sound levels are as follows:

District of Sound Source	**District of Receiving Property Within The City of Seattle**		
	Residential (dB(A))	Commercial (Db(A))	Industrial (dB(A))
Rural	52	55	57
Residential	55	57	60
Commercial	57	60	65
Industrial	60	65	70

(Ord. 106360 § 302, 1977.)

25.08.420 Modifications to maximum permissible sound levels.

The maximum permissible sound levels established by this subchapter shall be reduced or increased by the sum of the following:

A. Between the hours of ten (10:00) p.m. and seven (7:00) a.m. during weekdays, and between the hours of ten (10:00) p.m. and nine (9:00) a.m. on weekends, the levels established by Section 25.08.410 are reduced by ten (10) dB(A) where the receiving property lies within a residential district of the City.

B. For any source of sound which is periodic, which has a pure tone component, or which is impulsive and is not measured with an impulse sound level meter, the levels established by this subchapter shall be reduced by five (5) Db(A); provided, however, that this five (5) dB(A) penalty for the emission of sound having a pure tone component shall not be imposed on any electrical substation, whether existing or new.

C. For any source of sound which is of short duration, the levels established by this subchapter are increased by:

1. Five (5) dB(A) for a total of fifteen (15) minutes in any one (1) hour period; or

2. Ten (10) dB(A) for a total of five (5) minutes in any one (1) hour period; or

3. Fifteen (15) dB(A) for a total of 1.5 minutes in any one (1) hour period.

(Ord. 106360 § 303, 1977.)

25.08.425 Construction and equipment operations.

A. The maximum permissible sound levels established by Sections 25.08.410 and 25.08.420, as measured from the real property of another person or at a distance of fifty (50) feet from the equipment, whichever is greater, may be exceeded between the hours of seven (7:00) a.m. and ten (10:00) p.m. on weekdays and between the hours of nine (9:00) a.m. and ten (10:00) p.m. on weekends by no more than the following dB(A)'s for the following types of equipment:

1. Twenty-five (25) dB(A) for equipment on construction sites, including but not limited to crawlers, tractors, dozers, rotary drills and augers, loaders, power shovels, cranes, derricks, graders, off-highway trucks, ditchers, trenchers, compactors, compressors, and pneumatic-powered equipment;

2. Twenty (20) dB(A) for portable powered equipment used in temporary locations in support of construction activities or used in the maintenance of public facilities, including but not limited to chainsaws, log chippers, lawn and garden maintenance equipment, and powered hand tools; or

3. Fifteen (15) dB(A) for powered equipment used in temporary or periodic maintenance or repair of the grounds and appurtenances of residential property, including but not limited to lawnmowers, powered handtools, snow-removal equipment, and composters.

B. Sounds created by impact types of construction equipment, including but not limited to pavement breakers, piledrivers, jackhammers, sandblasting tools, or by other types of equipment or devices which create impulse noise or impact noise or are used as impact equipment, as measured at the property line or fifty (50) feet from the equipment, whichever is greater, may exceed the maximum permissible sound levels established in subsection A of this section in anyone (1) hour period between the hours of eight (8:00) a.m. and five (5:00) p.m. on weekdays and nine (9:00) a.m. and five (5:00) p.m. on weekends, but in no event to exceed the following:

1. L eq ninety (90) dB(A) continuously;

2. L eq ninety-three (93) dB(A) for thirty (30) minutes;

3. L eq ninety-six (96) dB(A) for fifteen (15) minutes; or

4. L eq ninety-nine (99) dB(A) for seven and one-half (7 1/2) minutes; provided that

sound levels in excess of L eq ninety-nine (99) dB(A) are prohibited unless authorized by variance obtained from the Administrator; and provided further that sources producing sound levels less than ninety (90) dB(A) shall comply with subsection A of this section during those hours not covered by this subsection B.

a. The standard of measurement shall be a one (1) hour L eq. L eq may be measured for times not less than one (1) minute to project an hourly L eq. Reference to one (1) hour is for measurement purposes only and shall not be construed as limiting construction to a one (1) hour period.

b. These subsections A and B shall be reviewed periodically by the City to assure that the sound level limits are technically feasible.

C. Construction activity that exceeds the maximum permissible sound levels established by Section 25.08.410, when measured from the interior of buildings within a commercial district, is prohibited between the hours of eight (8:00) a.m. and five (5:00) p.m. For purposes of this subsection C, interior sound levels shall be measured only after every reasonable effort, including but not limited to closing windows and doors, is taken to reduce the impact of the exterior construction noise.
(Ord. 115041 § 2, 1990: Ord. 112976 § 1, 1986: Ord. 111458 § 1, 1983.)

25.08.426 Plan review fee.

Whenever any project or proposal is submitted to the Administrator for review and/or commenting relating to any special noise studies and mitigation measures proposed as part of a mitigated DNS or EIS under any of the following:

1. Chapter 43.21C of the Revised Code of Washington, the State Environmental Policy Act ("SEPA");

2. Chapter 197-11 of the Washington Administrative Code, the State SEPA Rules; or

3. Chapter 25.05 of the Seattle Municipal Code, the City's SEPA rules; the request for review shall be accompanied by a plan review fee of Fifty Dollars ($50); provided, that such fee shall not be required for any such review and/or commenting wherein the Administrator determines that the reasonable amount of time necessary to accomplish the same is less than one (1) hour. This fee shall be nonrefundable, and shall accompany each such request for comment by the Administrator.

(Ord. 114832 § 2, 1989.)

Subchapter IV

Motor Vehicle Sound Levels

25.08.430 Sounds created by operation of motor vehicles.

It is unlawful for any person to operate upon any public highway any motor vehicle or any combination of motor vehicles under any conditions of grade, load, acceleration or deceleration in such manner so that the motor vehicle's exhaust noise exceeds ninety-five (95) decibels as measured by the Society of Automative Engineers (SAE) test procedure J1169 (May, 1998).
(Ord. 120481 § 9, 2001: Ord. 106360 § 401, 1977.)

25.08.450 Modification to motor vehicles.

No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase, the noise emitted by the engine of such vehicle above that emitted by the muffler originally installed on the vehicle, and it shall be unlawful for any person to operate a motor vehicle not equipped as required by Sections 11.84.060 and 11.84.080 or which has been amplified as prohibited by this section so that the vehicle's exhaust noise exceeds ninety-five (95) decibels as measured by the Society of Automotive Engineers (SAE) test procedure J1169 (May, 1998). (RCW 46.37.390(3))
(Ord. 120481 § 10, 2001; Ord. 106360 § 403, 1977.)

25.08.460 Tire noise.

It is unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such sound from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, provided that sound resulting from emergency braking to avoid imminent danger shall be exempt from this section.
(Ord. 106360 § 404, 1977.)

25.08.470 Sale of new motor vehicles which exceed limits.

It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-highway vehicle, which produces a maximum sound level exceeding the following maximum permissible sound levels at a distance of fifty (50) feet, by acceleration test procedures established by the State Commission on Equipment:

Vehicle Category	dB(A)
Motorcycles manufactured after 1975	83
Any motor vehicle over 10,000 pounds GVWR manufactured after 1975 and prior to 1978	86
Any motor vehicle over 10,000 pounds GVWR manufactured after 1978	83
All other motor vehicles	80

(Ord. 106360 § 405, 1977.)

25.08.480 Motor vehicle exemptions.

Sounds created by motor vehicles are exempt from the maximum permissible sound levels of Subchapter III, except that sounds created by any motor vehicle operated off public highways shall be subject to the sound levels of Subchapter III when the sounds are received within a residential district of the City.
(Ord. 106360 § 406, 1977.)

25.08.485 Watercraft.

A. It is unlawful for any person to operate any watercraft in such a manner as to exceed the following maximum noise limits when measured within fifty (50) feet of the shoreline or anywhere within a receiving property:

1. At any hour of the day or night, the limit for any receiving property shall be seventy-four (74) dB(A), except that;

2. Between sunset and sunrise the limit for any receiving property within a residential or rural district shall be sixty-four (64) dB(A). For the purpose of administering and enforcing this section, sunset will be interpreted as ten (10:00) p.m. and sunrise will be interpreted as seven (7:00) a.m.

B. It is unlawful for any person to operate any watercraft, except aircraft, which is not equipped with a functioning underwater exhaust or a properly installed and adequately maintained muffler. Any of the following defects in the muffling system shall constitute a violation of this subsection:

1. The absence of a muffler;

2. The presence of a muffler cutout, bypass, or similar device which is not standard or normal equipment for the exhaust system being inspected;

3. Defects in the exhaust system including, but not limited to, pinched outlets, holes, or rusted-through areas of the muffler or pipes; and

4. The presence of equipment which will produce excessive or unusual noise from the exhaust system.Dry stacks or water-injected stacks not containing a series of chambers or mechanical designs effective in reducing sound shall not be considered as adequately maintained mufflers.

C. The following exemptions shall apply to sounds created by watercraft or watercraft operations:

1. Normal docking, undocking, and water skier pick-up and drop-off operations of

all watercraft shall be exempt from provisions in subsection A;

2. Sounds created by the operation of commercial, nonrecreational watercraft are exempt at all times for provisions of this chapter. These commercial activities include, but are not limited to, tugboats, fishing boats, ferries, and vessels engaged in intrastate, interstate, or international commerce;

3. Sounds created by boat races and regattas, and trials therefor as sanctioned by the Chief of Police acting as Port Warden pursuant to Section 27 of Ordinance 87983[1] as amended are exempt from provisions in this section and in this chapter between the hours of seven (7:00) a.m. and ten (10:00) p.m. on weekdays and between the hours of nine (9:00) a.m. and ten (10:00) p.m. on weekends.

D. Nothing in this section shall be construed to limit the powers of the Chief of Police acting as Port Warden, as enumerated in Section 3 of Ordinance 87983[2] as amended. (Ord. 109099 § 6, 1980: Ord. 106360 § 407, 1977.)

1. Editor's Note: Section 27 of Ord. 87983 is codified in Section 16.20.160 of this Code.
2. Editor's Note: Section 3 of Ord. 87983 is codified in Section 16.12.010 of this Code.

Subchapter V

Public Nuisance Noises

25.08.490 Prohibited.

Pursuant to the notice and order procedure set forth in Subchapter IX, the Administrator may determine that a sound constitutes a public nuisance noise as defined in this chapter. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound which has been determined a public nuisance noise. (Ord. 106360 § 501, 1977.)

25.08.500 Public disturbance noises.

It is unlawful for any person knowingly to cause or make, or for any person in possession of property knowingly to allow or originate from the property, unreasonable noise which disturbs another, and to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a police officer or, pursuant to subsection A of this section, when ordered to do so by a police officer or animal control officer. "Unreasonable noise" shall include the following sounds or combination of sounds:

A. Loud and raucous, and frequent, repetitive, or continuous sounds made by any animal, except that such sounds made in animal shelters, commercial kennels, veterinary hospitals, pet shops, or pet kennels licensed under and in compliance with Chapter 10.72 of this Code shall be exempt from this subsection; provided, that notwithstanding any other provision of this chapter, if the owner or other person having custody of the animal cannot, with reasonable inquiry, be located by the investigating officer or if the animal is a repeated violator of this subsection, the animal shall be impounded by the poundmaster, subject to redemption in the

manner provided by Chapter 9.08 of this Code;

B. Loud and raucous, and frequent, repetitive, or continuous sounds made by any horn or siren attached to a motor vehicle, except such sounds that are made to warn of danger or that are specifically permitted or required by law;

C. Loud and raucous, and frequent, repetitive, or continuous sounds made in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine;

D. Loud or raucous, and frequent, repetitive, or continuous sounds created by use of a musical instrument, or other device capable of producing sound when struck by an object, a whistle, or a sound amplifier or other device capable of producing, amplifying, or reproducing sound;

E. Loud and raucous, and frequent, repetitive, or continuous sounds made by the amplified or unamplified human voice between the hours of ten (10:00) p.m. and seven (7:00) a.m. The content of the speech shall not be considered against any person in determining a violation of this subsection; and

F. Loud and raucous, and frequent, repetitive, or continuous sounds made by the amplified human voice within the Pike Place Market Historical District, as designated in Chapter 25.24 of the Seattle Municipal Code, between the hours of ten (10:00) a.m. and five (5:00) p.m. The content of the speech shall not be considered against any person in determining a violation of this subsection.
(Ord. 114656 § 2, 1989: Ord. 110047 § 2, 1981: Ord. 106360 § 502, 1977.)

25.08.505 Residential disturbance violation.

It is unlawful for any person to knowingly allow real property under one's possession or control to be used for a residential disturbance, as defined in Section 25.08.225.
(Ord. 121192 § 3, 2003.)

25.08.508 Abatement of chronic violations.

A. A residential property at which three (3) or more violations of SMC Section 25.08.505 occur within any twelve (12) month period constitutes a nuisance and is subject to an action for abatement pursuant to this section; provided that the person or persons responsible for such violations were residents of the same housing unit, as defined in SMC Section 22.204.090.

B. The City Attorney shall notify the owner and tenant(s) of any property when a tenant or other person has been found to be in violation of Section 25.08.505 at the owner's property. All notices pursuant to this subsection shall include notification that an action for abatement under this section may be commenced if three (3) or more violations of Section 25.08.505 occur at the property within a twelve (12) month period and the person or persons responsible were residents of the same housing unit as defined in SMC Section 22.204.090.

C. In addition to any other remedies provided by this chapter or any other law, an action to abate chronic violations of Section 25.08.505, may be commenced by the City Attorney against the owner and/or tenant(s) of a property following a third or subsequent violation of SMC Section 25.08.505 at the property within a twelve (12) month period where the person or persons responsible for such violations were residents of the same housing unit as defined in SMC Section 22.204.090. An action shall not be commenced under this section until at least thirty (30) days after the mailing of a notice of a finding of a third violation which occurs within a twelve (12) month period. If during this thirty (30) day period an owner provides written notice to the City Attorney that the owner has filed a legal proceeding to evict the person or persons responsible for three (3) or more violations of Section 25.08.505 and the City Attorney is satisfied the owner will diligently prosecuted such eviction action, an action against the owner under this section shall not be filed. If the court determines that three (3) or more violations of Section 25.08.505 have occurred at a property within any twelve (12) month period, the court may order any remedy that is reasonably likely to abate future violations, providing that the court should not enter an order prohibiting the rental of a housing unit or units unless other remedies have failed to abate future violations.

D. Notices required by this section shall be in writing. Notice to an owner is sufficient if sent to the address of the owner listed in the records of the King County Recorder. If the City Attorney knows that a property is managed by a third party property manager, notices required by the section may be sent to such third party property manager. No inference shall be drawn in a private dispute between a landlord and a tenant or tenants solely because of the lack of a notice from the City Attorney as contemplated by this section.
(Ord. 121192 § 4, 2003.)

25.08.510 Exempted sources.

No sound source specifically exempted from a maximum permissible sound level by this chapter shall be a public nuisance noise or public disturbance noise, insofar as the particular source is exempted.
(Ord. 106360 § 503, 1977.)

25.08.515 Public disturbance noise from portable or motor vehicle audio equipment.

A. While in park areas, residential or commercial zones, or any area where residences, schools, human service facilities or commercial establishments are in obvious proximity to the source of the sound, it is unlawful for any person to negligently cause, make or allow to be made from audio equipment under such person's control or ownership the following:

1. Sound from a motor vehicle audio system, such as a radio, tape player or compact disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of seventy-five (75) feet or more from the vehicle itself; or

2. Sound from portable audio equipment, such as a radio, tape player or compact

disc player, which is operated at such a volume that it could be clearly heard by a person of normal hearing at a distance of seventy-five (75) feet or more from the source of the sound.

B. This section shall not apply to persons operating portable audio equipment upon their own premises, such as an owner or a tenant, or to persons operating such equipment within a public park pursuant to an event under a permit issued under SMC Section 18.12.042, in which event other provisions of the Noise Code shall apply, including SMC Sections 25.08.500 and 25.08.520, respectively.

C. The content of the sound will not be considered in determining a violation of this section.
(Ord. 114656 § 1, 1989.)

25.08.520 Noise in public parks and places.

A. It is unlawful for any person to cause, or for any person in charge of a group of persons to allow sound from an officially sanctioned musical event to originate in a public park, public place, as defined in the Street Use Ordinance No. 90047,[1] public market or civic center which exceeds an L eq of ninety-five (95) dB(A) for one (1) minute as measured fifty feet (50') (approximately fifteen (15) meters) from the source or sources, whether or not the sounds are live or recorded. Provided, that this section shall not apply to indoor events.

B. Each violation of this section which occurs after notice to the person (designated on the permit as the agent to receive notices of violations in the case of events with permits) that he or she is in violation of this section shall constitute a separate offense. At the time of application the applicant shall designate an on-premises agent who will accept notices of violations of this chapter during the event. The absence of the designated on-premises agent from the event or the inability of the serving agency to locate the on-premises agent or the refusal of an on-premises agent or responsible official of a group to accept notice of a violation shall not affect the validity of the initial or successive violations.

C. The Administrator, the Director of Seattle Center, the Superintendent of Parks, the Director of Transportation, the Chief of Police, or an authorized representative of any of them may terminate a performance as a public nuisance after following the notice requirements of subsection B of this section if the decibel level exceeds one hundred five (105) dB(A) for a total of five (5) minutes in any thirty (30) minute period as measured fifty feet (50') (approximately fifteen (15) meters) from the source or sources.

D. Before any permit or other authorizing document is issued for any event which will produce sounds which may violate this section, the application shall be circulated to the Administrator. The Department of Construction and Land Use is authorized to attach any conditions consistent with this chapter and reasonably calculated to prevent annoying sounds.

E. 1. In any permit for use of a public park, public market, civic center, or other public place, the Superintendent of Parks and Recreation, the Director of Transportation

or the Director of the Seattle Center or the designee of any of them, respectively, shall stipulate that the Department of Construction and Land Use provide sound-control monitoring services whenever:

a. Amplified sound will be used at the proposed event; and

b. The Administrator or his designee finds that, unless monitored, the sound level originating at the proposed event may exceed the sound level in SMC Section 25.08.520 A. The Administrator shall be guided principally by the expected power and type of amplification and, for those with a record of prior usage, by past events held on City property within the last two (2) years.

2. The Administrator, in his or her discretion, may perform the service directly, delegate performance to the authority issuing the permit, or retain an acoustician.

F. This section does not limit or diminish the management authority of the Superintendent of Parks and Recreation, the Director of Transportation or the Director of the Seattle Center to require a performance bond or cash deposit for the use and occupancy of a public park, a public place or public market, or the Seattle Center, respectively, as security for payment of costs and expenses related thereto, damages or cleanup costs that may arise from a proposed event, and/or taxes and other amounts that may become payable; nor does this section limit or diminish their management authority to grant or deny such permits for causes independent of the Noise Ordinance codified in this chapter.

G. A copy or digest of this section on noise in public parks and public places shall be delivered to every person applying for a permit or other authorizing document which involves the production of sounds which may violate this section and the permittee shall sign a receipt signifying that he or she has received the same.

(Ord. 118409 § 219, 1996: Ord. 116621 § 2, 1993: Ord. 112379 §§ 1 and 2, 1985; Ord. 108552 § 2, 1979: Ord. 106360 § 504, 1977.)

1. Editor's Note: The Street Use Ordinance is codified in Title 15 of this Code.

Subchapter VI

Exemptions

25.08.530 Sounds exempt at all times.

A. The following sounds are exempt from the provisions of this chapter at all times:

1. Sounds originating from aircraft in flight, and sounds which originate at airports and are directly related to flight operations;

2. Sounds created by safety and protective devices, such as relief valves, where noise suppression would defeat the safety release intent of the device;

3. Sounds created by fire alarms;

4. Sounds created by emergency equipment and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community;

5. Sounds created by the discharge of firearms in the course of lawful hunting activities;

6. Sounds created by natural phenomena;

7. Sounds originating from forest harvesting and silviculture activity and from commercial agriculture, if the receiving property is located in a commercial or industrial district of the City;

8. Sounds created by auxiliary equipment on motor vehicles used for maintenance; and

9. Sounds created by warning devices or alarms not operated continuously for more than thirty (30) minutes per incident.

(Ord. 112976 § 2, 1986: Ord. 111458 § 2, 1983: Ord. 110047 § 3, 1981: Ord. 109099 § 4, 1980: Ord. 106360 § 601, 1977.)

25.08.535 Sound exemptions for prior construction projects.

Sounds created by equipment used in any construction project for which the call for bids has commenced prior to the effective date of the ordinance from which this section derives[1] are exempt from the provisions of this chapter:

A. At all times if the receiving property is located in a nonresidential district of the City; or

B. Between the hours of seven a.m. (7:00 a.m.) and ten p.m. (10:00 p.m.) on weekdays and between the hours of nine a.m. (9:00 a.m.) and ten p.m. (10:00 p.m.) on weekends if the receiving property is located in a residential district of the City.

(Ord. 112976 § 3, 1986: Ord. 111458 § 3, 1983.)

1. Editor's Note: Ord. 111458 was passed December 12, 1983. Ord. 112976 was passed July 28, 1986.

25.08.540 Sounds exempt during daytime hours-Generally.

A. The following sounds are exempt from the provisions of this chapter between the hours of seven a.m. (7:00 a.m.) and ten p.m. (10:00 p.m.) on weekdays and between the hours of nine a.m. (9:00 a.m.) and ten p.m. (10:00 p.m.) on weekends:

1. Sounds created by bells, chimes, or carillons not operating for more than five (5) minutes in any one (1) hour;

2. Unamplified sounds originating from officially sanctioned parades and other

public events;

3. Sounds created by the discharge of firearms on legally established shooting ranges;

4. Sounds created by blasting; and

5. Sounds originating from forest harvesting and silviculture activity and from commercial agriculture, if the receiving property is located in a residential district of the City. The Administrator is authorized to promulgate regulations which extend the hours during which this exemption shall be in effect to conform with operating laws designated by the Washington State Department of Natural Resources in directing an official fire closure.

(Ord. 112976 § 4, 1986: Ord. 112379 § 3, 1985: Ord. 111458 § 4, 1983: Ord. 108498 § 1, 1981: Ord. 106360 § 602, 1977.)

25.08.545 Sounds exempt during daytime hours-Aircraft testing and maintenance.

Sounds created by the testing or maintenance of aircraft, or of components of aircraft, are exempt from the provisions of this chapter between the hours of seven a.m. (7:00 a.m.) and ten p.m. (10:00 p.m.) on weekdays and between nine a.m. (9:00 a.m.) and ten p.m. (10:00 p.m.) on weekends, when performed according to the following instructions:

A. Testing and maintenance for any aircraft or component not connected thereto shall be performed at an airport designated as such by the Federal Aviation Administration prior to April 1, 1979, or designated as such by the Administrator at any time.

B. If the testing or maintenance is performed at the King County International Airport, the aircraft or component shall be entirely within the ultimate airport property line as shown on the map entitled "King County International Airport-Airport Layout Plan" (prepared December 1, 1976, revised October 10, 1978), and at areas designated by the Airport Manager: It is intended that this map be the reference map regardless of any future changes, provided that the Administrator may grant exceptions to this subsection for good cause shown. A copy of the King County International Airport Layout Plan Map is on file in the City Clerk's office (C.F. 288269), at the office of the Airport Manager of the King County International Airport, and at the Planning and Research Department of the Port of Seattle.

(Ord. 108498 § 2, 1981: Ord. 106360 § 604, 1977.)

25.08.550 Sounds exempt from nighttime reduction.

The following sounds are exempt from the provisions of Section 25.08.420 A:

A. Sounds created by existing stationary equipment used in the conveyance of water by a utility;

B. Sounds created by existing electrical substations;

C. Sounds created by sources in industrial districts which, over the previous three (3) years, have consistently operated in excess of fifteen (15) hours per day as a demonstrated routine or as a consequence of process necessity; provided that such exemption shall only extend to five (5) years after the effective date of the ordinance codified in this chapter.[1] Changes in working hours or activity which would increase the noise emitted under this exemption require the approval of the Administrator, given under rules adopted in accordance with the Administrative Code.[2]

(Ord. 106360 § 603, 1977.)

1. Editor's Note: Ord. 106360 became effective on May 13, 1977.
2. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

Subchapter VII

Variances

25.08.560 Application--Generally.

Any person who owns or is in possession of any property or use, or any process or equipment, may apply to the Administrator for relief from the requirements of any provision of this chapter other than Section 25.08.500 or rules or regulations promulgated hereunder governing the quality, nature, duration or extent of discharge of noise. In a proper case, the variance may apply to all sources of a particular class or type. The application shall be accompanied by such information and data as the Administrator may require. In accordance with the Administrative Code,[1] the Administrator shall promulgate rules and regulations governing application for and granting of such variances, including hearings and notice.

(Ord. 110047 § 4, 1981: Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(a), 1977.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.08.580 Discretion of Administrator.

A variance or its renewal shall not be a right of the applicant or holder thereof but shall be at the reasonable discretion of the Administrator.

(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(b), 1977.)

25.08.590 Granting of variance.

No variance shall be granted pursuant to Sections 25.08.560 through 25.08.620 until the Administrator has considered the relative interests of the applicant, other owners or possessors of property likely to be affected by the noise, and the general public. A technical or economic variance may be granted only after a public hearing on due notice. The Administrator may grant a variance, if he finds that:

A. The noise occurring or proposed to occur does not endanger public health or safety; and

B. The applicant demonstrates that the criteria required for temporary, technical or

economic variance under Sections 25.08.610 through 25.08.630 are met.
(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(c), 1977.)

25.08.600 Renewal of variance.

Variances, except temporary variances, granted pursuant to this chapter may be renewed on terms and conditions and for periods which would be appropriate on the initial granting of a variance. No renewal shall be granted except on application made at least sixty (60) days prior to the expiration of the variance.
(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(d), 1977.)

25.08.610 Appeal procedure.

Any person aggrieved by the denial, grant, or the terms and conditions on the grant of an application for a variance or renewal of a variance by the Administrator may appeal such decision to the Hearing Examiner under procedures contained in Subchapter IX.
(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(e), 1977.)

25.08.620 Exemption.

Any person or source granted a variance pursuant to the procedures of this subchapter or an appeal shall be exempt from the maximum permissible sound levels established by this chapter to the extent provided in the variance.
(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(f), 1977.)

25.08.630 Temporary variance.

The Administrator may grant a temporary variance, not to exceed fourteen (14) days, for any activity, use, process or equipment which the Administrator determines, in accordance with rules and regulations, does not annoy a substantial number of the people and does not endanger public health or safety.
(Ord. 106360 § 702(a), 1977.)

25.08.640 Technical variance.

A technical variance may be granted by the Administrator on the ground that there is no practical means known or available for the adequate prevention, abatement or control of the noise involved. Any technical variance shall be subject to the holder's taking of any alternative measures that the Administrator may prescribe. The duration of each technical variance shall be until such practical means for prevention, abatement or control become known or available. The holder of a technical variance, as required by the Administrator, shall make reports to the Administrator detailing actions taken to develop a means of noise control or to reduce the noise involved and must relate these actions to pertinent current technology.
(Ord. 106360 § 702(b), 1977.)

25.08.650 Economic variance.

An economic variance may be granted by the Administrator on the ground that compliance with the particular requirement or requirements from which the variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a period of time. The duration of an economic variance shall be for a period not to exceed such reasonable time as is required in the view of the Administrator for the taking of the necessary measures. An economic variance shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to the timetable.
(Ord. 106360 § 702(c), 1977.)

Subchapter VIII

Administration and Noise Measurement

25.08.660 Authority of Administrator and Chief of Police.

Unless provided otherwise by this chapter, the Chief of Police shall be responsible for enforcing Sections 25.08.500, 25.08.505 and 25.08.515, the Chief of Police and the Administrator shall be responsible for enforcing Subchapter IV of this chapter, and the Administrator shall be responsible for enforcing the remaining provisions of this chapter. Upon request by the Administrator or the Chief of Police, all other City departments and divisions are authorized to assist them in enforcing this chapter.
(Ord. 121192 § 5, 2003: Ord. 114656 § 3, 1989: Ord. 110047 § 5, 1981: Ord. 106360 § 801, 1977.)

25.08.670 Duties of Administrator.

The duties of the Administrator shall include, but are not limited to:

A. Obtaining assistance from other appropriate City departments and divisions;

B. Training field inspectors;

C. Purchasing measuring instruments and training inspectors in their calibration and use;

D. Promulgating and publishing rules and procedures, in accordance with the Administrative Code,[1] to establish techniques for measuring or reducing noise and to provide for clarification, interpretation, and implementation of this chapter;

E. Investigating citizens' noise complaints;

F. Issuing orders for the reduction or elimination of noise in accordance with Subchapter IX;

G. Assisting citizens and City departments in evaluating and reducing the noise

impact of their activities;

H. Assisting City planning officials in evaluating the noise component in planning and zoning actions;

I. Instituting a public education program on noise; and

J. Reviewing at least every three (3) years the provisions of this chapter and recommending revisions consistent with technology to reduce noise.
(Ord. 106360 § 802, 1977.)
1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.08.680 Measurement of sound.

If the measurements of sound are made with a sound level meter, it shall be an instrument in good operating condition and shall meet the requirements for a Type I or Type II instrument, as described in American National Standards Institute Specifications, Section 1.4-1971. If the measurements are made with other instruments, or assemblages of instruments, the procedure must be carried out in such manner that the overall accuracy shall be at least that called for in Section 1.4-1971 for Type II instruments.
(Ord. 106360 § 803, 1977.)

25.08.690 Technical corrections.

When the location, distance or technique prescribed in this chapter for measurement of sound is impractical or would yield misleading or inaccurate results, measurements shall be taken at other locations or distances using appropriate correction factors, as specified in the rules promulgated by the Administrator.
(Ord. 106360 § 804, 1977.)

25.08.700 Receiving properties within more than one district.

Where a receiving property lies within more than one district, the maximum permissible sound level shall be determined by the district within which the measurement is made.
(Ord. 106360 § 805, 1977.)

Subchapter IX

Enforcement

25.08.710 Right of entry--Administrator.

Upon presentation of proper credentials, the Administrator, with the consent of the occupant, or with the consent of the owner of any unoccupied building, structure, property or portion thereof, or pursuant to a lawfully issued warrant may enter at all reasonable times, any building, structure, property or portion thereof to inspect the same whenever necessary to make an inspection to enforce or determine compliance with the provisions of this chapter over which

he has enforcement responsibility or whenever he has cause to believe that a violation of any provision of this chapter other than Section 25.08.500 has been or is being committed; provided, if the building, structure, property or portion thereof is unoccupied, the Administrator shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property or portion thereof and demand entry. If the Administrator is unable to locate the owner or such other persons and he has reason to believe that conditions therein create an immediate and irreparable health hazard, then he shall make entry.
(Ord. 10047 § 6, 1981: Ord. 106360 § 901, 1977.)

25.08.730 Notice and order.

A. Unless provided otherwise by this chapter, whenever the Administrator has reason to believe that a maximum permissible sound level of Subchapter III is being exceeded, that a public nuisance noise is being emitted, or that the terms of a variance have not been met, he may initiate an administrative proceeding as provided by Subchapter IX, and serve a written notice and order directed to the owner or operator of the source, or to the holder of the variance. One (1) copy shall also be posted on the property or source, if reasonably possible, and another copy shall be mailed to each complainant (if any) about the noise; additional copies may be mailed by the Administrator to such other interested or affected persons as the Administrator deems appropriate.

B. The notice shall contain a brief and concise description of the conditions alleged to be in violation or to be a public nuisance noise, the provision(s) of this Chapter alleged to have been violated, the sound level readings, if taken, including the time and place of their recording.

C. The order shall contain a statement of the corrective action required and shall specify a reasonable time within which the action must be accomplished.
(Ord. 110047 § 7, 1981: Ord. 106360 § 903(a), 1977.)

25.08.740 Method of service.

Service of the notice and order shall be made upon the persons named in the notice and order, either personally or by mailing a copy of the notice and order by certified mail, postage prepaid, return receipt requested, to each person at his last known address. If the whereabouts of the persons is unknown and cannot be ascertained by the Administrator in the exercise of reasonable diligence, and the Administrator shall make affidavit to that effect, then the service of the notice and order upon the persons may be made by publishing them once each week for two (2) consecutive weeks in the City official newspaper. The failure of any such person to receive the notice and order shall not affect the validity of any proceedings taken under this chapter. Service by certified mail in the manner provided in this section shall be effective on the date of mailing.
(Ord. 106360 § 903(b), 1977.)

25.08.750 Final orders.

Any order issued by the Administrator pursuant to this chapter shall become final unless,

no later than ten (10) days after the order is served, a person named in the notice and order requests a hearing before the Hearing Examiner in accordance with Section 25.08.770.
(Ord. 106360 § 903(c), 1977.)

25.08.760 Administrative conferences.

An informal administrative conference may be conducted at any time by the Administrator for the purpose of bringing out all the facts and circumstances relating to an alleged violation, promoting communication between concerned parties, and providing a forum for efficient resolution of a violation. The Administrator may call a conference in response to a request from any person aggrieved by an order of the Administrator or the Administrator may call a conference on his own motion. Attendance at the conference shall be determined by the Administrator and need not be limited to those named in a notice and order. As a result of information developed at the conference, the Administrator may affirm, modify or revoke his order. The holding of an administrative conference shall not be a prerequisite to use of any other enforcement provisions contained in this chapter.
(Ord. 106360 § 903(d), 1977.)

25.08.770 Right to appeal.

Any person aggrieved by an order issued by the Administrator, including a variance decision, may file an appeal in writing with the Hearing Examiner within a period extending to five (5:00) p.m. of the tenth day following the date of service of the order.
(Ord. 108647 § 2(part), 1979: Ord. 106360 § 904(a), 1977.)

25.08.780 Form of appeal.

The written appeal shall contain the following information:

A. A heading in the words: "Before the Hearing Examiner of the City of Seattle";

B. A caption reading: "Appeal of _____" giving the names of all appellants participating in the appeal;

C. A brief statement setting forth any legal interest of each of the appellants in the property or equipment involved in the order or variance decision;

D. A brief statement in concise language of the specific action protested, together with any material facts claimed to support the contentions of the appellant;

E. A brief statement of the relief sought, and the reason why it is claimed the protested action should be reversed, modified, or otherwise set aside;

F. The signatures of all parties named as appellants and their mailing addresses; and

G. The verification (by declaration under penalty of perjury) of at least one (1)

appellant as to the truth of the matters stated in the appeal.
(Ord. 108647 § 2(part), 1979: Ord. 106360 § 904(b), 1977.)

25.08.790 Hearing Examiner's consideration.

The Hearing Examiner shall consider the appeal in accordance with the procedure established for hearing contested cases under the Administrative Code,[1] and within thirty (30) days of the conclusion of the hearing, shall render his decision and mail his final order to the Administrator and the appellant. The ruling or interpretation of the Administrator may be affirmed, reversed or modified in the Hearing Examiner's final order. If the ruling or interpretation of the Administrator is reversed or substantially modified, the Hearing Examiner shall direct that the filing fee be returned to the appellant. The decision of the Hearing Examiner shall be final, and the appellant and the administrator bound thereby.
(Ord. 108647 § 2(part), 1979: Ord. 106360 § 904(c), 1977.)
1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.08.800 Punishment.

A. Conduct made unlawful by Subchapter IV, Section 25.08.515 and Section 25.08.520 of this chapter shall constitute a violation subject to the provisions of Chapters 12A.02 and 12A.04 of this Code (Seattle Criminal Code) and any person convicted of a violation of Subchapter IV or Section 25.08.520 shall be punished by a civil fine or forfeiture not to exceed Five Hundred Dollars ($500); conduct made unlawful by Section 25.08.515 shall be punished by a civil fine or forfeiture not to exceed Fifty Dollars ($50).

B. Conduct made unlawful by Section 25.08.500 of this chapter shall constitute a crime subject to the provisions of Chapters 12A.02 and 12A.04 of this Code (Seattle Criminal Code) and any person convicted thereof shall be punished by a fine not to exceed Five Hundred Dollars ($500), or by imprisonment in the City Jail for a term not to exceed six (6) months, or by both such fine and imprisonment.
(Ord. 114656 § 4, 1989: Ord. 110047 § 8, 1981: Ord. 106360 § 905(a), 1977.)

25.08.805 Residential disturbance penalties.

A. Except as provided in subsection B of this section, conduct made unlawful by Section 25.08.505 shall be a Class 1 civil infraction as contemplated by RCW Chapter 7.80 and is subject to a monetary penalty and a default amount of Two Hundred Fifty Dollars ($250), plus any statutory assessments. A civil infraction under this section shall be processed in the manner set forth in RCW Chapter 7.80.

B. A person who continues to be in violation of Section 25.08.505 after receiving a notice of infraction pursuant to subsection A of this section, or who again violates Section 25.08.505 within twenty-four (24) hours after receiving a notice of infraction pursuant to subsection A of this section commits a misdemeanor and any person who is convicted thereof shall be punished by a fine not to exceed Five Hundred Dollars ($500), or by imprisonment in the City Jail for a term not to exceed six (6) months, or by both such fine and imprisonment.
(Ord. 121192 § 6, 2003.)

25.08.810 Penalty for failure to comply with final orders.

Failure to comply with a final order issued by the Administrator or a Hearing Examiner shall constitute a crime subject to the provisions of Chapters 12A.02 and 12A.04 of this Code (Seattle Criminal Code) and any person convicted thereof shall be punished by a fine not to exceed Five Hundred Dollars ($500) or by imprisonment in the City Jail for a term not to exceed six (6) months, or by both such fine and imprisonment. Each day of failure to comply with a final order issued by the Administrator or a Hearing Examiner shall constitute a separate offense.
(Ord. 110047 § 9, 1981: Ord. 106360 § 905(b), 1977.)

25.08.820 Penalties cumulative.

The penalties imposed by Sections 25.08.800, 25.08.805 and 25.08.810 shall be in addition to any other sanction or remedial injunctive procedure which may be available at law or equity.
(Ord. 121192 § 7, 2003: Ord. 110047 § 10, 1981.)

Chapter 25.09

REGULATIONS FOR ENVIRONMENTALLY CRITICAL AREAS

Sections:

25.09.460 Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of

any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person, owner, or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons, owners or circumstances.
(Ord. 116253 § 1(part), 1992.)

25.09.010 Moratorium on development in landslide-prone areas.[1]

Notwithstanding any other provision of this chapter or of Chapter 23.76, all public and private development that is subject to this chapter and proposed for landslide-prone areas, as described in Section 25.09.020 B1a, is prohibited during the term of this section, except that the Director may approve the following:

A. Work that will not disturb the ground, such as interior repairs to existing structures;

B. Work that is necessary to stabilize a site that has been rendered unstable by recent slide activity, so as to lessen the risk of new or additional damage;

C. Work that is necessary to repair damaged structures or utilities, as long as the Director is reasonably satisfied that the work will not increase the risk of either short-term or long-term damage to the site or neighboring property;

D. Work that would be exempted pursuant to Section 25.09.040, provided that work that would be exempted pursuant to subsections B, C, and F may be approved only if the Director is reasonably satisfied that the work will not increase the risk of either short-term or long-term damage to the site or neighboring property; and

E. Work that would be exempted pursuant to Section 25.09.180 D1 if the Director is reasonably satisfied that the work will not increase the risk of either short-term or long-term damage to the site or neighboring property.
(Ord. 118466 § 2, 1997.)
1. Editor's Note: Ordinance 118466 which enacted Section 25.09.010 expired on April 15, 1997.

25.09.020 Environmentally critical areas.

A. This chapter is based on and implements the Seattle Environmentally Critical Areas Policies as adopted by Resolution 28559, and as amended from time to time. This chapter shall apply to all development and platting located in environmentally critical areas as defined below and characterized by specific site conditions. It is expressly the purpose of this chapter 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 benefitted by the terms or provisions of this chapter.

B. The following shall constitute environmentally critical areas regulated by this chapter:

1. Geologic Hazard Areas.

a. Landslide-prone Areas. Landslide-prone areas are characterized by the following:

(1) Known landslide areas identified by documented history, or any areas that have shown significant movement during the last ten thousand (10,000) years or are underlain by mass wastage debris that occurred during this period; or

(2) Potential landslide areas based on documented geological characteristics, and based on a combination of geologic, topographic and hydrologic factors, including the following:

(a) Areas over fifteen (15) percent slope which have at least one (1) of the following characteristics:

(i) Impermeable soils (typically silt and clay) interbedded with permeable granular soils (predominantly sand and gravel); or impermeable soils overlain with permeable soils. This includes the area within one hundred (100) feet either side of the contact between Esperance Sand and either Lawton Clay or Pre-Lawton sediments as is shown on the area noted as Class Four (4) on the Slope Stability Map of Seattle, in Causes, Mechanisms and Prediction of Landsliding in Seattle, by Donald Willis Tubbs, Ph.D. Dissertation, University of Washington, 1975 ("Tubbs Map"), or as otherwise mapped, or

(ii) Identified relatively unstable soils in either Lawton Clay or Pre-Lawton sediments, as is shown on the area noted as Class Three (3) of the Tubbs Map, or as otherwise mapped, or

(iii) Springs or groundwater seepage;

(b) Steep slopes of forty (40) percent average slope or greater as defined by the Director. A slope must have a vertical elevation change of at least ten (10) feet to be considered a steep slope, although the ten (10) feet may cross the boundaries of a site. Slopes that meet these characteristics shall be considered steep-slope environmentally critical areas in addition to being classified as potential landslide areas;

(c) Areas that would be covered under either (a) or (b), but where the slope has been previously modified through the provision of retaining walls or nonengineered cut and fill operations;

(d) Any slope area potentially unstable as a result of rapid stream incision or stream bank erosion.

b. Liquefaction-prone Areas. Liquefaction-prone areas are areas underlain by cohesionless soils of low density usually in association with a shallow groundwater table which lose substantial strength during earthquakes.

2. Flood-prone Areas. Flood-prone areas are those areas that would likely be covered with or carry water as a result of a one hundred (100) year storm, or that would have a one (1) percent or greater chance of being covered with or of carrying water in any given year based on current circumstances or maximum development permitted under existing zoning. This includes areas identified on the Seattle Floodplain Development Ordinance, FEMA maps, streams identified by the Washington State Department of Fisheries' Catalog of Washington Streams, and areas with drainage problems known to the Seattle Drainage and Wastewater Utility.

3. Riparian Corridors. Riparian corridors include all areas within one hundred (100) feet measured horizontally from the top of the bank, or if that cannot be determined, from the ordinary high water mark of the watercourse and water body, or a one-hundred (100) year floodplain as mapped by FEMA, as regulated by the Seattle Floodplain Development Ordinance,[1] whichever is greater, and are classified as either a Class A Riparian Corridor or a Class B Riparian Corridor. Class A Riparian Corridors are stable, established streams and lakes that flow year-round and/or support salmonids, and include, but are not limited to, corridors that have an established floodplain as mapped by the FEMA Flood Insurance Program, and include Longfellow, Thornton, Pipers, Venema, Mohlendorph, Fauntleroy, Ravenna, Mapes, DeadHorse/Mill, Maple Leaf and Little Brook Creeks, and Haller and Bitter Lakes. Class B Riparian Corridors are not mapped by FEMA and are intermittent streams without salmonids that still demonstrate a high water mark. Riparian corridors do not normally include those artificial drainage areas intentionally created from grass-lined swales, canals, detention facilities, wastewater treatment facilities, and landscape amenities.

4. Wetlands. Wetlands are those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities,

wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. (The method for delineating wetlands shall follow the most current version of the "Washington State Wetlands Identification and Delineation Manual" as adopted by the State Department of Ecology.)

5. Fish and Wildlife Habitat Conservation Areas. Fish and wildlife habitat conservation areas include, but are not limited to, the following:

a. Areas identified by the Washington State Department of Wildlife as priority habitat and species areas or urban natural open space habitat areas;

(1) Corridors connecting other priority habitat areas, especially areas that would otherwise be isolated;

(2) Areas that remain an isolated remnant of natural habitat of ten (10) acres or more and surrounded by urban development, with local consideration given to areas smaller than ten (10) acres;

b. All bodies of water that provide migration corridors and habitat for fish, especially salmonids, including Lake Washington, Lake Union and the Lake Washington Ship Canal, Duwamish River, and that portion of Elliott Bay within the City's jurisdiction;

c. Commercial and recreational shellfish areas and kelp and eelgrass beds; and

d. Areas which provide habitat for species of local importance.

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

C. Environmentally Critical Areas Maps. Environmentally critical areas defined and identified in subsections A and B shall be mapped whenever possible. These maps shall be advisory and used by the Director to provide guidance in determining applicability of the standards to a property. Sites that include environmentally critical areas which are not mapped shall be subject to the provisions of this chapter.

The Director may update or amend the environmentally critical areas maps by Director's Rule, according to Seattle Municipal Code Chapters 3.02 and 3.06, as new information and improved mapping resources become available. Mapping amendments

may occur at a frequency not to exceed once every year.
(Ord. 118794 § 61, 1997; Ord. 117945 § 1, 1995; Ord. 117789 § 16, 1995; Ord. 116253 § 1(part), 1992.)

1. Editor's Note: The Floodplain Development Ordinance is set out at Chapter 25.06 of this Code.

25.09.040 Application of standards.

The standards of this chapter shall apply to all public and private proposals for new structures, additions to structures, short subdivisions and subdivisions, grading and drainage activity, and tree and vegetation removal per Section 25.09.320 located on either public or private property within environmentally critical areas and their buffers. Public projects proposed by any public agency shall comply with the standards of this chapter. Projects shall be exempted from the requirements of the chapter when the following situations and/or conditions apply:

A. When the Director determines there is an emergency threatening the public health, safety and welfare;

B. Maintenance, repair, renovation or structural alteration of structures in existence on October 31, 1992, the effective date of the ordinance codified in this chapter, unless otherwise prohibited by law. Expansion or extension in any manner which increases the extent of nonconformity with the environmentally critical area provisions of the chapter shall not be permitted. When these structures are damaged by an act of nature, they may be rebuilt or replaced within one (1) year of the act of nature provided that the new construction or related activity does not further intrude into an environmentally critical area or required buffer and is subject to the flood hazard areas reconstruction restrictions;

C. New accessory structures and additions to structures whose developmental coverage does not exceed a cumulative addition of seven hundred and fifty (750) square feet of impervious surface after October 31, 1992, the effective date of the ordinance codified in this chapter, provided the addition is not constructed over a watercourse, water body or wetland;

D. When the applicant demonstrates to the satisfaction of the Director, through site surveys, topographic maps, technical environmental analysis, and other means as determined necessary by the Director that either one of the following situations apply:

1. The site contains no environmentally critical areas as defined in Section 25.09.020, or

2. The proposed development and associated land disturbing activity, including developmental coverage, does not occur within the area of the site designated as environmentally critical and any required buffer as defined in Section 25.09.020;

E. Normal and routine operation, maintenance, remodeling, and repair of existing public facilities and utilities, including the maintenance, vegetation management and revegetation of public parkland and open spaces, when undertaken pursuant to best management practices to avoid impacts to environmentally critical areas;

F. The following electric, natural gas, cable communications, telephone, public facility and utility, and right-of-way improvement projects, with the Director's approval of the location and limits of the project, only when the project is not a prerequisite to development. The exemption shall only be approved when the project is undertaken pursuant to best management practices to avoid impacts to environmentally critical areas, and when it can be demonstrated that:

1. No practicable alternative exists;

2. The encroachment into a critical area is minimized to the greatest extent practicable; and

3. Mitigation measures are employed before, during and after construction:

a. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty-five thousand (55,000) volts or less only when required by a governmental agency,

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

c. Installation or construction in improved public road rights-of-way, and replacement, operation or alteration, of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of fifty-five thousand (55,000) volts or less,

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

e. Public projects designed to enhance streams and wetlands and their buffers, including drainage-related functions, that require a Hydraulic Project Approval from either the Washington Departments of Fisheries or Wildlife, and

f. Public projects that promote a public objective, such as trails providing access to a creek or wetland area, when located and designed to minimize environmental disturbance to the greatest extent possible.

(Ord. 116976 § 2, 1993; Ord. 116253 § 1(part), 1992.)

25.09.060 Application submittal requirements, general requirements and development standards.

All proposals listed in Section 25.09.040, and located in critical areas listed in Section

25.09.020 shall meet the following application submittal requirements, general requirements and development standards:

A. Application Submittal Requirements. In addition to the application submittal requirements specified in other codes, development proposals subject to this chapter shall include the following additional information as applicable:

1. Surveyed Site Plan. A surveyed site plan, prepared and stamped by a State of Washington licensed surveyor, shall be required for sites which include landslide-prone, flood-prone, riparian corridor, wetland, and steep-slope environmentally critical areas. The surveyed site plan shall include the following existing physical elements:

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

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

c. General location of areas with significant amounts of vegetation, and specific location and description of all trees and shrubs over six inch (6") caliper measured three feet (3') above the base of the trunk, and noting their species;

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

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

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

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

2. Additional Site Plan Information. The following site plan information shall also be required for sites which include landslide-prone, flood-prone, riparian corridor, wetland, and steep-slope environmentally critical areas. Information related to the location and boundaries of environmentally critical areas and required buffer delineations shall be prepared by qualified professionals with training and experience in their respective area of expertise as demonstrated to the satisfaction of the Director.

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

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

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

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

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

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

   g. Such additional site plan information related to the proposed development as required by the Director to complete review of a project subject to the standards of Chapter 25.09.

3. Technical Reports. Technical reports shall be prepared as required by the Director detailing soils, geological, hydrological, drainage, plant ecology and botany,

vegetation, and other pertinent site information. The reports shall be used to condition development to prevent potential harm and to protect the critical nature of the site, adjacent properties, and the drainage basin.

B. General Requirements for the Lot, Adjacent Lots, Surrounding Area, and Drainage Basin.

1. The developer shall ensure safe, stable and compatible development which avoids adverse environmental impacts and potential harm on the lot, to adjacent lots, the surrounding neighborhood, and the drainage basin. Detailed analysis of impacts, including cumulative impacts of development, of the proposed development upon wetlands, riparian corridors, native vegetation and wildlife habitats, water quality, fisheries, natural water temperature, slope and soil conditions, and surface-water drainage may be required by the Director when lot and area conditions indicate the need for such analysis. Supplemental technical reports may be required by the Director to specify measures to preserve, protect, and maintain adjacent sites and the drainage basin and ensure safe, stable and compatible development.

2. All conditions of approval associated with an approved development application and permit shall be recorded as official permit conditions at the Department of Construction and Land Use. During construction, the Director may require conditions to be posted on the site in such a manner as to be visible from public rights-of-way.

3. If applicable, as determined by the Director, the following environmentally critical areas and/or their associated buffers located on a development site, together with any permanent conditions, shall be described in a permanent covenant with the property which shall be recorded in the King County Office of Records and Elections:

a. Riparian corridor buffers; and/or

b. Wetlands and steep-slope environmentally critical areas and their required buffers.If applicable, the Director may require placement of small permanent visible markers to delineate riparian corridor buffers and/or wetlands and steep-slope environmentally critical areas and their required buffers. The location of the markers shall be described in the permanent covenant.

C. General Development Standards. General development standards as applicable shall include, but are not limited to the following:

1. All buffer areas and other designated protected areas shall be fenced with a highly visible and durable protective barrier during construction to prevent access and protect environmentally critical areas. No removal of vegetation or wildlife habitat shall be permitted within the protected wetlands and their buffers, riparian

corridors and their buffers, and steep slopes and their buffers either during or after construction, except as otherwise permitted by the chapter.

2. All disturbed areas on the site, including developmental coverage and construction activity areas, shall be managed in a manner sufficient to control drainage and prevent erosion during construction, and revegetated to promote drainage control and prevent erosion after construction. The Director may require an erosion control plan and a vegetation removal and replacement plan when erosion potential is severe. The erosion control plan shall be prepared and followed using best management practices. The vegetation removal and replacement plan shall be prepared by a qualified professional with landscaping, plant ecology and botany education and experience. All revegetation shall consist of trees, shrubs, and ground cover that does not require permanent irrigation systems for long-term survival and is suitable for the location.

3. All sites shall be cleared in stages just prior to construction, and cleared areas shall only be as large as necessary for construction. Revegetation shall occur after the particular phase of construction is completed. When required by the Director, the vegetation removal and replacement plan shall establish a staged vegetation removal and replacement program which minimizes the amount of exposed soil during and after construction. In drier months, irrigation or temporary installation of intermediate plantings may be required until weather or seasonal conditions permit installation of the permanent plantings.

4. The Director shall restrict developmental coverage and construction activity areas to the most environmentally suitable and naturally stable portion of the site. Grading activities and impervious surfaces shall be minimized and limited to areas approved by the Director.

5. All drainage associated with the development shall be connected to City-approved drainage control systems with approved discharge points in compliance with the SMC Chapter 22.802, Stormwater, Drainage and Erosion Control. If an adequate drainage conveyance system is not available and safety and erosion concerns dictate, the Director may require design of drainage facilities to handle up to a one hundred (100) year storm, and/or require a release rate slower than the rate normally required.

6. All construction activity on environmentally critical area sites in watersheds containing designated critical watercourses and associated riparian corridors shall follow best management practices. These practices include installation of siltation barriers to minimize erosion and pollutants entering the watercourse, as well as other methods such as diversion measures, slope drains, and structural and vegetative stabilization techniques.

7. When calculating detention requirements, all disturbed areas on the site shall be calculated as developmental coverage, including revegetated areas, excluding

enhanced or restored areas as approved by the Director.

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

9. All grading in environmentally critical areas shall be completed or stabilized by October 31st of each year unless demonstrated to the satisfaction of the Director based on approved technical analysis that no environmental harm or safety problems would result from grading between October 31st and April 1st.

10. Development occurring in riparian corridor, wetland and steep-slope sites shall preserve the integrity of wildlife habitat corridors, and minimize the intrusion of development into designated wildlife habitat areas.

11. Construction activity shall adhere to a prepared schedule and mitigation plan to be approved by the Director prior to the start of construction. This schedule and mitigation plan shall include, but not be limited to, a schedule for compliance with project conditions, limits of construction and work activities, equipment to be used, start and duration of each phase, work sequencing, and shall include the design, implementation, maintenance, and monitoring of mitigation requirements to prevent erosion, siltation, and destruction of vegetation. This plan shall be reviewed with the owner's representative and approved by the Director at a pre-construction meeting prior to the start of construction.

12. The Director may require additional construction practices and methods and requirements, including, but not limited to best management practices as outlined in federal, state and Seattle manuals and limitations on construction equipment permitted on the site, to protect environmentally critical areas on-site, on adjacent sites, and within the drainage basin of a proposed development.

(Ord. 116976 § 3, 1993: Ord. 116253 § 1(part), 1992.)

25.09.080 Development standards for landslide-prone hazard areas.

A. Site. Complete stabilization of all portions of a site which are disturbed or affected by the proposed development, including all developmental coverage and construction activity areas, shall be required. Complete stabilization of all portions of a site refers to the process and actions necessary to ensure that proposed site improvements are stabilized, and that all on-site areas and adjacent properties, including adjacent public and private rights-of-way, which are disturbed or impacted are stabilized. The proposed development shall be limited and controlled to avoid adverse impacts and potential harm, and to ensure safe, stable and compatible development appropriate to site conditions. Other reasonable and appropriate solutions to solve site stability problems may be required by the Director.

B. Staged Review Process. Projects proposed in landslide-prone areas shall be subject to a staged review process.

1. The staged review process may consist of one (1) or more of the following steps:

   a. Site visit and reconnaissance;

   b. Preliminary soils investigations including tests and borings; and

   c. Detailed geotechnical studies and engineering plans.

2. During the staged review process, more extensive studies and investigations may be required for more hazardous sites, based on the degree of slope, hydrology and underlaying soils and geology. The Director may require detailed site investigation including, but not limited to the following:

   a. Review of available literature regarding the site and surrounding areas;

   b. Detailed topographic analysis;

   c. Subsurface data and exploration logs;

   d. Ground surface profiles;

   e. Analysis of relationship of vegetated cover and slope stability;

   f. Site stability analysis;

   g. Geotechnical considerations to reduce risk; and

   h. Construction and post-construction monitoring.

3. The Director shall determine the amount of additional study necessary depending on the degree of landslide-prone hazard on a site based on the information disclosed during the staged review process. The Director may require third-party review.

4. As part of the staged review process, the Director shall provide mailed notice to adjacent property owners, and the applicant shall post one (1) land use sign visible to the public at each street frontage abutting the site except, when there is no street frontage or the site abuts an unimproved street, the Director shall require either more than one (1) sign and/or an alternative posting location so that notice is clearly visible to the public. The land use sign may be removed by the applicant within fourteen (14) days after final action on the application has been completed. The purpose of this notice is to allow for an exchange of information between the applicant, adjacent property owners and the Director. Adjacent property owners may review and comment on site investigations and technical studies, and provide information and documentation of any previous landslide problems on the site.

Notice will include information on how to find out whether or not third-party review is required.

C. Third-Party Review. The Director shall determine when third-party review shall be required. Third-party review requires the applicant's geotechnical and/or additional technical studies to be reviewed by an independent third party, paid for by the applicant but hired by the Director. Third-party review shall be conducted by a qualified engineering consultant. In determining the need for third-party review, the Director shall consider whether or not the project is to be constructed on deep soft-soil areas, areas identified as being affected by deep slide masses or block movements, sites with excessive groundwater, and sites subject to lateral ground failure due to earthquakes.

D. Bonds and Insurance. The Director may require adequate bonds or insurance to cover potential claims for property damage which may arise from or be related to excavation or fill within a landslide-prone area. The Director shall require such bonds or insurance when the depth of the proposed excavation shall exceed four (4) feet and the bottom of the proposed excavation shall be below a one hundred (100) percent slope line (forty-five (45) degrees from a horizontal line) from the property line. The Director may require such bonds and insurance in other circumstances where the Director determines that there is a potential for significant harm to a critical area during the construction process.
(Ord. 118672 § 36, 1997; Ord. 116976 § 4, 1993; Ord. 116253 § 1(part), 1992.)

25.09.100 Development standards for liquefaction-prone areas.

A. Soils engineering studies shall be required of all proposed development in areas subject to liquefaction to determine the physical properties of the surficial soils, especially the thickness of unconsolidated deposits, and their liquefaction potential.

B. If it is determined that the site is subject to liquefaction, mitigation measures appropriate to the scale of the development shall be recommended and implemented through requirements of SMC Title 22, Subtitle VIII, Grading and Drainage Control Ordinance, SMC Title 22, Subtitle I, Building Code, and any other applicable codes or regulations pertaining to development within liquefaction-prone areas.
(Ord. 116253 § 1(part), 1992.)

25.09.120 Development standards for flood-prone areas.

A. No development shall be permitted within the "floodway" of flood-prone areas. Permitted development within flood-prone areas lying outside the floodway shall not contribute to increased downstream flow of floodwaters and shall comply with the provisions of SMC Chapter 25.06, Seattle Floodplain Development Ordinance (FEMA). A drainage-control plan shall be required for all proposed development.

B. Drainage-Control Plan. If the site is mapped or determined to be flood-prone, a drainage-control plan shall be submitted with the permit application showing the flood-prone area, the tributary watershed, and all drainage features, to describe the existing situation and

proposed modifications to the drainage system. The drainage-control plan shall provide for control of water quality and quantity in compliance with the SMC Title 22, Subtitle VIII, Grading and Drainage Control Ordinance, SMC Chapter 25.06, Seattle Floodplain Development Ordinance, and any other subsequent applicable flood-control codes or ordinances to protect the public interest and prevent harm.

C. Elevation Above Base Flood Level. The lowest floor elevation of any structure located in a flood-prone area shall be two feet (2') above the one-hundred (100) year flood elevation unless otherwise specified by the Director of Seattle Public Utilities.
(Ord. 118396 § 195, 1996: Ord. 116253 § 1(part), 1992.)

25.09.140 Development standards for riparian corridors.

A. Riparian Corridor Watercourse. No development shall be permitted within or over the watercourse as delineated by survey and accepted by the Director. If no other access is available to the property, the Director may approve access over the watercourse as long as it maintains the natural channel and floodway of the watercourse and minimizes the disturbance of the buffer to the greatest extent possible.

B. Minimum Riparian Corridor Buffer. In order to prevent harm on-site and downstream, and in order to minimize degradation of water quality, a buffer shall be established within the corridor within which development shall not be permitted. All buffers shall be measured horizontally from the top of the bank, or if that cannot be determined, from the ordinary high water mark as surveyed in the field. In cases with braided channels and alluvial fans, the top of the ordinary high water mark shall be determined so as to include the entire stream feature. The buffer shall not extend beyond an existing public road if the road has an adequate storm water catchment facility. The minimum buffer shall be as follows:

1. Class A Riparian Corridor Buffers; Fifty Feet (50'); and

2. Class B Riparian Corridor Buffers; Twenty-five feet (25').

C. Buffer Vegetation and Restoration.

1. Natural Buffer. If the vegetation within the buffer is generally in a natural state that prevents erosion, protects water quality, and provides a diverse habitat, the retention of the buffer's existing vegetation shall be required.

2. Buffer Restoration. If the vegetation within the buffer has been previously disturbed or degraded, the preparation of a plan to enhance the buffer through replanting or augmenting the existing vegetation with native or similar plants may be required by the Director. Any revegetation plan shall be prepared by a qualified professional with landscaping, plant ecology, or botany education and experience. The plan shall be approved by the Director. Vegetation shall not be removed or otherwise disturbed until the applicant is ready to replant immediately.

3. Buffer Restoration Exemption. When the site is a single lot, located adjacent to properties where natural vegetation has already been removed for lawns or other residential activities, the Director may conclude that a buffer restoration plan is not to be required or that buffer restoration is limited to planting trees for creek shading when no significant increase in protection of the water body would result from full restoration of the buffer.

D. Buffer Reductions on Existing Lots. The Director may reduce a Class A buffer if development of adjacent lots is less than fifty feet (50') from the watercourse. However, the buffer shall not be less than the distance to the watercourse from the adjacent structure that is furthest from the watercourse, or less than twenty-five feet (25'), whichever is greater.

E. Riparian Corridor Restoration.

1. To encourage restoration of a riparian corridor presently located in an underground pipe or culvert, the following conditions shall apply:

a. Every effort shall be made to avoid building over a riparian corridor located in an underground pipe or culvert, except when located under a street right-of-way; and

b. Uncovering of the riparian corridor should be encouraged and allowed with the Director's approval of the following exceptions to riparian corridor standards:

i. The minimum buffer may not be required if there is no space available; and

ii. The open riparian corridor may be located elsewhere on-site or on adjacent sites.

2. To encourage restoration of a riparian corridor presently located in an open channel or drainage-way, the Director may waive the minimum buffer.

F. More intensive site review and application of stricter development standards may be applied in areas outside of the riparian corridor buffer where any of the following conditions are present:

1. High, steep slopes that could produce debris slides directly to surface waters; or

2. Sites with polluted groundwater seeps or springs; or

3. Other areas of potentially extreme adverse impacts.

G. Other Agency Regulations. Review of projects subject to the riparian corridor

provisions of this chapter shall be coordinated with the Washington State Departments of Fisheries or Wildlife when hydraulic project approval is required, and the U.S. Army Corps of Engineers when they have jurisdiction under Section 404 of the Federal Clean Water Act. The applicant shall be encouraged to make early contact with these agencies to ensure compliance with local, state and federal riparian corridor regulations.
(Ord. 116976 § 5, 1993; Ord. 116253 § 1(part), 1992.)

25.09.160 Development standards for wetlands.

A. Wetland. Wetland provisions of this chapter shall apply only to wetlands of one hundred (100) square feet or greater in area, unless a smaller wetland or a combination of adjacent, smaller wetlands are part of a larger drainage system. No grading, filling, draining and/or development shall be permitted within or over a wetland of exceptional value and its buffer as delineated by a survey accepted by the Director. Grading, filling, draining and/or development within wetlands and their buffers, other than wetlands of exceptional value, shall only be allowed under the following limited situations and conditions:

1. Wetlands altered for use as lawns or playfields prior to the effective date of this ordinance shall not be regulated as wetlands unless the Director determines that the wetland could be restored when new development or redevelopment occurs on the site; and

2. Wetlands, excluding wetlands of exceptional value, may be considered for alteration if the proposal meets the criteria for an Environmentally Critical Areas Exception, Section 25.09.300 of this chapter, and complies with the following wetland compensation requirements:

    a. Restoration of an existing degraded wetland, or

    b. Creation of additional substitute wetlands, although the Director shall give preference to restoration, and

    c. Restoration of an existing degraded wetland or creation of substitute wetlands shall meet the following conditions:

        i. The applicant shall fund the wetland restoration or creation under the direction and authority of the Director,

        ii. To the greatest extent practical, restoration or creation may occur either on or off site, but within the same drainage basin,

        iii. Restoration or creation shall be of a similar type and shall take place before alteration of the original wetland,

        iv. Restoration or creation shall require the original wetland to be replaced at a ratio of two to one (2:1), and

v. The restored or substitute wetland shall provide comparable water-quality benefits and be of at least equal habitat and hydrologic value.

B. Wetland Buffer. In order to protect wetland areas and maintain water quality, a minimum wetland buffer of fifty feet (50') shall be established within which no development shall be permitted and all vegetation shall remain undisturbed. The wetland buffer shall be measured horizontally from the edge of the wetland.

C. Buffer Vegetation and Restoration.

1. Natural Buffer. If the vegetation within the buffer is generally in a natural state that prevents erosion, protects water quality, and provides a diverse habitat, the retention of the buffer's existing vegetation shall be required.

2. Buffer Restoration. If the vegetation within the buffer has been previously disturbed or degraded, the preparation of a plan to enhance the buffer through replanting or augmenting the existing vegetation with native or similar plants may be required by the Director. Any revegetation plan shall be prepared by a qualified professional with landscaping, plant ecology, or botany education and experience. The plan shall be approved by the Director. Vegetation shall not be removed or otherwise disturbed until the applicant is ready to replant immediately.

3. Buffer Revegetation Exemptions. The Director shall allow the removal by hand of invasive plants, such as purple loosestrife. No machines or chemical removal shall be permitted without the Director's approval.

D. Buffer Reductions on Existing Lots. Buffer reductions on existing lots may only be allowed after the Director has determined that the front or rear yard or setback reduction or variance provisions of Section 25.09.280 will not provide sufficient relief.

1. The Director may reduce a wetland buffer on existing lots only if the front or rear yard or setback reduction provision of Section 25.09.280 A does not provide sufficient relief to allow placement of an adequate structure and maintain the full width of the required wetland buffer.

2. The Director may further reduce a front or rear yard or setback through an Environmentally Critical Areas Yard or Setback Reduction Variance pursuant to the provisions of Section 25.09.280 B. If, during the review of this variance, the analysis shows that additional front or rear yard or setback reductions would not meet the criteria for variance approval and/or would not provide sufficient relief to allow placement of an adequate structure and maintain the full wetland buffer requirement, the Director may either approve reduction of the wetland buffer only or reduction of both yards or setbacks and the wetland buffer. The wetland buffer

reduction shall be the minimum amount necessary, but never less than the twenty-five-foot (25') minimum buffer, to provide for use of the property and to prevent harm to the wetland.

3. The Director may reduce a wetland buffer only for wetlands which are determined to be degraded under the following circumstances:

a. If the degraded portion of the wetland is restored on site at a four to one (4:1) ratio, restored land area to reduced buffer, for wetlands larger than fifteen hundred (1,500) square feet; and at a two to one (2:1) ratio for wetlands under fifteen hundred (1,500) square feet; and

b. Such buffer reduction adjacent to the degraded wetland shall not result in a buffer of less than twenty-five feet (25') and does not apply to the wetland itself.

E. Constructed Wetlands. Wetlands constructed by a private interest or public agency for stormwater control, biofiltration or aesthetic purposes shall not be subject to the wetland buffer requirements of this chapter. Maintenance activities shall not be restricted. This does not apply to wetlands constructed for mitigation or replacement purposes.

F. Other Agency Regulations. Review of projects subject to the wetland provisions of this chapter shall be coordinated with the Washington State Departments of Fisheries or Wildlife when hydraulic project approval is required, and the U.S. Army Corps of Engineers when they have jurisdiction under Section 404 of the Federal Clean Water Act. The applicant shall be encouraged to make early contact with these agencies to ensure compliance with local, state and federal riparian corridor regulations.
(Ord. 116976 § 6, 1993; Ord. 116253 § 1(part), 1992.)

25.09.180 Development standards for steep slopes.

A. Development Limitations on Steep Slopes and Buffers on Existing Lots.

1. Development shall be avoided on areas over forty percent (40%) slope whenever possible.

2. Generally, the Director shall require a fifteen-foot (15') buffer from the top or toe of a slope whenever practicable based on geotechnical and hydrological site constraints and the impacts of proposed construction methods on the stability of the slope, increased erosion potential, and disruption of existing topography and vegetation. The width of the buffer may be increased or decreased as determined by the Director based on the following considerations:

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

b. Techniques used to minimize disruption of existing topography and vegetation; and

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

3. When it is not practicable to avoid development on areas over forty percent (40%) slope and the buffer area, the following conditions shall apply:

a. Grading and development activity and other land disturbing activity shall not exceed thirty percent (30%) of the areas measured over forty percent (40%) slope. This shall not include vegetation removal for the purposes of replacing existing vegetation with more suitable plants; and

b. The Director may impose conditions concerning the type and method of construction that reflect the specific constraints of the site, as well as the landslide-prone area regulations of this chapter, Section 25.09.080 A.

B. Vegetation Removal and Replanting. Removal of vegetation in steep-slope areas shall be minimized. Any replanting that occurs shall consist of trees, shrubs, and ground cover that is compatible with the existing surrounding vegetation, meets the objectives of erosion prevention and site stabilization, and does not require permanent irrigation for long-term survival.

C. Site Design Guidelines. The following guidelines shall be followed for development in steep-slope areas:

1. Structures should be designed and placed on the hillside to minimize negative impacts, such as grading and land disturbing activity;

2. Driveways and utility corridors should be minimized through the use of common access drives and corridors where feasible. Roads, walkways, and parking areas should be designed parallel to topographic contours with consideration given to maintaining consolidated areas of natural topography and vegetation. Access should be located in a way that minimizes impacts to steep slopes or other critical areas;

3. Development should be located on the least sensitive portion of the site to preserve the natural land forms, geological features, and vegetation;

4. Terracing of land shall be kept to a minimum; and

5. Cluster development may be allowed pursuant to the provisions of Section 25.09.260 to emphasize the existing topography and conserve existing resources if compatible with the surrounding residential character.

D. Steep Slope Exemptions.

1. Highly Developed Areas. Existing lots, short subdivisions and subdivisions may be exempted by the Director from steep slope regulations when located in highly developed and urbanized areas. Highly developed and urbanized areas include all Downtown and Highrise zones. Sites located in Midrise and Commercial 1 and 2 zones may also qualify for this exemption when surrounding lots contain high-density residential development and/or concentrated commercial development which closely matches the development potential for the zone. This exemption shall not apply to single-family, lowrise, neighborhood commercial, industrial, or any other zones. If the site is characterized by or adjacent to at least one (1) of the following areas, this exemption shall not apply:

a. A wetland over one thousand five hundred (1,500) square feet in size, or a stream or creek designated as a riparian corridor;

b. A large undeveloped steep-slope system; or

c. Areas designated by the Washington Department of Wildlife as urban natural open space habitat areas or other large areas with significant tree cover that provides valuable wildlife habitat.

2. Steep Slopes Resulting from Rights-of-way Improvements. Steep slopes resulting from street, alley, sidewalk and other typical rights-of-way improvements, including rockeries or retaining walls, may be exempted from compliance with the environmentally critical areas regulations. This exemption shall not extend beyond the cut or fill created by the street, alley, sidewalk or other rights-of-way improvement, and does not release the applicant from any applicable geotechnical review requirements under the Stormwater, Grading and Drainage Code. This exemption shall not be allowed for short subdivision or subdivision applications.

3. Previously Developed Sites. Sites that have been previously developed may be exempted by the Director from steep-slope requirements under the following conditions:

a. If the objectives of the steep slope regulations would not be compromised; and

b. If the degree of nonconformity with the environmentally critical areas regulations, if applicable, is not increased. This exemption shall not be allowed for short subdivision or subdivision applications.

4. Limited Exemptions. Slopes with a vertical elevation change of up to twenty feet (20') and not part of a larger steep-slope system, or slopes which have been created through previous, legal grading activities, may be exempted by the Director from the steep-slopes regulations based on a geotechnical report

demonstrating that no adverse impact will result from the exemption.

5. Stabilization of Landslide-prone Area. Certain steep slopes may be exempted from the steep slope regulations upon the Director's determination, based on geotechnical expertise, that application of the regulations would prevent necessary stabilization of a landslide-prone area, subject to the provisions of Section 25.09.080 C, Third-party Review.

6. Any project receiving an exemption shall be subject to steep-slope drainage control and vegetation removal regulations, as well as applicable landslide-prone area regulations of this chapter.

(Ord. 117945 § 2, 1995; Ord. 116976 § 7, 1993; Ord. 116253 § 1(part), 1992.)

25.09.200 Development standards for fish and wildlife habitat conservation areas.

The characteristics of fish and wildlife habitat conservation areas shall be used to evaluate development within wetlands, riparian corridors and steep slopes. Preserving the integrity of fish and wildlife habitat corridors, and minimizing the intrusion of development into these designated habitat areas shall be considered in applications for buffer reductions and conditional use permits to transfer development credit to noncritical portions of a site.
(Ord. 116976 § 8, 1993: Ord. 116253 § 1(part), 1992.)

25.09.220 Development standards for abandoned landfills.

A. Regulation of Development on Abandoned Landfills. Development on abandoned landfills shall be subject to Seattle-King County Health Department requirements for the applicant to submit an excavation and development work plan, prepared by a licensed engineer with experience in landfill construction and/or management, and comply with other applicable requirements to prevent damage from methane gas buildup, subsidence, and earthquake induced groundshaking as contained in SMC Title 22, Subtitle VIII, Grading and Drainage Control Ordinance, SMC Title 22, Subtitle I, Building Code, and regulations pertaining to development on abandoned landfill sites. Technical studies shall be required to indicate whether these areas pose a threat to development on an abandoned landfill site.

B. Areas within One Thousand Feet (1,000') of Methane-producing Landfills. Areas within one thousand feet (1,000') of methane-producing landfills may be susceptible to methane leakage. Methane barriers or appropriate ventilation may be required in these areas as specified in SMC Title 22, Subtitle VIII, Grading and Drainage Control Ordinance, SMC Title 22, Subtitle I, Building Code, and Seattle-King County Health Department regulations.
(Ord. 116253 § 1(part), 1992.)

25.09.240 Short subdivisions and subdivisions.

All short subdivision and subdivision proposals located in riparian corridor buffers, wetlands and wetland buffers, and steep slopes (over forty percent (40%)) shall comply with the following specified development standards in addition to the standards set forth in Subtitle III,

Platting Requirements, of SMC Title 23, Land Use Code:

A. New lots shall contain at least one (1) building site and access to the site that is outside the identified environmentally critical area and its required buffer, except that access may be provided by a bridge over a riparian corridor watercourse and buffer as long as it is a freestanding structure and minimizes the disturbance of the buffer to the greatest extent practicable. Covenants shall be recorded with the subdivision or short subdivision that restrict development to the areas specified on the approved site plan.

B. Lots shall be configured to preserve the identified environmentally critical area and its buffer by:

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

2. Establishing buffer easements on individual lots.

C. Easements and/or fee simple property used for shared vehicular access to proposed lots shall not be counted when calculating minimum lot area requirements.

D. The identified environmentally critical areas and their required buffer areas within a proposed subdivision or short subdivision shall receive no development credit for use in calculating the number of lots permitted.

E. Application Submittal Requirements. All short subdivision and subdivision proposals, in addition to the application submission requirements included in SMC Title 23, Land Use Code, shall meet the applicable application submittal requirements of this chapter, subsection A of Section 25.09.060, and shall include the information contained in this subsection and Section 25.09.260, as applicable, on the surveyed site plan.
(Ord. 116976 § 9, 1993; Ord. 116253 § 1(part), 1992.)

25.09.260 Administrative conditional use permit to recover development credit and permit clustered development on-site in single-family zones.

A. Up to full development credit on-site (determined by calculating the maximum number of lots allowed based on the underlying single-family zoning and size of the originating property) may be granted by the Director through an administrative conditional use permit, authorized under SMC Section 23.42.042, Conditional uses, in the Land Use Code.[1] Notice of application and review process and procedures for this administrative conditional use and of the Director's decision on the application shall be provided in the manner prescribed for Type II land use decisions as set forth in SMC Chapter 23.76.

B. The Director may approve, condition or deny an application for an administrative conditional use. The Director's decision shall be based on a determination of whether the proposed transfer of development credit within the site meets the criteria for allowing the specific conditional use and whether the use will be materially detrimental to the public welfare

or injurious to property in the zone or vicinity in which the property is located.

C. In authorizing an administrative conditional use, the Director may mitigate adverse negative impacts by imposing requirements and conditions deemed necessary for the protection of other properties in the zone or vicinity in which the property is located.

D. The Director shall issue written findings of fact and conclusions to support the Director's decision. The Director's decision pursuant to this section may be appealed to the Hearing Examiner according to the procedures provided for appeals of Master Use Permit decisions in SMC Section 23.76.022.

E. The Director may approve the transfer of development credit if it can be shown that the development would meet the following conditions and findings:

1. The transfer of development credit shall not result in any significant increase of negative environmental impacts, including erosion, on the identified environmentally critical area and its buffer;

2. The development shall be reasonably compatible with neighborhood characteristics. This shall include but not be limited to concerns such as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining;

3. In no case shall development credit be allowed for the area covered by an open water area of a wetland or riparian corridor;

4. The development shall retain and protect vegetation on designated undisturbed areas on and off site. Significant species or stands of trees shall be protected, and tree removal shall be minimized. Replacement and establishment of trees and vegetation shall be required where it is not possible to save trees;

5. The ability of natural drainage systems to control the quality and quantity of stormwater runoff shall not be significantly impaired;

6. The development shall not adversely affect water quality and quantity, erosion potential, drainage, and slope stability of other environmentally critical areas located in the same drainage basin;

7. The development's site plan shall include measures to minimize potential negative effects of the development on the undeveloped portion of the site, including the provision of natural barriers;

8. Adequate infrastructure (streets and utilities) shall be available or will be provided; and

9. The site design guidelines of Section 25.09.180 C shall be followed for designated steep-slope areas.

F. Clustering of Additional Dwelling Units. The Director may approve more than one (1) dwelling unit per lot and may approve smaller than required lot sizes and yards to accommodate recovery of development credit, and to encourage larger buffers, reduce impermeable surfaces, and decrease size of affected areas. Where dwelling units are attached, they shall not exceed the height, bulk and other applicable development standards of the Lowrise 1 (L-1) zone. Full development credit on-site shall not be increased beyond that permitted by the underlying single-family zone.

G. The Director may require that structures be located on the site in order to preserve or enhance topographical conditions, adjacent uses and the layout of the project and to maintain a compatible scale and design with the surrounding community. In order to approve clustered dwelling units in all environmentally critical areas, the following criteria shall be met:

1. Clustering of units shall help to protect the following critical areas: riparian corridors, wetlands and steep slopes;

2. Clustering of units shall require siting of structures to minimize disturbance of the environment;

3. Clustering of units shall help to protect priority species or stands of mature trees;

4. Clustering of units shall ensure maximum retention of topographic features;

5. Clustering of units shall limit location of access and circulation to maximize the protection of an area's natural character and environmental resource;

6. Clustering of units shall help protect the visual continuity of natural greenery, tree canopy, and wildlife habitat;

7. Clustering of units shall not have an adverse impact on the character, design and scale of the surrounding neighborhood; and

8. Clustering of units shall promote expansion, restoration or enhancement of a riparian corridor and its buffer, a wetland and its buffer or a steep-slope area and its buffer.

H. Additional Conditional Use Provisions for Steep Slopes and Steep-slope Buffers.

1. In steep-slope areas and their buffers, the Director may allow clustering on the steep-slope portions of the site when the site is predominantly characterized by steep slopes. However, the preference shall be to cluster away from steep-slope and buffer areas.

2. The Director shall require clear and convincing evidence that the clustering criteria and findings of this subchapter are met when a transfer in development

credit within a steep-slope area is also characterized by or adjacent to:

a. A wetland over fifteen hundred (1,500) square feet in size, or a stream or creek designated as a riparian corridor; or

b. A large (over five (5) acres) undeveloped steep-slope system; or

c. Areas designated by the Washington Department of Wildlife as urban natural open space habitat areas or areas with significant tree cover providing valuable wildlife habitat.

3. Any development permitted through the conditional use process on steep slopes of forty (40) percent shall be subject to the landslide-prone area provisions of this Chapter, Section 25.09.080.

(Ord. 119239 § 44, 1998; Ord. 116976 § 10, 1993; Ord. 116253 § 1(part), 1992.)

1. Editor's Note: The Land Use Code is set out at Title 23 of this Code.

25.09.280 Environmentally critical areas--Yard and setback reduction and variance for existing lots.

A. A twenty-five (25) percent reduction, up to a maximum of five (5) feet, in yard or setback requirements for front or rear yards shall be permitted when necessary to maintain the full width of a riparian corridor, wetland or steep-slope buffer.

B. Any yard or setback reduction greater than five (5) feet that is necessary to maintain the full width of a riparian corridor, wetland or steep-slope buffer shall require approval through an environmentally critical areas yard or setback reduction variance. Notice of application and review process and procedures for an environmentally critical areas yard or setback reduction variance and of the Director's decision on the application shall be provided in the manner prescribed for Type II land use decisions as set forth in SMC Chapter 23.76. An environmentally critical areas yard reduction variance shall be authorized only when all the following facts and conditions are found to exist:

1. Because of the location of the subject property in or abutting an environmentally critical area or areas, and the size and extent of any required environmentally critical areas buffer, the strict application of the applicable yard or setback requirements of Chapter 25.09 would cause unnecessary hardship; and

2. The requested variance does not go beyond the minimum necessary to maintain the full width of the required buffer and to afford relief; and

3. The granting of the variance will not be injurious to the property or improvements in the zone or vicinity in which the property is located; and

4. The yard or setback reduction will not result in a development that is materially detrimental to the character, design and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, yards, pedestrian

environment, and amount of vegetation remaining; and

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

C. When an environmentally critical areas variance is authorized, conditions may be attached regarding the location, character and other features of a proposed structure or use as may be deemed necessary to carry out the spirit and purpose of SMC Chapter 25.09, Regulations for Environmentally Critical Areas.

D. A Director's decision pursuant to this section may be appealed to the Hearing Examiner according to the procedures provided for appeals of Master Use Permit decisions in SMC Section 23.76.022.
(Ord. 116976 § 11, 1993; Ord. 116253 § 1(part), 1992.)

25.09.300 Environmentally critical area exception.

A. An applicant for a City permit to develop or use real property that abuts or upon which is located an environmentally critical area may apply to the Director for modification of environmentally critical area development standards. Notice of application and review process and procedures for an environmentally critical areas exception and of the Director's decision on the application shall be provided in the manner prescribed for Type II land use decisions as set forth in SMC Chapter 23.76. Before an application for relief under this section will be accepted the Director must determine that no other applicable environmentally critical areas administrative remedies prescribed in Chapter 25.09 will provide sufficient relief.

B. An applicant requesting modification shall provide the Director with the following information:

1. Technical studies and other data that describe the possible injurious effects of the proposed development on occupiers of the land, on other properties, on public resources, and on the environment. Possible injurious effects must be described even when the injurious effect will become significant only in combination with similar effects from other developments; and

2. An explanation with supporting evidence of how and why compliance with the unmodified environmentally critical areas development standards would not permit reasonable use of the property.

C. The Director may modify an environmentally critical areas development standard when an applicant demonstrates to the Director's satisfaction that strict application of the development standards would be unreasonable and that development undertaken pursuant to the modified standards would not cause significant injury to occupiers of the land, to other properties, and to public resources, or to the environment.

D. The relief granted by reduction, waiver, or other modification of an

environmentally critical areas development standard shall be the minimum necessary to allow reasonable use of the property. 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.

E. A Director's decision pursuant to this section may be appealed to the Hearing Examiner according to the procedures provided for appeals of Master Use Permit decisions by SMC Section 23.76.022. The Director's decision as to whether development pursuant to a modified development standard will cause significant injury shall be affirmed unless found to be clearly erroneous. The Director's decision as to whether strict application of a development standard is reasonable shall be given no deference, and the burden of proof of justifying the environmentally critical areas exception shall be on the applicant.
(Ord. 117945 § 3, 1995; Ord. 116976 § 12, 1993; Ord. 116253 § 1(part), 1992.)

25.09.320 Vegetation and tree removal permit in environmentally critical areas.

A. Removal, clearing or any action detrimental to trees or vegetation within wetlands, wetland buffers and riparian corridor buffers is prohibited unless the Director has given prior approval to a restoration plan pursuant to buffer restoration, reduction, exemption, or exception provisions contained in this chapter.

B. Removal, clearing or any action detrimental to trees (including, but not limited to, tree-topping) or vegetation within land-slide-prone, steep-slope, and fish and wildlife habitat areas shall require a permit from the Director when any of the following thresholds are exceeded:

1. Any tree of six (6) inch caliper or greater, measured three (3) feet above the ground; or

2. Any combination of trees over one and one-half (1.5) inch caliper, measured three (3) feet above the ground, which total a cross-section area greater than twenty-eight (28) square inches or equivalent to a tree cross-section of six (6) inches; or

3. Any other combination of trees and other vegetation covering an area of seven hundred and fifty (750) square feet or more.

C. A vegetation and tree removal permit shall always be required even in cases where an application for a building permit or Master Use Permit has not been submitted. The permit shall only be required for that portion of the site which is designated as environmentally critical as listed in subsection B.

D. A vegetation and tree removal permit shall not be required when the Director determines there is an emergency that threatens the public health, safety and welfare.

E. The Director shall consider the following circumstances and conditions in rendering a decision on a vegetation and tree removal permit:

1. The applicant shall justify the need for tree and/or vegetation removal;

2. The applicant shall demonstrate that any tree and/or vegetation removal shall not adversely affect stability, erosion potential, existing drainage conditions, and/or fish and wildlife habitat areas on-site, on adjacent sites, or within the drainage basin;

3. The applicant shall demonstrate that the activity shall not be a precursor of a later development proposal, unless a plan is approved by the Director for public safety reasons and/or except to conduct soil testing subject to DCLU's Director's Rule for Investigative Field Work in Environmentally Critical Areas; and

4. The Director may require a vegetation and tree removal and replacement plan and may otherwise condition the permit to protect the public health and safety and prevent harm to the affected environmentally critical area.

F. Normal and routine pruning, maintenance and vegetation management and revegetation on private property which does not exceed the thresholds established in subsection B shall be exempt from a vegetation and tree removal permit.

G. Normal and routine pruning operations, maintenance, and tree and vegetation management and revegetation of public parkland and open spaces by responsible public agencies or departments shall be exempt when undertaken pursuant to best management practices to avoid impacts on environmentally critical areas.

H. Tree or vegetation removal shown as part of an issued building or grading permit shall not require a separate vegetation or tree removal permit.
(Ord. 116976 § 13, 1993; Ord. 116253 § 1(part), 1992.)

25.09.340 Administration.

A. The Director, in consultation with the Director of the Seattle Engineering Department, shall review and analyze a permit application to determine whether the proposed development meets the requirements and standards of this chapter. The Director may also consult with other City departments and regional public agencies as necessary to obtain additional technical and environmental review assistance. The Director shall review and approve all nonexempt public projects in public rights-of-way in environmentally critical areas and may institute interdepartmental charges to recover the cost of such review.

B. Permit applications shall only be approved after the Director is satisfied that the proposed development meets the requirements and development standards of this chapter, does not harm the general public health, safety and welfare, and prevents degradation and harm to the environment. If the general conditions and development standards or exemption and exception provisions contained in this chapter are not met, the Director shall deny the application.
(Ord. 116976 § 14, 1993; Ord. 116253 § 1(part), 1992.)

25.09.345 Permit renewals in landslide-prone areas.

A. In addition to satisfying the provisions of SMC Chapter 23.76 and Section 106.9 of the Building Code, an applicant seeking to renew a building permit for new or additional development in a landslide-prone area, as described in SMC Section 25.09.020 B1a, must submit a Letter of Certification (LC) from the current project Engineer of Record stating that a geotechnical engineer has inspected the site and area surrounding the proposed development within the sixty (60) days preceding submittal of the letter; and that:

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

2. In the project engineer's professional opinion changes in conditions at the site or surrounding area have occurred that require revision to project criteria or the permit, and that in the project engineer's professional opinion all technical reports and any necessary revised drawings that account for the changed conditions have been submitted.

The Director may renew a permit for development in a landslide-prone area if, after considering the information submitted in conformance with subsections A1 or A2 above, he or she determines that there is no increased risk of damage to the proposed development, to neighboring properties, or to the drainage basin. In making such a determination the Director may impose new conditions or require the submittal of revised plans, but the Director may renew a permit with different conditions or revised plans only if the project as revised is within the scope and intent of the original Master Use Permit.

B. In the event a Letter of Certification as described in subsection A above is not submitted, the permit shall not be renewed.

C. An applicant for renewal also must demonstrate that any required bond or insurance still is in effect, and that the amount of such bond or insurance still is appropriate. The Director may require a bond or insurance as a condition of renewal even if such bond or insurance was not required previously.

D. From April 16, 1997 until December 31, 1998, or until such earlier time as the City Council by resolution shall inform the Director that the Council has concluded its review of the City's expenditures for infrastructure on unstable land, each applicant for renewal of a Master Use Permit or a building permit, for new development or for development that will expand the footprint of existing development, on each property located in whole or in part in a known landslide-prone area as defined in SMC Section 25.09.020 B1a(1) or in an area that is both a steep slope as defined in SMC Section 25.09.020 B1a(2)(b) and that exhibits soil characteristics identified in SMC Section 25.09.020 B1a(2)(a), shall be required to sign an acknowledgment that

he or she has read the following notice:

> In view of the damage experienced in the landslides of 1996 and 1997, The City of Seattle has begun to review its policies on expenditures for infrastructure on unstable land. A range of options may be considered, including that (1) certain utility services provided by the City may not be provided under the same terms, conditions and rates that City utility services are provided in areas that are not landslide-prone, and that when the infrastructure for such utility services is paid for or built by applicants to serve their own properties, the City may not agree to repair, maintain, or own such infrastructure; and (2) any street, other than an arterial, that provides access to the proposed development and is damaged by landslides may not be repaired, rebuilt or repaved by the City, and if such street is repaired, rebuilt or repaved by the permit applicant, the City may not accept maintenance responsibility for such work. Any such changes in City policy will be adopted or approved by the City Council following a public process.

(Ord. 118539 § 2, 1997.)

25.09.350 Processing applications in landslide-prone areas.

Prior to issuance of a permit, the Director may require an applicant to submit a Letter of Certification as authorized by Section 25.09.345 and to satisfy the standards of that section. The Director's decision to require such a letter shall be based on such factors as the presence of known slides, indications of changed conditions at the site or the surrounding area, or other indications of unstable soils.
(Ord. 118539 § 3, 1997.)

25.09.352 Issued permits in landslide-prone areas.

If the Director has reasonable ground to believe that significant changes in conditions at a project site or in the surrounding area may have occurred since a building permit was issued, the Director may by letter or other reasonable means of notification suspend the permit until the applicant has submitted a Letter of Certification as authorized by Section 25.09.345 and satisfied the standards of that section for permit renewal.
(Ord. 118539 § 4, 1997.)

25.09.355 Third-party review.

At the Director's discretion, permits for new or additional development in landslide-prone areas, as described in SMC Section 25.09.020 B1a, may be required to undergo third-party review as described in Section 25.09.080 C.

A. In addition to the criteria in Section 25.09.080 C, the Director's decision to require third-party review shall be based upon, but shall not be limited to, such factors as whether there has been incomplete submittal of data or apparently inadequate design work, whether the project is large scale, or whether the development site is complex.

B. The Director's discretion as exercised pursuant to this section shall supersede the

staged review process as described in Section 25.09.080 B.
(Ord. 118539 § 5, 1997.)

25.09.356 Acknowledgment of City policy.

From April 16, 1997 until December 31, 1998, or until such earlier time as the City Council by resolution shall inform the Director that the Council has concluded its review of the City's expenditures for infrastructure on unstable land, each applicant for a Master Use Permit or a building permit, for new development or for development that will expand the footprint of existing development, on each property located in whole or in part in a known landslide-prone area as defined in SMC Section 25.09.020 B1a(1) or in an area that is both a steep slope as defined in SMC Section 25.09.020 B1a(2)(b) and that exhibits soil characteristics identified in SMC Section 25.09.020 B1a(2)(a), shall be required to sign an acknowledgment that he or she has read the following notice:

> In view of the damage experienced in the landslides of 1996 and 1997, The City of Seattle has begun to review its policies on expenditures for infrastructure on unstable land. A range of options may be considered, including that (1) certain utility services provided by the City may not be provided under the same terms, conditions and rates that City utility services are provided in areas that are not landslide-prone, and that when the infrastructure for such utility services is paid for or built by applicants to serve their own properties, the City may not agree to repair, maintain, or own such infrastructure; and (2) any street, other than an arterial, that provides access to the proposed development and is damaged by landslides may not be repaired, rebuilt or repaved by the City, and if such street is repaired, rebuilt or repaved by the permit applicant, the City may not accept maintenance responsibility for such work. Any such changes in City policy will be adopted or approved by the City Council following a public process.

(Ord. 118539 § 6, 1997.)

25.09.360 State Environmental Policy Act.

This chapter establishes minimum standards which are to be applied to specific land use and platting actions in order to prevent further degradation of environmentally critical areas in the City, and is not intended to limit the application of the State Environmental Policy Act (SEPA). Projects subject to SEPA shall be reviewed and may also be conditioned or denied pursuant to Seattle Municipal Code Chapter 25.05.
(Ord. 116253 § 1(part), 1992.)

25.09.380 Compliance with environmentally critical areas regulations.

Notwithstanding the provisions of Chapter 23.76, Seattle Municipal Code, authorizing issuance of Master Use Permits and Council Land Use Decisions upon compliance with the criteria and procedures of that chapter, no permit for a development proposal described in Seattle Municipal Code 25.09.040 shall be issued unless it also complies with the regulations of this chapter.
(Ord. 116253 § 1(part), 1992.)

25.09.400 Violations and penalties.

A. It shall be a violation of this chapter for any person, firm or corporation to erect, construct, modify, improve, enlarge, repair, move, remove, convert or demolish, occupy or maintain any property, vegetation, building or structure contrary to or in violation of any provision of this chapter. It shall be a violation of the chapter for any person, firm or corporation to knowingly aid and abet, counsel, encourage, hire, commend, induce or otherwise procure another to violate or fail to comply with this chapter.

B. Civil Penalties.

1. Any person, firm or corporation who fails to comply with any provision of this chapter or any notice, decision or order issued by the Director pursuant to this chapter shall be subject to a cumulative civil penalty in the amount of Five Hundred Dollars ($500) per day for each day of noncompliance, measured from the date the violation begins or occurs until the owner, person, firm or corporation complies with the requirements of this chapter. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and shall assist the City Attorney in collecting the penalty.

2. Violations causing significant damage as defined by the following acts shall be assessed penalties at an amount reasonably determined by the Director to be equivalent to the economic benefit that the violator derives from the violation as measured by the greater of the resulting increase in market value of the property or the value received by the violator, or savings of construction costs realized by the violator:

a. Grading (filling and/or excavation), clearing of vegetation and trees, and draining of riparian corridors, wetlands and their buffers; or

b. Destruction of trees, including tree-topping detrimental to trees, over twelve (12) inches caliper; or

c. Any six (6) foot vertical cut or fill within a potential landslide area.

C. Stop-work Order. Whenever a continuing violation of this chapter will materially impair the Director's ability to secure compliance with this chapter, when the continuing violation threatens the health or safety of the public, or when the continuing violation threatens or harms the environment, the Director may issue a stop-work order specifying the violation and prohibiting any work or other activity at the site. The posting of the stop-work order on the site shall be deemed adequate notice of the stop-work order. A failure to comply with a stop-work order shall constitute a violation of this chapter.

D. Emergency Order. Whenever any use or activity in violation of this chapter threatens the health and safety of the occupants of the premises or property or any member of the

public, the Director may issue an emergency order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety or threat and harm to the environment be corrected. The emergency order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. A failure to comply with an emergency order shall constitute a violation of this chapter. Any condition described in the emergency order which is not corrected within the time specified is hereby declared to be a public nuisance and the Director is authorized to abate such nuisance summarily by such means as may be available. The cost of such abatement shall be recovered from the owner or person responsible or both in the manner provided by law.

E. Criminal Penalty.

1. Anyone violating or failing to comply with any order issued by the Director pursuant to this chapter shall, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment for not more than three hundred sixty (360) days, or by both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.

2. Anyone violating or failing to comply with any of the provisions of this chapter and who within the past five (5) years has had a judgement against them pursuant to subsection B shall upon conviction thereof, be fined in a sum not to exceed Five Hundred Dollars ($500.00) or by imprisonment for not more than one hundred and eighty (180) days, or by both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.

(Ord. 116253 § 1(part), 1992.)

25.09.420 Definitions.

"Best management practices" are defined in SMC Section 22.801.030, Stormwater, Grading and Drainage Control Code.

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

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

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

"Detention" is defined in SMC Section 22.801.050, Stormwater, Grading and Drainage Control Code.

"Development" means and refers to all components and activities related to construction,

disturbance and/or use of a site.

"Developmental coverage" is defined in SMC Section 22.801.050, Stormwater, Grading and Drainage Control Code.

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

"Discharge point" is defined in SMC Section 22.801.050, Stormwater, Grading and Drainage Control Code.

"Drainage control" is defined in SMC Section 22.801.050, Stormwater, Grading and Drainage Control Code.

"Drainage-control facility" is defined in SMC Section 22.801.050, Stormwater, Grading and Drainage Control Code.

"Drainage-control plan" is defined in SMC Section 22.801.050, Stormwater, Grading and Drainage Control Code.

"Drainage-control system" is defined in SMC Section 22.801.050, Stormwater, Grading and Drainage Control Code.

"Drainage water" is defined in SMC Section 22.801.050, Stormwater, Grading and Drainage Control Code.

"Erosion" is defined in SMC Section 22.801.060, Stormwater, Grading and Drainage Control Code.

"Exception" refers to the environmentally critical areas exception, Section 25.09.300 of this chapter.

"Exemption" means to release a project either fully or partially from compliance with the environmentally critical areas regulations, or from specific development standards of this chapter.

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

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

evaluation.

"Hydrologist" means a person who has earned a degree in hydrological sciences from an accredited college or university, or a professional who has equivalent educational training and has experience as a practicing hydrologist.

"Impervious surface" is defined in SMC Section 22.801.100, Stormwater, Grading and Drainage Control Code.

"Improved public right-of-way" means a right-of-way which either contains utilities or is paved.

"Land disturbing activity" is defined in SMC Section 22.801.130, Stormwater, Grading and Drainage Control Code.

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

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

"Ordinary high water mark" means, on all lakes, streams, and tidal water, that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, or as it may naturally change thereafter or as it may change thereafter in accordance with permits issued by the Director of the Department of Ecology; provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

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

"Species of local importance" means those species that are of local concern due to their population status or their sensitivity to habitat manipulation or that are game species.

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

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

"Urban natural open space habitat" means and refers to those fish and wildlife habitat areas mapped by the Washington State Department of Wildlife.

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

"Wetland of exceptional value" means and refers to wetlands with the following values:

1. Rare or unique species listed by the federal or State government as endangered or threatened and needing special protection;

2. Presence of plants or group of plants that occur infrequently in the Seattle or Puget Sound region;

3. Habitat diversity;

4. Sensitivity to disturbance; and

5. Difficulty in replacement of ecological functions unique to Seattle.Wetland, Degraded. "Degraded wetland" means and refers to those wetlands which have been altered or damaged by past human activities and/or biologically diminished by invasive, non-native plants so that the natural biofiltration and habitat values have been rendered inefficient or nonfunctional.

"Wildlife" means and includes all undomesticated animals.

"Wildlife habitat" means and refers to those areas that support individual or populations of animals defined as wildlife for all or part of an annual cycle.
(Ord. 121276 § 29, 2003; Ord. 116976 § 15, 1993; Ord. 116253 § 1(part), 1992.)

25.09.440 Construction.

In any case where the provisions of this chapter conflict with the provisions of the underlying zoning or the Seattle Shoreline Master Program,[1] the provisions of this chapter shall apply. For purposes of this chapter, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine and neutral genders.
(Ord. 116253 § 1(part), 1992.)
1. Editor's Note: Provisions of the Seattle Shoreline Master Program are set out at Chapter 23.60 of this Code.

Chapter 25.10

RADIOFREQUENCY RADIATION

Sections:

Subchapter I

General Provisions

25.10.100 Purpose.

The purpose of this chapter is to minimize the exposure of citizens to any potential adverse impacts of radiofrequency radiation and to protect, promote, and preserve the public health, safety, and welfare.
(Ord. 116057 § 1(part), 1992.)

25.10.110 Applicability.

A. All sources of radiofrequency radiation, including existing facilities, shall comply with the provisions of this chapter. A "source of radiofrequency radiation" is any communications utility that sends telecommunications signals, including antennas, microwave dishes, and horns, and that operates at a frequency between one hundred (100) kHz and three hundred (300) GHz with an effective radiated power of more than one thousand (1,000) watts.

B. All major communication utilities are required to obtain an operations permit as provided in Subchapter IV of this chapter.

C. Facilities Not Affected. Facilities not affected by the regulation of this chapter include:

1. Operation of industrial, scientific and medical equipment at frequencies designated for that purpose by the Federal Communications Commission;

2. Machines and equipment that are designed and marketed as consumer products, such as computers, telephones, microwave ovens, and remote-control toys;

3. Hand-held, mobile and marine radio transmitters and/or receivers and portable radio frequency sources;

4. Two (2) way communication transmitters utilized on a temporary basis for experimental or emergency services communications;

5. Licensed amateur radio frequency facilities including but not limited to amateur (ham) radio stations and citizen band stations. When installed on a commercial site, the site operator/operation will not have the amateur station included in his restrictions. (The antenna structures of these stations shall adhere to all applicable Land Use Code, Uniform Building Code, National Electric Code, and Federal Communications Commission rules and regulations.);[1]

6. Receive-only microwave dishes;

7. Emergency or routine repair, reconstruction or routine maintenance of previously approved facilities or replacement of transmitters, antennas or other components of previously approved facilities which does not create an increase in off-site ambient radiofrequency radiation of more than ten percent (10%) above previous levels in the applicable frequency range, and does not exceed the radiofrequency radiation standards contained in Section 25.10.300.

(Ord. 116057 § 1(part), 1992.)

1. Editor's Note: The Land Use Code is set out at Title 23 of this Code; the Uniform B1uilding Code is codified in Chapter 22.100, and the National Electrical Code is set out at Chapter 22.300 of this Code.

Subchapter II

Definitions

25.10.200 Administrative Code.

"Administrative Code" means the Administrative Code of The City of Seattle, Chapter 3.02 of the Seattle Municipal Code, as now or hereafter amended.
(Ord. 116057 § 1(part), 1992.)

25.10.205 Administrator.

"Administrator" means the Director of the Seattle-King County Department of Public Health or the Director's authorized representative.
(Ord. 116057 § (part), 1992.)

25.10.210 Antenna.

"Antenna" means a system of electrical conductors that emit or receive radio frequency waves.
(Ord. 116057 § (part), 1992.)

25.10.215 Communication utility, major.

"Major communication utility" means a utility use in which the means for transfer of information are provided. These facilities, because of their size, typically have impacts beyond the immediate area and include FM and AM radio, UHF and VHF television transmission towers, and earth stations.
(Ord. 116057 § (part), 1992.)

25.10.220 Communication utility, minor.

"Minor communication utility" means a utility use in which the means for transfer of information are provided but which generally do not have significant impacts beyond the immediate area. These facilities are smaller in size than major communication utilities and include phone cable vaults; two (2) way, land mobile, and cellular communications facilities; cable TV facilities; point-to-point microwave dishes; FM translators; and FM boosters with less than ten (10) watts' transmitting power.
(Ord. 116057 § (part), 1992.)

25.10.225 Earth station.

"Earth station" means a facility that transmits signals to and receives signals from an orbiting satellite. Satellite dish antennas less than twenty-five feet (25') in diameter shall not be considered earth stations.
(Ord. 116057 § (part), 1992.)

25.10.230 Effective radiated power.

"Effective radiated power" means the product of the antenna power input and the

numerical antenna power gain. The antenna power gain is specified relative to a dipole. If specified for a particular direction, effective radiated power is based on the antenna power gain in that direction only. Equivalent isotopically radiated power is the product of the antenna input power and the antenna power gain in a given direction relative to an isotropic antenna.
(Ord. 116057 § (part), 1992.)

25.10.235 Frequency.

"Frequency" means the number of times the current from a given source of nonionizing electromagnetic radiation changes from a maximum positive level through a maximum negative level and back to a maximum positive level in one (1) second, measured in Hertz (cycles per second).
(Ord. 116057 § (part), 1992.)

25.10.240 General population.

"General population" means people residing, working, or visiting The City of Seattle who are not members of the family, employees, agents, contractors, invitees, lessees, or licensees of the owner or operator of a radiofrequency source or transmission tower.
(Ord. 116057 § (part), 1992.)

25.10.245 Hertz (Hz).

"Hertz (Hz)" means a unit for expressing frequency in cycles per second. One Hz equals one (1) cycle per second. One (1) kilohertz (kHz) equals one thousand (1,000) Hz. One (1) megahertz (MHz) equals one thousand (1,000) kHz or one million (1,000,000) Hz. One (1) gigahertz (GHz) equals one thousand (1,000) MHz, one million (1,000,000) kHz, or one billion (1,000,000,000) Hz.
(Ord. 116057 § (part), 1992.)

25.10.250 Nonionizing electromagnetic radiation.

"Nonionizing electromagnetic radiation" means electromagnetic radiation of low-photon energy unable to cause ionization (i.e., removing electrons from atoms).
(Ord. 116057 § (part), 1992.)

25.10.255 Radiofrequency radiation.

"Radiofrequency radiation," for the purposes of this chapter, means nonionizing electromagnetic radiation in the frequency range of one hundred (100) kHz to three hundred (300) GHz.
(Ord. 116057 § (part), 1992.)

25.10.260 Receive-only.

"Receive-only," when used with reference to a radio-frequency facility, means a

radio-frequency facility that only receives signals and does not transmit them.
(Ord. 116057 § (part), 1992.)

25.10.265 Satellite dish antenna.

"Satellite dish antenna" means a device or instrument designed or used for the reception and transmission of television or other electronic communications signals broadcast or relayed from an earth satellite. It may be a solid, open-mesh, or bar-configured structure.
(Ord. 116057 § (part), 1992.)

25.10.270 Transmission tower.

"Transmission tower" means a principal use broadcasting structure that is constructed above ground or water, or is attached to or on top of another structure, and is intended to support an antenna and accessory equipment, or which is itself an antenna.
(Ord. 116057 § (part), 1992.)

25.10.275 Transmitter.

"Transmitter" means equipment that generates radio signals for transmission via antennas.

A. Transmitter, Hand-Held. "Hand-held transmitter" means a transmitter normally operated while being held in the hands of the user.

B. Transmitter, Portable. "Portable transmitter" means a transmitter that is moved from one (1) site to another and is operated at each site for a continuous period of less than one (1) month.
(Ord. 116057 § (part), 1992.)

Subchapter III

Radiofrequency Radiation Standards

25.10.300 Radiofrequency radiation standards.

A source of radiofrequency radiation, by itself or in combination with other sources of radiofrequency radiation, shall not expose the general population to ambient radiation that exceeds the root mean squared electric or magnetic field strength, or their equivalent plane-wave free-space power density as averaged over a six (6) minute period, for the frequency ranges and duration described in Table 25.10.300 A.

Table 25.10.300 A			
Frequency (MHz)	**Mean Squared Electric Field Strength (V^2m^2)**	**Mean Squared Magnetic Field Strength (A^2/m^2)**	**Equivalent Plane-wave Power Density (uW/cm^2)**
.1 to 3	80,000	0.5	20,000

3 to 30	4,000	0.025	
	$(180/f^2)$	$(180/f^2)$	$180,000/f^2$
30 to 300	800	0.005	200
300 to 1,500	4,000	0.025	
	(f/1,500)	(f/1,500)	f/1.5
1,500 to 300,000	4,000	0.025	1,000

Note:
f = Frequency in megahertz (MHz);
V^2/m^2 = Volts squared per square meter;
A^2/m^2 = Amperes squared per square meter;
uW/cm^2 = Microwatts per square centimeter.

Compliance with the radiofrequency radiation standards is determined from spatial averages of power density or the mean squared electric and magnetic field strengths over a volume equivalent to the human body. The peak radiofrequency radiation levels shall not exceed twenty (20) times the allowed spatially averaged values at frequencies below three hundred (300) MHz, nor the equivalent power density of four thousand (4,000) uW/cm2 for frequencies between three hundred (300) MHz and six thousand (6,000) MHz, (f/1.5) uW/cm2 for frequencies between six thousand (6,000) MHz and thirty thousand (30,000) MHz, and twenty thousand (20,000) uW/cm2 at frequencies above thirty thousand (30,000) MHz. This requirement may be met by measurement of the radiofrequency radiation level along a vertical line at intervals not exceeding twenty centimeters (20 cm) over the vertical extent of an individual and calculating the average value of the readings.
(Ord. 116057 § (part), 1992.)

25.10.310 Calculations and measurements.

A. All calculations and measurements for the purposes of determining radiofrequency radiation levels shall be carried out as follows:

1. Ambient radiofrequency radiation levels shall be measured using equipment generally recognized by the Environmental Protection Agency (EPA), National Council on Radiation Protection and Measurements (NCRP), American National Standards Institute (ANSI), National Bureau of Standards (NBS), or similarly qualified organization as suitable for measuring radiofrequency radiation at frequencies and power levels of the proposed and existing sources of radiofrequency radiation and calibrated as recommended by the manufacturer in accord with methods used by the National Bureau of Standards.

2. The effect of contributing individual sources of radiofrequency radiation within

the frequency range of a broadband measuring instrument may be specified by separate measurement of these sources using a narrow-band measuring instrument. All sources in the resonant frequency range (thirty (30) MHz to three hundred (300) MHz) shall be added to show the total power density.

3. Radiofrequency radiation measurements shall be made when radiofrequency radiation levels are expected to be highest due to operating and environmental conditions.

4. Radiofrequency radiation measurements shall be made following the spatial and time averaging procedures as recommended by the American National Standard Institute (ANSI) publication: American National Standard Recommended Practices for the Measurement of Potentially Hazardous Electromagnetic Fields-Radiofrequency and Microwave.

5. For frequencies in the range of 0.1 to thirty (30) MHz, radiofrequency radiation levels shall be determined by measurement of both the electric and magnetic field strengths (or their squares) or the equivalent plane-wave free-space power densities associated with the electric and magnetic fields.

B. Radiofrequency radiation calculations shall be consistent with Office of Science and Technology Bulletin No. 65 of the Federal Communications Commission, or other engineering practices recognized by the Environmental Protection Agency, National Council on Radiation Protection and Measurements, American National Standards Institute, National Bureau of Standards or similarly qualified organization.

C. Measurements and calculations shall be certified by the person responsible for them and shall be accompanied by an explanation of the protocol, methods, equipment, and assumptions used. The certification shall include an affidavit stating the qualifications of the person responsible for the measurements and calculations. The Administrator shall approve the measurements and calculations.
(Ord. 116057 § (part), 1992.)

25.10.320 Radiofrequency burns and shock standard.

A source of radiofrequency energy shall not cause more than fifty (50) milliamps of current to flow through the index finger of a person in contact with a metallic object in any location to which the general population has legal access. This may be determined by measuring the current through a resistance equivalent to the human body. The Administrator shall determine when measurements to determine compliance with this provision shall be required.
(Ord. 116057 § (part), 1992.)

25.10.325 Establishment of state or federal standards.

In the event the state or federal government promulgates mandatory or advisory standards more stringent than those described in this chapter, such state or federal standards shall

automatically become effective, and the Administrator shall transmit to the City Council amendments appropriate to cause this chapter to conform with such state or federal standards.
(Ord. 116057 § (part), 1992.)

25.10.330 Retroactivity.

The standards contained in Section 25.10.300 shall apply to all utilities in existence at the time of the adoption of this chapter.[1] Any changes in these standards shall apply to utilities in existence at the time of such changes, as well as to new utilities, including those for which an application for an operating permit has been made.
(Ord. 116057 § (part), 1992.)

1. Editor's Note: Ordinance 116057, codified in this chapter, was adopted by the City Council on January 27, 1992.

Subchapter IV

Operations Permit Application Requirements

25.10.400 Facilities subject to permit requirements.

An operations permit shall be obtained for a new or expanded major communication utility; or for an existing major communication utility, prior to the establishment of an additional radio or television station transmitting from the facility or prior to any modification to an existing radio or television antenna that would increase off-site ambient radiation levels ten percent (10%) or more in the applicable frequency range. An application shall be submitted to the Department of Public Health. The Administrator shall have the authority to establish and assess fees to cover the cost of reviewing the application and issuing the permit. Such fees shall be established by rule.
(Ord. 116057 § (part), 1992.)

25.10.410 Contents of application.

An application for an operations permit shall contain the following information:

A. The name and address of the owner(s) and operator(s) of proposed and existing transmitter(s) and antenna(e) on the site;

B. The height of any proposed antenna(e) and the contemplated manufacturer, type, and model of such antenna(e) and its radiation patterns;

C. Frequency, maximum effective radiated power and direction of maximum radiated signal, and transmission power;

D. Power input to any proposed antenna and gain of such antenna with respect to isotropic (nondirectional) or dipole radiator;

E. Type of modulation and class of service;

F. The calculated radiofrequency radiation levels attributable to the proposed or modified radiofrequency radiation source at the following point(s): (1) the point off-site of predicted maximum radiation caused by the source; and (2) the predicted point of maximum radiation on that portion of the property, if any, open to the general public;

G. If there is a major communication utility source of radiofrequency radiation located within one (1) mile of the site of the proposed or modified facility, the level of ambient radiofrequency radiation at the point(s) identified in subsection F of this section, measured no more than thirty (30) days prior to the submission of the application.
(Ord. 116057 § (part), 1992.)

25.10.420 Post-construction measurements.

Where the calculation of radiofrequency radiation levels required under Section 25.10.300 indicates predicted levels of seventy-five percent (75%) or greater of the radiofrequency radiation standards of Subchapter III of this chapter, measurements of radiation levels shall be conducted following installation and operation of the radiofrequency radiation source. Measurements shall be conducted, certified, and approved as provided in Section 25.10.310, at the expense of the applicant.
(Ord. 116057 § (part), 1992.)

Subchapter V.

Monitoring and Enforcement

25.10.500 Monitoring radiofrequency radiation.

The Seattle-King County Department of Public Health shall measure radiofrequency radiation or electric field levels, or contract for such measurement, if there is reasonable cause to believe the facility is causing radiofrequency radiation or energy levels in excess of those allowed by Subchapter III of this chapter. The Administrator shall have the authority to establish and assess fees to cover the cost of such monitoring.
(Ord. 116057 § (part), 1992.)

25.10.510 Notice and order.

A. Whenever the Administrator has determined that the radiofrequency radiation standards in Subchapter III are being exceeded, he or she may initiate an administrative proceeding, and serve a written notice and order directed to the owner or operator of the source. One (1) copy shall also be posted on the property or source, if reasonably possible; additional copies may be mailed by the Administrator to such other interested or affected persons as the Administrator deems appropriate.

B. The notice shall contain a brief description of the conditions alleged to be in violation, the provision(s) of this chapter alleged to have been violated, and the radio frequency radiation levels measured, including the time and place of their measurement.

C. The order shall contain a statement of the corrective action required and shall specify a reasonable time within which the action must be accomplished.
(Ord. 116057 § (part), 1992.)

25.10.520 Method of service.

Service of the notice and order shall be made upon the persons named in the notice and order, either personally or by mailing a copy of the notice and order by certified mail, postage prepaid, return receipt requested, to each person at his last known address. If the whereabouts of the persons is unknown and cannot be ascertained by the Administrator in the exercise of reasonable diligence, and the Administrator shall make affidavit to that effect, then the service of the notice and order upon the persons may be made by publishing them once each week for two (2) consecutive weeks in the City official newspaper. The failure of any such person to receive the notice and order shall not affect the validity of any proceedings taken under this chapter. Service by certified mail in the manner provided in this section shall be effective on the date of mailing.
(Ord. 116057 § (part), 1992.)

25.10.530 Final orders.

Any order issued by the Administrator pursuant to this chapter shall become final no later than ten (10) days after the order is served, unless a person named in the notice and order requests a hearing before the Hearing Examiner in accordance with Section 25.10.540.
(Ord. 116057 § (part), 1992.)

25.10.540 Appeals.

The order of the Administrator may be appealed subject to the following:

A. Any person aggrieved by an order issued by the Administrator may file an appeal in writing with the Hearing Examiner within a period extending to five p.m. (5:00 p.m.) of the tenth day following the date of service of the order.

B. The appeal shall be accompanied by the payment of the filing fee as set forth in Section 3.02.125 of this Code which governs Hearing Examiner fees.

C. The appeal shall state specifically why the appellant believes the order to be in error.

D. Upon timely notice of appeal the Hearing Examiner shall set the date for a hearing and shall mail notice to the appellant, to the owner or operator of the facility if different from the appellant, and to the Administrator not less than twenty (20) days prior to the hearing.

E. The Hearing Examiner shall give substantial weight to the order of the Administrator and the burden of overcoming that weight shall be upon the appellant.

F. The Hearing Examiner may affirm, reverse, or modify the order of the Administrator or may remand it to the Administrator for further consideration. Within fifteen (15) days of the close of the record the Hearing Examiner shall transmit to the parties findings of fact, conclusions of law and a decision/order. The decision/order of the Hearing Examiner shall be final and the appellant and the Administrator shall be bound by it.

G. The Hearing Examiner is authorized to promulgate rules and procedures to implement the provisions of this section. The rules shall be promulgated pursuant to SMC Chapter 3.02. Until such time as rules are promulgated, the Hearing Examiner rules of general applicability and SMC Chapter 3.02 shall apply.
(Ord. 116057 § (part), 1992.)

25.10.550 Civil penalty.

A. Failure to comply with a final order issued by the Administrator or a Hearing Examiner shall subject the owner or operator of the facility found to be in violation of this chapter to a cumulative penalty in the amount of Five Hundred Dollars ($500.00) per day from the date set for compliance until compliance is achieved.

B. The penalty imposed by this section shall be collected by civil action brought in the name of the City. The Administrator shall notify the City Attorney of the name of any person subject to the penalty, and the City Attorney shall take appropriate action to collect the penalty.

C. The penalties imposed by this section shall be in addition to any other sanction or remedial or injunctive procedure which may be available at law or equity.
(Ord. 116057 § (part), 1992.)

Chapter 25.11

TREE PROTECTION

Sections:

25.11.010 Purpose and intent.

It is the purpose and intent of this chapter to:

A. Implement the goals and policies of Seattle's Comprehensive Plan especially those in the Environment Element dealing with protection of the urban forest;

B. To preserve and enhance the City's physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of trees;

C. To protect trees on undeveloped sites that are not undergoing development by not allowing tree removal except in hazardous situations, to prevent premature loss of trees so their retention may be considered during the development review and approval process;

D. To reward tree protection efforts by granting flexibility for certain development standards, and to promote site planning and horticultural practices that are consistent with the reasonable use of property;

E. To especially protect exceptional trees that because of their unique historical, ecological, or aesthetic value constitute an important community resource; to require flexibility in design to protect exceptional trees;

F. To provide the option of modifying development standards to protect trees over two (2) feet in diameter in the same manner that modification of development standards is required for exceptional trees;

G. To encourage retention of trees over six (6) inches in diameter through the design review and other processes for larger projects, through education concerning the value of retaining trees, and by not permitting their removal on undeveloped land prior to development permit review.
(Ord. 120410 § 2(part), 2001.)

25.11.020 Definitions.

"Director" means the Director of the Department of Planning and Development.

"Drip line" means an area encircling the base of a tree, the minimum extent of which is delineated by a vertical line extending from the outer limit of a tree's branch tips down to the ground.

"Exceptional tree" means a tree that because of its unique historical, ecological, or aesthetic value constitutes an important community resource, and is designated as such by the Director according to standards and procedures promulgated by the Department of Planning and Development.

"Feeder root zone" means an area encircling the base of a tree equal to twice the diameter of the drip line.

"Hazardous tree" means any tree or tree part that poses a high risk of damage to persons

or property, and that is designated as such by the Director according to the tree hazard evaluation standards established by the International Society of Arboriculture.

"Inner root zone" means an area encircling the base of a tree equal to one-half (1/2) the diameter of the drip line.

"Topping" means the cutting back of limbs to stubs within the tree's crown, to such a degree as to remove the normal canopy and disfigure the tree; or the cutting back of limbs or branches to lateral branches that are less than one-half (1/2) of the diameter of the limb or branch that is cut.

"Tree removal" means removal of a tree(s) or vegetation, through either direct or indirect actions including, but not limited to, clearing, topping or cutting, causing irreversible damage to roots or trunks; poisoning; destroying the structural integrity; and/or any filling, excavation, grading, or trenching in the dripline area of a tree which has the potential to cause irreversible damage to the tree, or relocation of an existing tree to a new planting location.

"Undeveloped lot" means a lot on which no buildings are located.
(Ord. 121276 § 30, 2003; Ord. 120410 § 2(part), 2001.)

25.11.030 Exemptions.

The following activities are exempt from the provisions of this chapter:

A. Normal and routine pruning operations and maintenance;

B. Abatement of hazardous tree or tree part as approved by the Director;

C. Emergency activities necessary to remedy an immediate threat to public health, safety, or welfare;

D. Tree removal undertaken as part of tree and vegetation management and revegetation of public parkland and open spaces by responsible public agencies or departments;

E. Tree removal approved as part of an Environmentally Critical Area revegetation plan as provided in Section 25.09.320;

F. Tree removal shown as part of an issued building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080;

G. Removal of street trees as regulated by Title 15 of the SMC; and

H. Additions to existing structures.
(Ord. 120410 § 2(part), 2001.)

25.11.040 Restrictions on tree removal.

A. Tree removal or topping is prohibited in the following cases, except as provided in Section 25.11.030:

1. All trees six (6) inches or greater in diameter, measured four and one-half (4.5) feet above the ground, on undeveloped land; and

2. Exceptional trees on undeveloped land or on a lot developed with a single family house located in a zone other than Single-family.

B. Tree removal in Environmentally Critical Areas shall follow the provisions of Section 25.09.320.
(Ord. 120410 § 2(part), 2001.)

25.11.050 General Provisions for exceptional tree determination and tree protection area delineation in Single-family, Residential Small Lot, Lowrise, Midrise, and Commercial zones.

A. Exceptional trees and potential exceptional trees shall be identified on site plans and exceptional tree status shall be determined by the Director according to standards promulgated by the Department of Planning and Development.

B. Tree protection areas for exceptional trees shall be identified on sites plans. Applicants seeking development standard waivers to protect other trees greater than two (2) feet in diameter measured four and one-half (4.5) feet above the ground shall also indicate tree protection areas on site plans. The basic tree protection area shall be the area within the drip line of the tree. The tree protection area may be reduced if approved by the Director according to a plan prepared by a tree care professional. Such reduction shall be limited to one-third of the area within the outer half of the area within the drip line. In no case shall the reduction occur within the inner root zone. In addition, the Director may establish conditions for protecting the tree during construction within the feeder root zone. (See Exhibit 25.11.050 B.)

GRAPHIC UNAVAILABLE: Exhibit 25.11.050B

C. If development standards have been modified according to the provisions of this chapter to avoid development within a designated tree protection area, that area shall remain undeveloped for the remainder of the life of the building, and a permanent covenant stating this requirement shall be recorded in the King County Office of Records and Elections.

D. The Director may require a tree protection report by a tree care professional that provides the following information:

1. Tree evaluation with respect to its general health, damage, danger of falling, proximity to existing or proposed structures and or utility services;

2. Evaluation of the anticipated effects of proposed construction on the viability of

the tree;

3. A hazardous tree assessment, if applicable;

4. Plans for supervising, and/or monitoring implementation of any required tree protection or replacement measures; and

5. Plans for conducting post-construction site inspection and evaluation.

E. The Director may condition Master Use Permits or Building Permits to include measures to protect tree(s) during construction, including within the feeder root zone. (Ord. No. 121276 § 37, 2003; Ord. 120410 § 2(part), 2001.)

25.11.060 Tree protection on sites undergoing development in Single-family and Residential Small Lot zones.

A. Exceptional Trees.

1. The Director may permit a tree to be removed only if:

a. the maximum lot coverage permitted on the site according to SMC Title 23, the Land Use Code, cannot be achieved without extending into the tree protection area or into a required front and/or rear yard to an extent greater than provided for in subsection A2 of this section; or

b. avoiding development in the tree protection area would result in a portion of the house being less than fifteen (15) feet in width.

2. Permitted extension into front or rear yards shall be limited to an area equal to the amount of the tree protection area not located within required yards. The maximum projection into the required front or rear yard shall be fifty (50) percent of the yard requirement.

3. If the maximum lot coverage permitted on the site can be achieved without extending into either the tree protection area or required front and/or rear yards then no such extension into required yards shall be permitted.

B. Trees Over Two (2) Feet in Diameter Measured Four and One-half (4 1/2) Feet Above the Ground.

1. Trees over two (2) feet in diameter shall be identified on site plans.

2. In order to protect trees over two (2) feet in diameter an applicant may modify their development proposal to extend into front and/or rear yards in the same manner as provided for exceptional trees in subsection A of this section, above.

C. The development shall meet the tree requirements of Section 23.44.008 I.

(Ord. 120410 § 2(part), 2001.)

25.11.070 Tree protection on sites undergoing development in Lowrise Duplex/Triplex, Lowrise 1, Lowrise 2, and Lowrise 3 Zones.

A. Exceptional Trees.

1. If it is determined that there is an exceptional tree located on the site the project shall go through administrative design review as provided in Section 23.41.016 even if the project would normally fall below the threshold for design review as contained in Section 23.41.004.

2. The Director may permit the tree to be removed only if the total floor area that could be achieved within the maximum permitted development coverage and the height limit of the applicable lowrise zone according to SMC Title 23, the Land Use Code, cannot be achieved while avoiding the tree protection area through the following:

a. Development standard departures permitted in Section 23.41.012.

b. An increase in the permitted height as follows:

i. In Lowrise Duplex/Triplex, Lowrise 1, and Lowrise 2 zones, the basic height limit of twenty-five (25) provided for in Section 23.45.009A may be increased up to thirty (30) feet; the pitch roof provisions of Section 23.45.009 C1 may be modified to permit the ridge of pitched roofs on principal structures with a minimum slope of six to twelve (6:12) to extend up to forty (40) feet, and the ridge of pitched roofs on principal structures with a minimum slope of four to twelve (4:12) may extend up to thirty-five (35) feet.

ii. In Lowrise 3 zones the height of the pitched roof provided for in Section 23.45.009C3 may extend up to ten (10) feet above the maximum height limit.

iii. The increase in height permitted in this section shall only be approved if it can be demonstrated that it is needed to accommodate, on an additional floor, the amount of floor area lost by avoiding development within the tree protection area. The maximum amount of floor area on an additional floor shall be limited to the amount of floor area lost by avoiding development within the tree protection area. This provision for increased height shall not be permitted if the development is granted a departure from the development standards for setbacks.

c. Parking Reduction. A reduction in the parking quantity of Section 23.54.015 and standards of Section 23.54.030 may be permitted in order to protect an exceptional tree if the reduction would result in a project that would avoid the tree protection area. The reduction shall be limited to a maximum of ten (10) percent of the number of required parking spaces.

B. Trees Over Two (2) Feet in Diameter Measured Four and One-half (4 1/2) Feet Above the Ground.

1. Trees over two (2) feet in diameter shall be identified on site plans.

2. In order to protect trees over two (2) feet in diameter an applicant may request modification of development standards in the same manner as provided for exceptional trees in subsection A of this section, above.

C. The development shall meet the tree requirements in landscaped areas of Section 23.45.015C.

(Ord. 120410 § 2(part), 2001.)

25.11.080 Tree protection on sites undergoing development in Lowrise 4, Midrise, and Commercial Zones.

A. Exceptional Trees.

1. If it is determined that there is an exceptional tree located on the site the project shall go through administrative design review as provided in Section 23.41.016 even if the project would normally fall below the threshold for design review as contained in Section 23.41.004.

2. The Director may permit an exceptional tree to be removed only if the applicant demonstrates that protecting the tree by avoiding development in the tree protection area could not be achieved through the development standard departures permitted in Section 23.41.012, and/or a reduction in the parking requirements of Section 23.54.015 up to a maximum reduction of ten (10) percent of the number of required parking spaces.

B. Trees Over Two (2) Feet in Diameter Measured Four and One-half (4 1/2) Feet Above the ground.

1. Trees over two (2) feet in diameter shall be identified on site plans.

2. In order to protect trees over two (2) feet in diameter an applicant may request modification of development standards in the same manner as provided for exceptional trees in subsection A of this section, above.

(Ord. 120410 § 2(part), 2001.)

25.11.090 Tree replacement and site restoration.

A. Each exceptional tree and tree over two (2) feet in diameter that is removed in association with development in all zones shall be replaced by one or more new trees, the size and species of which shall be determined by the Director; the tree replacement required shall be designed to result, upon maturity, in a canopy cover that is at least equal to the canopy cover prior to tree removal. Preference shall be given to on-site replacement. When on-site replacement cannot be achieved, or is not appropriate as determined by the Director, preference for off-site replacement shall be on public property.

B. No tree replacement is required if the (1) tree is hazardous, dead, diseased, injured or in a declining condition with no reasonable assurance of regaining vigor as determined by a tree care professional, or (2) the tree is proposed to be relocated to another suitable planting site as approved by the Director.
(Ord. 120410 § 2(part), 2001.)

25.11.100 Enforcement and penalties.

A. Authority. The Director shall have authority to enforce the provisions of this chapter, to issue permits, impose conditions, and establish administrative procedures and guidelines, conduct inspections, and prepare the forms necessary to carry out the purposes of this chapter.

B. It shall be a violation of this chapter for any person, firm or corporation to remove, clear or take any action detrimental to trees contrary to or in violation of any provision of this chapter. It shall be a violation of this chapter for any person, firm or corporation to knowingly aid and abet, counsel, encourage, hire, commend, induce or otherwise procure another to violate or fail to comply with this chapter.

C. Stop-work Order. Whenever a continuing violation of this chapter will materially impair the Director's ability to secure compliance with this chapter, when the continuing violation threatens the health or safety of the public, or when the continuing violation threatens or harms the environment, the Director may issue a stop-work order specifying the violation and prohibiting any work or other activity at the site. The posting of the stop-work order on the site shall be deemed adequate notice of the stop-work order. A failure to comply with a stop-work order shall constitute a violation of this chapter.

D. Civil Penalties.

1. Any person, firm or corporation who removes a tree in violation of this chapter or any notice, decision or order issued by the Director pursuant to this chapter shall be subject to a civil penalty in the amount equal to the appraised value of the tree(s) affected in accordance with the Guide for Plant Appraisal, 9th Edition, or successor.

2. Any person who fails to comply with Section 23.11.100 C shall be subject to a civil penalty in an amount not to exceed Five Hundred Dollars ($500) a day.

3. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and shall assist the City Attorney in collecting the penalty.

E. Restoration. In addition to any other remedies available, violators of this chapter shall be responsible for restoring unlawfully damaged areas in conformance with a plan, approved by the Director, which provides for repair of any environmental and property damage, and restoration of the site; and which results in a site condition that, to the greatest extent practicable, equals the site condition that would have existed in the absence of the violation(s).

F. Criminal Penalty.

1. Anyone violating or failing to comply with any order issued by the Director pursuant to this chapter shall, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars ($1,000) or by imprisonment for not more than three hundred sixty (360) days, or by both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.

2. Anyone violating or failing to comply with any of the provisions of this chapter and who within tim past five (5) years has had a judgement against them pursuit to subsection B shall upon conviction thereof, be fined in a sum not to exceed Five Hundred Dollars ($500) or by imprisonment for not more than one hundred and eighty (180) days, or by both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.

(Ord. 120410 § 2(part), 2001.)

Chapter 25.12

LANDMARKS PRESERVATION[1]

Sections:

Statutory Reference: For statutory provisions pertaining to preservation of historic properties, see RCW 43.51.750 et seq.

Severability: The invalidity of any section, subsection, provision, clause or portion of this chapter, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this chapter or the validity of its application to other persons or circumstances.

(Ord. 106348 § 14.09, 1977.)

1. Cross-reference: For a table listing designated City landmarks, see Chapter 25.32 of this Code.

Subchapter I

Title and Purpose

25.12.010 Short title.

This chapter may be cited as the "Landmarks Preservation Ordinance."
(Ord. 106348 § 1.01, 1977.)

25.12.020 Purpose and declaration of policy.

A. The City's legislative authority finds that the protection, enhancement, perpetuation and use of sites, improvements and objects of historical, cultural, architectural, engineering or geographic significance, located within the City, are required in the interest of the prosperity, civic pride and general welfare of the people; and further finds that the economic, cultural and aesthetic standing of this City cannot be maintained or enhanced by disregarding the heritage of the City and by allowing the unnecessary destruction or defacement of such cultural assets.

B. The purposes of this chapter are: (1) to designate, preserve, protect, enhance and perpetuate those sites, improvements and objects which reflect significant elements of the City's cultural, aesthetic, social, economic, political, architectural, engineering, historic or other heritage, consistent with the established long-term goals and policies of the City; (2) to

fostercivic pride in the beauty and accomplishments of the past; (3) to stabilize or improve the aesthetic and economic vitality and values of such sites, improvements and objects; (4) to protect and enhance the City's attraction to tourists and visitors; (5) to promote the use of outstanding sites, improvements and objects for the education, stimulation and welfare of the people of the City; and (6) to promote and encourage continued private ownership and use of such sites, improvements and objects now so owned and used, to the extent that the objectives listed above can be attained under such a policy.
(Ord. 106348 § 1.02, 1977.)

Subchapter II

Definitions

25.12.030 Definitions generally.

The words and terms set out in this subchapter, when used in this chapter, unless a different meaning clearly appears from the context shall mean as follows.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(part), 1977.)

25.12.040 Alteration.

"Alteration" is any construction, modification, demolition, restoration or remodeling for which a permit from the Director of Planning and Development is required.
(Ord. No. 121276 § 37, 2003; Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(1), 1977.)

25.12.050 Approval of designation.

"Approval of designation" is final action by the Landmarks Preservation Board identifying an object, improvement or site as a landmark or landmark site.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(2), 1977.)

25.12.060 Approval of nomination.

"Approval of nomination" is an action by the Landmarks Preservation Board approving a nomination, in whole or in part, for further designation proceedings.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(3), 1977.)

25.12.070 Board.

"Board" is the Landmarks Preservation Board.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(4), 1977.)

25.12.080 Certificate of approval.

"Certificate of approval" is written authorization which must be issued by the Board before any alteration or significant change may be made to the controlled features of a landmark

or landmark site, or during the pendency of designation proceedings, to a site, improvement or object after its nomination has been approved by the Board for further proceedings. The term "certificate of approval" includes written approval of a preliminary design of a project as well as its subsequent design phases as provided for in Section 25.12.680 E.
(Ord. 119121 § 3, 1998: Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(5), 1977.)

25.12.090 Controls.

"Controls" are such specific restrictions as may be imposed by a designating ordinance, upon the alteration or the making of significant changes of specific features or characteristics of a landmark site or landmark that are designated for preservation by such designating ordinance.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(6), 1977.)

25.12.100 Council.

"Council" is the City Council of The City of Seattle.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(7), 1977.)

25.12.110 Designating ordinance.

"Designating ordinance" is an ordinance enacted pursuant to this chapter for the purpose of declaring an object, improvement or site a landmark, or a landmark site, and specifying the controls and any economic incentives applicable thereto, and shall include any ordinance designating a landmark in accordance with Ordinance 102229.1
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(8), 1977.)
1. Editor's Note: Ord. 102229 is the previous Landmarks Preservation Ordinance.

25.12.115 Construction and land use.

All references in Seattle Municipal Code Chapter 25.12 to "Director of Construction and Land Use" and "Director of Design, Construction and Land Use" are deemed references to the Director of the Department of Planning and Development of the City or such other official as may be designated from time to time to issue permits for construction, alteration, reconstruction, or demolition of improvements upon real property in the City.
(Ord. 121276 § 31, 2003; Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(9), 1977.)

25.12.120 Economic incentives.

"Economic incentives" are such compensation, rights, or privileges or combination thereof, which the Council, or other public body or agency, by virtue of applicable present or future legislation, may be authorized to grant to or obtain for the owner as consideration for the imposition of controls on a designated landmark.

Examples of economic incentives include tax relief, conditional use permits, rezoning, street vacation, planned unit development, transfer of development rights, facade easements, named gifts, preferential leasing policies, private or public grants-in-aid, beneficial placement of public improvements, or amenities, or the like.

(Ord. 118181 § 10, 1996: Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(10), 1977.)

25.12.130 Hearing Examiner.

"Hearing Examiner" means any person authorized to act as a Hearing Examiner pursuant to the Administrative Code of the City (Ordinance 102228)[1] or any ordinance amendatory or successor thereto.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(11), 1980.)
1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.12.140 Improvement.

"Improvement" is any building, structure, or other object constituting a physical improvement of real property.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(12), 1977.)

25.12.150 Interested person of record.

"Interested person of record" includes any individual, corporation, partnership or association which notifies the Board in writing of its interest in any matter before the Board.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(13), 1977.)

25.12.160 Landmark.

"Landmark" is an improvement, site, or object that the Board has approved for designation pursuant to this chapter, or that was designated pursuant to Ordinance 102229.1
(Ord. 118012 § 65, 1996: Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(14), 1977.)
1. Editor's Note: Ord. 102229 is the previous Landmarks Preservation Ordinance.

25.12.180 Nomination.

"Nomination" is the act of proposing that any object, site or improvement be designated a landmark.
(Ord. 118012 § 67, 1996: Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(16), 1980.)

25.12.190 Object.

"Object" is any tangible thing, including any ship, which may or may not be attached to real property.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(17), 1980.)

25.12.200 Owner.

"Owner" is a person having a fee simple interest, a substantial beneficial interest of record or a substantial beneficial interest known to the Board in an object, site or improvement.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(18), 1977.)

25.12.210 Party of record.

"Party of record" includes the Board, the owner, and the nominator of any proposed landmark.
(Ord. 118181 § 11, 1996: Ord. 118012 § 68, 1996: Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(19), 1977.)

25.12.220 Person.

"Person" is an individual, partnership, corporation, group or association.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(20), 1977.)

25.12.240 Significant change.

"Significant change" is any change in appearance not requiring a permit from the Director of Planning and Development, but for which a certificate of approval is expressly required by a Board approval of nomination, a Board report on designation, or a designating ordinance.
(Ord. No. 121276 § 37, 2003; Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(22), 1977.)

25.12.250 Site.

"Site" is any area of land which is unimproved except for trees, shrubs, and/or plants.
(Ord. 109125 § 16(part), 1980: Ord. 106348 § 1.03(23), 1977.)

Subchapter III

Landmarks Preservation Board

25.12.270 Creation.

There is created the Landmarks Preservation Board (hereinafter called the "Board") which shall consist of eleven (11) members. The membership of the Board shall consist of at least two (2) architects, (one (1) of whom may be a landscape architect), two (2) historians, one (1) representative from the City Planning Commission, one (1) structural engineer, one (1) representative from the field of real estate management, and one (1) representative from the field of finance. Three (3) additional members shall also be appointed without regard to occupation or affiliation. All Board members shall have a demonstrated sympathy with the purposes of this chapter.

In addition to the members set forth above, one (1) designated young adult position shall be added to the Landmarks Preservation Board pursuant to the Get Engaged Program, SMC Chapter 3.51. The terms of service related to this young adult position are set forth in SMC Chapter 3.51.
(Ord. 121568 § 10, 2004; Ord. 120914 § 7, 2002: Ord. 106348 § 2.01(a), 1977.)

25.12.280 Membership.

All members of the Board shall be appointed by the Mayor, subject to confirmation by the Council, for a term of three (3) years, which appointments shall be made in such a manner that the composition specified in this subchapter is maintained. The Board shall elect a Chairperson from among its members.
(Ord. 118012 § 71, 1996: Ord. 106348 § 2.01(b), 1977.)

25.12.290 Vacancy filling.

In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner as if at the beginning of the term. The person appointed to fill the vacancy shall hold for the unexpired term, and if the vacancy being filled was occupied by a person meeting one (1) of the enumerated qualifications, the newly appointed member shall meet that same qualification. No member shall serve for more than two (2) terms consecutively; provided that for the purpose of this limitation a member shall be deemed to have served one (1) term if such member resigns after being appointed for any period of time, and provided further that "one (1) term" shall include an unexpired term of two (2) years or more. Members of the Board shall serve without compensation.
(Ord. 106348 § 2.01(c), 1977.)

25.12.300 Rules and regulations.

The Board shall adopt rules and regulations in accordance with the Administrative Code, Chapter 3.02 of the Seattle Municipal Code, to govern the Board's organization and procedures and to implement the provisions of this chapter.
(Ord. 118012 § 72, 1996: Ord. 106348 § 2.02(a), 1977.)

25.12.310 Quorum--Voting.

A majority of the current appointed and confirmed members of the Board shall constitute a quorum and must be present for the transaction of business. All official actions of the Board, with the exception of votes on approval of designation, shall require a majority vote of the members present and voting. Votes on approval of designation shall require a majority vote of the then current appointed and confirmed members of the Board. No member shall be eligible to vote upon any matter required by this chapter to be determined after a public meeting unless that member has attended the meeting or familiarized him or herself with the record.
(Ord. 118012 § 73, 1996: Ord. 106348 § 2.02(b), 1977.)

25.12.320 Staff--Historic Preservation Officer.

The Director of the Department of Neighborhoods shall provide adequate staff support to the Landmarks Preservation Board and shall assign a member of the Department's staff to act as Historic Preservation Officer. Under the direction of the Board, the Historic Preservation Officer shall be the custodian of the Board's records, conduct official correspondence, assist in organizing and supervising the Landmarks Preservation Board, organize and supervise the Board staff and the clerical and technical work of the Board to the extent required to administer this

chapter. In addition, the Historic Preservation Officer shall:

A. Carry out, assist and collaborate in studies and programs designed to identify and evaluate objects, improvements and sites worthy of preservation;

B. Consult with and consider the ideas and recommendations of civic groups, public agencies, and citizens interested in historic preservation;

C. Inspect and investigate objects, improvements and sites which are believed worthy of preservation;

D. Officially recognize design excellence in the rehabilitation of objects, improvements and other features deemed deserving of official recognition although not designated as landmark sites or landmarks and encourage appropriate measures for such recognition;

E. Disseminate information to the public concerning those objects, improvements and sites deemed worthy of preservation, and encourage and advise owners in the protection, enhancement and perpetuation of such objects, improvements and sites;

F. Consider methods other than those provided for in this chapter for encouraging and achieving historical preservation, and make appropriate recommendations to the Council and to other bodies and agencies, both public and private;

G. Recommend such policies, rules and regulations for adoption by the Board as are deemed necessary to carry out the purposes of this chapter;

H. Subject to such limitations and within such standards as the Board may establish from time to time, grant certificates of approval all without prejudice to the right of the owner at any time to apply directly to the Board for its consideration and action on such matters;

I. Review and comment upon environmental analyses being performed by other agencies;

J. Upon request by the Department of Construction and Lane Use, review permit applications to determine whether the site, improvement, or object appears to meet the criteria for landmark designation;

K. Respond to requests for interpretations of the codes relating to landmarks and to landmark districts, as provided in those codes.
(Ord. 118012 § 74, 1996: Ord. 115958 § 33, 1991: Ord. 106348 § 2.03, 1977.)

25.12.330 Board meetings.

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the action of the Board upon each question, and shall keep records of all

official actions taken by it, all of which shall be filed in the office of the Historic Preservation Officer and shall be public records.
(Ord. 106348 § 2.04, 1977.)

25.12.340 Electronic record of hearings.

At all Board meetings to consider approval of designation, to make a decision on an application for a Certificate of Approval, and to make the Board's recommendation on controls and incentives, all oral proceedings shall be electronically recorded. Such proceedings may also be recorded stenographically by a court reporter if any interested person at his or her expense shall provide a court reporter for that purpose. A copy of the electronic record or any part thereof, shall be furnished to any person upon request therefor and payment of the reasonable costs thereof.
(Ord. 118012 § 75, 1996: Ord. 106348 § 2.05, 1977.)

Subchapter IV

Designation of Landmark Sites

25.12.350 Standards for designation.

An object, site or improvement which is more than twenty-five (25) years old may be designated for preservation as a landmark site or landmark if it has significant character, interest or value as part of the development, heritage or cultural characteristics of the City, state, or nation, if it has integrity or the ability to convey its significance, and if it falls into one (1) of the following categories:

A. It is the location of, or is associated in a significant way with, an historic event with a significant effect upon the community, City, state, or nation; or

B. It is associated in a significant way with the life of a person important in the history of the City, state, or nation; or

C. It is associated in a significant way with a significant aspect of the cultural, political, or economic heritage of the community, City, state or nation; or

D. It embodies the distinctive visible characteristics of an architectural style, or period, or of a method of construction; or

E. It is an outstanding work of a designer or builder; or

F. Because of its prominence of spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood or the City and contributes to the distinctive quality or identity of such neighborhood or the City.
(Ord. 119439 § 1, 1999: Ord. 106348 § 3.01, 1977.)

25.12.360 Separate nomination and designation of site and object or improvement.

The nomination or designation of a site as a landmark shall not constitute nomination or designation of any object or improvement located on the site as a landmark unless the object or improvement is expressly included in the description of the nominated or designated landmark. The nomination or designation of an object or improvement as a landmark shall not constitute nomination or designation of the site on which the object or improvement is located as a landmark unless the site is expressly included in the description of the nominated or designated landmark.
(Ord. 118012 § 76, 1996: Ord. 106348 § 3.02, 1977.)

25.12.370 Nomination.

A. Any person including the Historic Preservation Officer and any member of the Board may nominate any site, improvement or object for designation as a landmark. Nominations may be made on official nomination forms provided by the Historic Preservation Officer, shall be filed with the Historic Preservation Officer, and shall include all data required by the Board.

B. The Department of Planning and Development shall refer improvements, sites, or objects to the Landmarks Board that are subject to environmental review for a pending permit application, and that appear to meet criteria set forth in this chapter for landmark designation. The referral shall be in the form of a nomination and shall include the information required by the Board for a nomination. Board consideration of the referred building, site, or object shall proceed in the same manner as a nomination.

C. Nominations found by the Historic Preservation Officer to contain adequate information shall be considered by the Board at a public meeting. The Historic Preservation Officer or the Board may amend or complete any nomination. The nominator may withdraw the nomination prior to the Board's meeting regarding it, unless the nomination is a referral from the Department of Planning and Development as part of its environmental review of pending permit applications.
(Ord. 121276 § 37, 2003; Ord. 118012 § 77, 1996: Ord. 106348 § 4.01, 1977.)

25.12.375 Exemption from permit timelines.

Pursuant to RCW 36.70B.140, the City excludes the entire designation process, from nomination through the City Council's decision whether to enact a designating ordinance, including any review of the Board's decisions by the Hearing Examiner or the City Council, from the time limits and the other provisions of RCW 36.70B.060 through 36.70B.080 and the provisions of 36.70B.110 through 36.70B.130.
(Ord. 120157 § 10, 2000: Ord. 118012 § 78, 1996.)

25.12.380 Notice of Board meeting on approval of nomination.

The Board may approve a nomination for further designation proceedings only at a public

meeting. The Board shall make a reasonable effort to serve the owner of a nominated site, improvement or object with thirty (30) days' notice of any Board meeting at which such nomination shall be considered for approval by the Board, including a copy of the nomination, however, failure to serve such notice shall not invalidate any proceedings with respect to such nomination. Neither the attendance and participation of the owner at the meeting to consider the nomination, nor the owner's failure to so attend or participate shall prejudice the right of the owner to resist designation or the imposition of controls if the nomination is approved.
(Ord. 118012 § 79, 1996: Ord. 106348 § 5.01, 1977.)

25.12.390 Board approval of nomination.

A. If the Board approves a nomination, in whole or in part, for further designation proceedings, it shall in such approval:

1. Specify the legal description of the site, the particular features and/or characteristics proposed to be designated, and such other description of the site, improvement or object as it deems appropriate;

2. Set a date, which is not less than thirty (30) nor more than sixty (60) days from the date of approval of nomination, at which a public meeting on approval of designation shall be held as provided in Section 25.12.420.

B. If the Board approves a nomination, the provisions of Sections 25.12.670 through 25.12.780 shall apply.
(Ord. 118012 § 80, 1996: Ord. 106348 § 5.02, 1977.)

25.12.400 Notification of approval of nomination.

If the Board approves a nomination in whole or in part for further designation proceedings, the Historic Preservation Office shall within five (5) working days file a written notice of such action with the Director of the Department of Planning and Development and serve a copy of the same on the owner and interested persons of record. Such written notice shall include:

A. A copy of such approval of nomination;

B. A statement that while proceedings pursuant to this chapter are pending, and thereafter if a designating ordinance is enacted, a certificate of approval must be obtained before anyone may: (1) make alterations or significant changes to specific features or characteristics of the site, improvement or object suggested for preservation in the approval of nomination or thereafter specified in the report on approval of designation, or set forth in the decision of the Hearing Examiner; or (2) make alterations or significant changes to specific controlled features or characteristics of such landmark site or landmark specified in a designating ordinance; and

C. A statement of the date and time of the Board meeting on approval of designation;

D. A statement that the Board meeting on designation is the sole proceeding to consider whether the standards for designation are met, and that no further opportunity to present information regarding the standards for designation is afforded pursuant to this chapter.
(Ord. 121276 § 37, 2003; Ord. 118012 § 81, 1996: Ord. 106348 § 5.03, 1977.)

25.12.410 Disapproval of nomination.

If the Board disapproves the nomination, the proceedings shall terminate as provided in Section 25.12.850 A, and the Board shall set forth its reasons why approval of nomination is not warranted, with specific reference to the standards in Section 25.12.350.
(Ord. 118012 § 82, 1996: Ord. 106348 § 5.04, 1977.)

25.12.420 Board meeting on approval of designation.

Except as otherwise provided in Section 25.12.470 the Board may approve or deny designation of a site, improvement or object only at a public meeting. At the meeting on approval of designation the Board shall receive information and hear comments on whether the site, improvement or object meets the standards for designation of landmarks specified in Section 25.12.350 and merits designation as a landmark.
(Ord. 118012 § 83, 1996: Ord. 106348 § 6.01, 1977.)

25.12.430 Board action on approval of designation.

Whenever the Board approves designation of all or any portion of the site, improvement or object under consideration as a landmark, it shall within fourteen (14) days issue a written report on designation which shall set forth:

A. The legal description of the site, the specific features and/or characteristics to be preserved, and such other description of the site, improvement or object as it deems appropriate;

B. Its reasons, analysis and conclusions supporting subsection A with specific reference to the criteria set forth in Section 25.12.350.
(Ord. 118181 § 12, 1996: Ord. 106348 § 6.02, 1977.)

25.12.440 Notice of report on designation.

A copy of the Board's report on designation shall be served on the owner and mailed to interested persons of record within five (5) working days after it is issued. If the Board acts to approve designation, the owner, at the time of service of the report shall also be served with a notice that:

A. States a date, which is not later than seventy-five (75) days after mailing of the report on designation, when the Board will consider controls and incentives, if any, to be applied to specific features or characteristics of the site, improvement or object in question;

B. Requests the owner to consult and confer with the Board staff to develop and

agree upon controls and incentives; and

C. Informs the owner of the procedures of Sections 25.12.490 through 25.12.520.

(Ord. 118012 § 84, 1996: Ord. 106348 § 6.03, 1977.)

25.12.450 Disapproval of designation.

If the Board disapproves designation, the proceedings shall terminate as provided in Section 25.12.850 A and the Board shall set forth its reasons why approval of designation is not warranted, with specific reference to the standards in Section 25.12.350.

(Ord. 118012 § 85, 1996: Ord. 106348 § 6.04, 1977.)

Subchapter V

Controls and Incentives

25.12.490 Negotiation with owner.

Promptly after service on the owner of the Board's report on designation, the Board staff shall attempt to commence negotiations with the owner on the application of controls and incentives to the site, improvement, or object, regarding the specific features or characteristics identified in the Board's report on designation. If within fifteen (15) days of the commencement of the negotiation period, the owner fails to participate in negotiations, or notifies the staff in writing that the owner declines to negotiate controls and incentives, the staff shall prepare and transmit to the Board its recommendations for controls and incentives for the subject site, improvement or object to be considered at a public meeting at the time and place specified in the notice of report on designation.

(Ord. 118012 § 89, 1996: Ord. 106348 § 8.01(a), 1977.)

25.12.500 Negotiations-Procedure and time requirements.

The negotiation period may run for a maximum of seventy-five (75) days from the date of service of the Board's report on designation on the owner. The negotiations shall terminate if either party concludes that an impasse has been reached and so notifies the other party in writing. If the owner and the Board staff reach written agreement within the period allotted for negotiation, the Board staff shall submit the agreement to the Board for approval at a Board meeting to be held not later than thirty (30) days after the written agreement is signed by the owner. Notice of such Board meeting shall be served on the owner and mailed to interested persons of record at least fifteen (15) days prior to such meeting. Within five (5) working days after such meeting the Board shall serve upon the owner, and mail to interested persons of record, notice of its approval or disapproval of the agreement and specify the reasons therefor.

(Ord. 118012 § 90, 1996: Ord. 106348 § 8.01(b), 1977.)

25.12.510 Effect of Board approval of agreement.

If the agreement on controls and incentives between the Board staff and owner is

approved by the Board, the Board shall transmit the agreement to the Council with a request for Council action pursuant to Sections 25.12.650 and 25.12.660.
(Ord. 106348 § 8.02, 1977.)

25.12.520 Effect of failure to agree or disapproval of agreement.

In the event the Board staff and the owner are unable to reach an agreement, or the agreement reached is disapproved by the Board, the Board shall file its recommendation on controls and incentives, with the Hearing Examiner, serve it on the owner, and mail a copy to interested persons of record. The controls proposed in such recommendation shall relate to the specific feature or features of the site, improvement or object which are identified in the Board's report on designation. The recommendation shall set forth the reasons for the proposed controls and for any proposed incentives. The recommendation shall, in addition, state the circumstances under which a certificate of approval shall be required with respect to any alteration or significant change to the site, improvement or object if the proposed controls are imposed.
(Ord. 118012 § 91, 1996: Ord. 106348 § 8.03, 1977.)

25.12.530 Filing of recommendation and objections with Hearing Examiner.

The recommendation of the Board shall be filed with the Hearing Examiner not later than one hundred eighty-five (185) days after the approval of nomination and not later than fifteen (15) days after the expiration of the maximum period permitted for negotiations if no written agreement, was signed by the Board staff and the owner, or if an agreement, was signed within fifteen (15) days after the time has expired for the Board to approve or disapprove such a written agreement pursuant to Section 25.12.500.
(Ord. 118012 § 92, 1996: Ord. 106348 § 9.01, 1977.)

25.12.535 Owner's objections to Board's recommendation.

If the owner objects to the Board's recommendation on controls and incentives, the owner's objections shall be filed with the Hearing Examiner not later than fifteen (15) days after service of the Board's recommendation on the owner. Any interested person of record may file with the Hearing Examiner written objections to the Board's recommendations on controls and incentives within fifteen (15) days after mailing of the recommendation to such persons.
(Ord. 118012 § 93, 1996.)

25.12.540 Scheduling of hearing.

A. If no objections are filed with the Hearing Examiner within the time provided, then the Board shall transmit its recommendation to the Council with a request for Council action pursuant to Sections 25.12.650 and 25.12.660. The Hearing Examiner shall take no action on the recommendation.

B. If objections are timely filed with the Hearing Examiner, then the Hearing Examiner, the Hearing Examiner shall set the matter for a hearing which shall be held within seventy (70) days of the filing of the latest objections, and promptly notify the Board, the owner,

and any other person who filed objections of the date and time for the hearing.
(Ord. 118012 § 94, 1996: Ord. 106348 § 9.02, 1977.)

25.12.560 Hearing Examiner procedure.

Proceedings before the Hearing Examiner shall be in accordance with the procedures for hearings in contested cases pursuant to the Administrative Code, Chapter 3.02 of the Seattle Municipal Code, and the Hearing Examiner's Rules of Practice and Procedure in effect at the time of the proceeding, except as such procedures are modified by this chapter.
(Ord. 118012 § 96, 1996: Ord. 106348 § 9.04, 1977.)

25.12.570 Basis for Hearing Examiner's recommendation.

On the basis of all the evidence presented at a hearing, the Hearing Examiner shall determine whether to recommend all or any of the proposed controls and economic incentives, and/or whether to recommend a modified version of any of the proposed controls or incentives. The Hearing Examiner, except upon written agreement with the owner, shall not recommend any control which directly regulates population density; provided that the Hearing Examiner may recommend a control which indirectly affects density by controlling a specific feature of a site, improvement or object. The Hearing Examiner shall not recommend any control which is not set forth with adequate specificity, or which is inconsistent with any provision of this chapter, or for which the reason and need is not established with respect to the specific features and characteristics of the site, improvement or object to be preserved, or which requires that the site, improvement or object be devoted to any particular use, or which imposes any use restrictions, or any control or incentive if the effect of such control, incentive or combination thereof would be to prevent the owner from realizing a reasonable return on the site, improvement, or object.
(Ord. 106348 § 9.05(a), 1977.)

25.12.580 Owners shall not be deprived of reasonable economic use.

In no event shall the recommendation of the Hearing Examiner or any proceedings under or application of this chapter deprive any owner of a site, improvement or object of a reasonable economic use of such site, improvement or object.
(Ord. 106348 § 9.05(b), 1977.)

25.12.590 Factors to be considered.

Only the following factors may be considered in determining the reasonable return on a site, improvement or object:

A. The market value of the site, improvement or object in its existing condition taking into consideration the ability to maintain, operate or rehabilitate the site, improvement or object:

1. Before the imposition of controls or incentives, and

2. After the imposition of proposed specific controls and/or incentives;

B. The owner's yearly net return on the site, improvement or object, to the extent available, during the five (5) years prior to the imposition of specific controls and/or incentives;

C. Estimates of the owner's future net yearly return on the site, improvement or object with and without the imposition of proposed specific controls and/or incentives;

D. The net return and the rate of return necessary to attract capital for investment:

1. In such site, improvement or object and in the land on which the site, improvement or object is situated after the imposition of the proposed specific controls and/or incentives, if such information is available, or, if such information is not available,

2. In a comparable site, improvement or object and in the land on which such comparable site, improvement or object is situated; and

E. The net return and rate of return realized on comparable sites, improvements or objects not subject to controls imposed pursuant to this chapter.
(Ord. 106348 § 9.05(c), 1977.)

25.12.600 Information.

It shall be the responsibility of the owner to provide the Hearing Examiner with such information as is necessary and sufficient to determine yearly net return under Section 25.12.590 B and C.
(Ord. 118012 § 96A, 1996: Ord. 106348 § 9.05(d), 1977.)

25.12.610 Hearing Examiner recommendations--Referral to Council.

Within thirty (30) days after the hearing, the Hearing Examiner shall serve on the Board and the owner and file with the Council a decision setting forth a recommendation of proposed controls and incentives, and the reasons for the controls and incentives recommended.
(Ord. 118012 § 97, 1996: Ord. 106348 § 9.06, 1977.)

25.12.620 Right of appeal to Council.

Any party of record before the Hearing Examiner may appeal the recommendations of the Hearing Examiner regarding controls and incentives by filing with the Council and serving on all other parties of record a written notice of appeal within thirty (30) days after the Hearing Examiner's decision is served on the party appealing.
(Ord. 118012 § 98, 1996: Ord. 106348 § 10.01, 1977.)

25.12.630 Procedure on appeal to Council.

A. Any appeal from the recommendation of the Hearing Examiner shall be considered by the Council on the record only. The Hearing Examiner shall promptly prepare, certify and file with the Council such record, which shall consist of all documents and exhibits submitted to the Hearing Examiner (except to the extent that the same are already before the Council) and a transcript of all oral proceedings before the Hearing Examiner, unless all parties waive submission of the transcript. The appellant shall be responsible for the reasonable costs of preparation of the record unless the appeal is successful, in which event the Council may apportion such reasonable costs as it deems appropriate.

B. The Council or committee to which such appeal is referred shall notify the Board and any appellant of the procedures established for such hearing and of the date and time when it will hear oral argument, if any, from the parties or their representatives upon the issues which are the subject of such appeal. Such notice shall be served upon the Board and the owner not less than twenty (20) days before the date of such oral argument.
(Ord. 118012 § 99, 1996: Ord. 106348 § 10.02, 1977.)

25.12.640 Council action on appeal.

A. The Council shall act upon the appeal within ninety (90) days of receiving the Hearing Examiner's recommendation.

B. Council action is necessary to complete the process for designation of a landmark. The Council may:

1. Enact a designating ordinance that specifies the controls and incentives being imposed on a site, improvement, or object approved for designation by the Board;

2. Modify controls and incentives negotiated by the owner and the Board or recommended by the Board or the Hearing Examiner, and enact a designating ordinance embodying such modifications; or

3. Decide not to enact a designating ordinance and thereby decline to impose controls and incentives. A Council decision not to enact a designating ordinance shall terminate the proceedings pursuant to Section 25.12.850 of this chapter.

(Ord. 118012 § 100, 1996: Ord. 106348 § 10.03, 1977.)

25.12.650 Designating ordinance--Amendment or repeal.

The Council may by ordinance amend or repeal any designating ordinance; provided that if a designating ordinance is enacted, no proceedings may be commenced under this chapter to impose other or further controls on the landmark that is covered by the designating ordinance within four (4) years from the effective date of such designating ordinance without the agreement of the owner in writing.
(Ord. 118012 § 101, 1996: Ord. 106348 § 11.01(a), 1977.)

25.12.660 Designating ordinance--Information required.

A. Each designating ordinance, and each ordinance amendatory thereof, shall include:

1. The legal description of the site, improvement or object;

2. The specific features or characteristics which are designated;

3. The standards in Section 25.12.350 that are the basis for such designation; and

4. The specific controls imposed and any incentives granted or to be granted or obtained with respect to such site, improvement or object.

B. A certified copy of each such ordinance shall be recorded with the King County Director of Records and Elections and served on the owner of the landmark.
(Ord. 118012 § 102, 1996: Ord. 106348 § 11.01(b), 1977.)

Subchapter VI

Alterations or Significant Changes

25.12.670 Requirement of certificate of approval.

After the filing of an approval of nomination with the Director of the Department of Planning and Development and thereafter as long as proceedings for a designation are pending or a designating ordinance so requires, a certificate of approval must be obtained, or the time for denying a certificate of approval must have expired, before the owner may make alterations or significant changes to specific features or characteristics of the site, improvement or object, which are identified in the approved nomination, or the Board report on designation, or subject to controls in a controls and incentives agreement or a designating ordinance, whichever is most recent.
(Ord. 121276 § 37, 2003; Ord. 118012 § 103, 1996: Ord. 106348 § 12.01, 1977.)

25.12.680 Application for certificate of approval--Filing.

A. Application for a certificate of approval shall be made by filing an application for such certificate with the Board.

B. The following information must be provided in order for the application to be complete, unless the Board staff indicate in writing that specific information is not necessary for a particular application, or the applicant makes a written request to submit an application for a preliminary design as set forth in subsection E below, and the staff agrees to the application:

1. Building name and building address;

2. Name of business(es) located at the site of the proposed work;

3. Applicant's name and address;

4. Property owner's name and address;

5. Applicant's telephone number;

6. The property owner's signature on the application, or a signed letter from the owner designating the applicant as the owner's representative, if the applicant is not the owner;

7. Confirmation that the fee required by SMC Chapter 22.901T of the Permit Fee Subtitle has been paid;

8. A detailed description of the proposed work, including any changes it will make to a landmark;

9. Four (4) sets of scale drawings, with all dimensions shown of:

    a. A site plan of existing conditions, showing adjacent streets and buildings, and a site plan showing proposed changes,

    b. A floor plan showing the existing features and a floor plan showing the proposed new features or changes,

    c. Elevations and sections of both the proposed new features and the existing features,

    d. Construction details,

    e. A landscape plan showing existing features and plantings, and another landscape plan showing proposed site features and plantings;

10. Photographs of any existing features that would be altered and photographs showing the context of those features, such as the building facade where they are located;

11. One (1) sample of proposed colors, if the proposal includes new finishes or paint, and an elevation drawing or a photograph showing the location of proposed new finishes or paint;

12. If the proposal includes new signage, awnings, or exterior lighting:

    a. Four (4) sets of scale drawings of proposed signage or awnings, showing the overall dimensions, material, graphic designs, typeface, letter size, and colors,

b. Four (4) sets of a plan, photograph, or elevation drawing showing the location of the proposed awning or sign,

c. Four (4) copies of details showing the proposed method of attaching the new awning, sign, or proposed exterior lighting,

d. One (1) sample of proposed sign colors or awning material and color,

e. The wattage and specifications of the proposed lighting, and a drawing or picture of the lighting fixture;

13. If the proposal includes demolition of a structure or object:

a. A statement of the reason(s) for demolition,

b. A description of the replacement structure or object;

14. If the proposal includes replacement, removal, or demolition of existing features, a survey of the existing conditions of the features being replaced, removed, or demolished.

C. The staff shall determine whether an application is complete and shall notify the applicant in writing within twenty-eight (28) days of the application being filed whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete. Within fourteen (14) days of receiving the additional information, the staff shall notify the applicant in writing whether the application is now complete or what additional information is necessary. An application shall be deemed to be complete if the staff does not notify the applicant in writing by the deadlines in this section that the application is incomplete. A determination that the application is complete is not a determination that the application is vested.

D. The determination of completeness does not preclude the staff or the Board from requiring additional information during the review process if more information is needed to evaluate the application according to the standards in this chapter and in any rules adopted by the Board, or if the proposed work changes. For example, additional information that may be required could include a shadow study when new construction is proposed.

E. An applicant may make a written request to submit an application for a certificate of approval for a preliminary design of a project if the applicant waives in writing the deadline for a Board decision on the subsequent phase or phases of the project, and any deadlines for decisions on related permit applications under review by the Department of Planning and Development and the applicant agrees in writing that the Board decision on the preliminary design is immediately appealable by the applicant or any interested person of record. The staff may reject the request if it appears that approval of a preliminary design would not be an efficient use of staff or Board time and resources, or would not further the goals and objectives

of this chapter. To be complete, an application for a certificate of approval for a preliminary design must include the information listed above in subsection B, subparagraphs 1 through 8, 9a through 9c, 10, 13 and 14. A certificate of approval that is granted for a preliminary design shall be conditioned upon subsequent submittal of the final design and all of the information listed above in subsection B, and upon Board approval prior to issuance of permits for work affecting the landmark.

F. A certificate of approval shall be valid for eighteen (18) months from the date of issuance of the Board's decision granting it unless the Board grants an extension; provided however, that certificates of approval for actions subject to permits issued by the Department of Planning and Development shall be valid for the life of the permit issued by the Department of Planning and Development, including any extensions granted by the Department of Planning and Development in writing.
(Ord. 121276 § 37, 2003; Ord. 119121 § 4, 1998; Ord. 118181 § 13, 1996; Ord. 118012 § 104, 1996: Ord. 106985 § 6(part), 1977: Ord. 106348 § 12.02(a),1977.)

25.12.690 Application for certificate of approval--In conjunction with permit application.

If an application is made to the Department of Planning and Development for a permit for an action which requires a certificate of approval, the Director of the Department of Planning and Development shall require the applicant to submit an application to the Board for a certificate of approval. Submission of a complete application for a certificate of approval to the Board shall be required before the permit application to the Department of Planning and Development may be determined to be complete. The Director of the Department of Planning and Development shall continue to process the permit application, but shall not issue any such permit until the time has expired for acting upon the certificate of approval or a certificate of approval has been issued pursuant to this chapter.
(Ord. 121276 § 37, 2003; Ord. 118181 § 14, 1996: Ord. 118012 § 105, 1996: Ord. 106985 § 6(part), 1977: Ord. 106348 § 12.02(b), 1977.)

25.12.700 Application for certificate of approval--Similar changes.

An application for a certificate of approval shall not be accepted for filing while another application for the same or similar action is pending before the Board or on appeal, except that an application may be made for a certificate of approval for the preliminary design of a project and a later application made for a certificate of approval for a subsequent design phase or phases of the same project.
(Ord. 119121 § 5, 1998: Ord. 118012 § 106, 1996: Ord. 106985 § 6(part), 1977: Ord. 106348 § 12.02(c), 1977.)

25.12.710 Fee for certificate of approval.

The fee for such certificate of approval shall be according to the Permit Fee Ordinance (106106).[1]
(Ord. 106985 § 6(part), 1977: Ord. 106348 § 12.02(d), 1977.)
1. Editor's Note: Ord. 106106 has been repealed by Ord. 107379. The current Permit Fee Ordinance is codified in Title 22 of this Code.

25.12.720 Board meeting on certificate of approval.

Within thirty (30) days after an application for a certificate of approval is determined to be complete, the Board shall hold a meeting thereon and shall serve notice of the meeting on the owner and the applicant not less than five (5) days before the date of the meeting. The absence of the owner or the applicant from the meeting shall not impair the Board's authority to make a decision on the application.
(Ord. 118012 § 107, 1996: Ord. 106348 § 12.03, 1977.)

25.12.730 Board decision on certificate of approval.

The Board shall issue a written decision granting, granting with conditions, or denying a certificate of approval, and shall provide a copy of its decision to the owner, the applicant, and the Director of the Department of Planning and Development, not later than forty-five (45) days after an application for a certificate of approval is determined to be complete. Notice of the Board's decision shall be provided to any person who, prior to the rendering of the decision, made a written request to receive notice of the decision or submitted written substantive comments on the application. The decision shall contain an explanation of the reasons for the Board's decision and specific findings with respect to the factors enumerated in Section 25.12.750.
(Ord. 121276 § 37, 2003; Ord. 118012 § 108, 1996: Ord. 106348 § 12.04, 1977.)

25.12.740 Appeal to Hearing Examiner.

A. Any interested person of record may appeal to the Hearing Examiner the decision of the Board to grant, deny or attach conditions to a certificate of approval by serving written notice of appeal upon the Board and filing such notice and a copy of the Board's decision with the Hearing Examiner within fourteen (14) days after such grant, denial or conditional grant.

B. When the proposed action that is the subject of the certificate of approval is also the subject of one (1) or more related permit applications under review by the Department of Planning and Development, then the appellant must also file notice of the appeal with the Department of Planning and Development, and the appeal of the certificate of approval shall not be heard until all of the time periods for filing administrative appeals on the other permits have expired, except that an appeal of a certificate of approval for the preliminary design or for subsequent design phases may proceed immediately according to Section 25.12.680 without being consolidated. If one (1) or more appeals are filed regarding the other permits, then the appeal of the certificate of approval shall be consolidated with them and shall be heard according to the same timelines established for the other appeals, except that appeals to the State Shoreline Hearings Board shall proceed independently according to the timelines set by the state for such appeals, and except that an appeal of a certificate of approval for a preliminary design or for a subsequent design phase may proceed according to Section 25.12.680 without being consolidated. If the related permit decisions would not be appealable, then the appeal of the certificate of approval decision shall proceed immediately after it is filed.

C. The applicant for the certificate of approval may elect to have the appeal proceed immediately rather than postponed for consolidation with appeals of related permit decisions, if the applicant agrees in writing that the Department of Planning and Development may suspend its review of the related permits, and that the time period for review of those permits shall be suspended until the Hearing Examiner issues a decision on the appeal of the certificate of approval.

D. The Hearing Examiner shall issue a decision not later than ninety (90) days after the last of the appeals of related permit decisions is filed, or, if the applicant chooses to proceed immediately with the appeal of the certificate of approval, as provided in subsection C, then not later than ninety (90) days from the filing of that appeal. The time period to consider and decide the appeal of a certificate of approval shall be exempt from the deadlines for review and decision on both the certificate of approval and any related permit applications.
(Ord. 121276 § 37, 2003; Ord. 120157 § 11, 2000: Ord. 119121 § 6, 1998; Ord. 118012 § 109, 1996: Ord. 106348 § 12.05, 1977.)

25.12.750 Factors to be considered by Board or Hearing Examiner.

In considering any application for a certificate of approval the Board, and the Hearing Examiner upon any appeal, shall take into account the following factors:

A. The extent to which the proposed alteration or significant change would adversely affect the specific features or characteristics specified in the latest of: the Board approval of nomination, the Board report on approval of designation, the stipulated agreement on controls, the Hearing Examiner's decision on controls, or the designating ordinance;

B. The reasonableness or lack thereof of the proposed alteration or significant change in light of other alternatives available to achieve the objectives of the owner and the applicant;

C. The extent to which the proposed alteration or significant change may be necessary to meet the requirements of any other law, statute, regulation, code or ordinance;

D. Where the Hearing Examiner has made a decision on controls and economic incentives, the extent to which the proposed alteration or significant change is necessary or appropriate to achieving for the owner or applicant a reasonable return on the site, improvement or object, taking into consideration the factors specified in Sections 25.12.570 through 25.12.600 and the economic consequences of denial; provided that, in considering the factors specified in Section 25.12.590 for purpose of this subsection, references to times before or after the imposition of controls shall be deemed to apply to times before or after the grant or denial of a certificate of approval; and

E. For Seattle School District property that is in use as a public school facility, educational specifications.
(Ord. 119439 § 2, 1999: Ord. 106348 § 12.06, 1977.)

25.12.760 Hearing Examiner procedure.

A. When the appeal of a certificate of approval is consolidated with appeals of related permits, then the time frames applicable to the appeals of the other permits shall apply to the appeal of the certificate of approval.

B. In all other instances, the Hearing Examiner shall serve notice of the date of the hearing on the parties not less than twenty (20) days before the hearing and shall hold a hearing not later than forty-five (45) days after the filing of the appeal. The Hearing Examiner shall issue a decision within fifteen (15) days after closing of the record, and shall serve the decision on the Board, the owner, and the applicant, and file the same with the Director of the Department of Planning and Development. The Hearing Examiner shall receive evidence at the hearing upon the factors specified in Section 25.12.750 and in reaching a decision shall make findings on such factors.

C. If the Hearing Examiner determines that there is no showing of a significant change in circumstances since a denial or conditioning of a prior application for a similar certificate, the appeal shall be denied.

D. The Hearing Examiner's decision shall be final. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.
(Ord. 121276 § 37, 2003; Ord. 118012 § 110, 1996: Ord. 106348 § 12.07, 1977.)

25.12.770 Failure of timely decision.

If the Board or Hearing Examiner fails to issue and serve a written decision upon the Director of the Department of Planning and Development, the owner, and the applicant within the times specified in this chapter or, if the deadlines have been extended by agreement, by the extended deadlines, then an unconditional certificate of approval shall be deemed to have been granted and the Director of the Department of Planning and Development shall issue all necessary permits for the proposed alteration when all other requirements for issuance have been satisfied.
(Ord. 121276 § 37, 2003; Ord. 118012 § 111, 1996: Ord. 106348 § 12.08, 1977.)

25.12.835 Demolition.

A. It is the policy of The City of Seattle to prevent the unnecessary demolition of Landmarks. Even when a certificate of approval to demolish a Landmark has been issued because its owner is unable to make reasonable economic use of the Landmark, demolition should be delayed until the owner is ready and able to proceed with a replacement use. Such delay often will be in the owner's economic interest as well as in the public interest, and a modest additional burden on an owner will be reasonable given the substantial benefit that all citizens, including the owner, derive from the presence of Landmarks within the City.

B. Unless demolition of a Landmark is ordered for reasons of health and safety by

the Director of the Department of Planning and Development pursuant to the requirements of SMC Section 23.40.008 B, the Department of Planning and Development may complete all other phases of its decision-making process, and may notify the applicant that the permit is ready to be issued when the requirements of this section have been met, but the Department shall not issue a demolition permit for a landmark until:

1. A decision under Section 25.12.730 granting a certificate of approval to demolish a Landmark has become final after the expiration of any appeal period or the conclusion of any appeal; and

2. The Landmark has been recorded and documented to the Standards of the Historic American Buildings Survey (HABS) program, as administered by the National Park Service, with copies of the completed HABS documentation provided to the Library of Congress; the Office of Archaeology and Historic Preservation of The State of Washington; the Seattle Public Library; and the Special Collections and Preservation Division of the University of Washington; and

3. A Master Use Permit is ready to issue for a replacement use or structure other than a temporary use or structure or a replacement use or structure with a floor area ratio (FAR) that is not substantially less than the FAR of the landmark to be demolished; and

4. The owner demonstrates to the satisfaction of the Director of the Department of Neighborhoods that the owner:

   a. Has a valid and binding commitment or commitments for financing sufficient for the replacement use subject only to unsatisfied contingencies that are beyond the control of the owner other than another commitment for financing; or

   b. Has other financial resources that are sufficient (together with any valid and binding commitments for financing under subparagraph B4a above) and available for such purpose.

C. Subsections B3 and B4 shall not apply if the owner demonstrates to the satisfaction of the Director of the Department of Neighborhoods that maintaining the landmark until the conditions described in subsections B3 and B4 are satisfied would be unduly burdensome and a violation of substantive due process. Among the facts the Director should consider in determining the burden on the owner are, on the one hand, the costs of maintenance until a replacement use is ready, and, on the other hand, the costs of demolition, the interest on such costs, and the costs of maintaining a vacant site.

D. The Director also may waive or modify the requirements of subsection B2 if the Director determines that compliance with this subsection would be unnecessary or inappropriate in light of the nature and value of the Landmark.

E. In making the determinations required under this section the Director of the Department of Neighborhoods is not required to hold a hearing or act as a quasi-judicial officer. The Director should consider all relevant information and should communicate with whomever the Director believes can provide useful information or expertise. The Director shall communicate his or her decision to the applicant in writing within fifteen (15) days of receiving the required information from the applicant. Pursuant to RCW 36.70B.140, the Director's decision is exempt from the time limits and other requirements of RCW 36.70B.060 through RCW 36.70B.080, and the requirements of RCW 36.70B.110 through RCW 36.70B.130.

F. An owner may seek to meet his or her burden under subsection C at the same time that the owner seeks a certificate of approval to demolish under Sections 25.12.670 through 25.12-.730. An owner also may seek to meet his or her burden under subsection C at any time after a certificate of approval to demolish has been issued.

G. There is no administrative appeal of the decision of the Director of the Department of Neighborhoods. The Director's decision shall be final. Judicial review must be commenced within twenty-one (21) days of issuance of the Director's decision, as provided by RCW 36.70C.040.
(Ord. 121276 § 37, 2003; Ord. 120157 § 12, 2000; Ord. 118012 § 118, 1996: Ord. 116540 § 1, 1993.)

Subchapter VII

General Provisions

25.12.840 Service of notices.

A. Notices, decisions, and any other instruments or documents required to be served upon the owner pursuant to this chapter shall be served by mailing the same: (1) to the person shown to be the owner on the records of the Department of Finance of King County, Washington, to the address therein given and to such other addresses as may be ascertained from telephone or Polk directory listings for the City; and (2) to the owner's attorney where the files or records of the Board, the Hearing Examiner, or the Council, reveal representation in such proceedings by an attorney. Notices, applications, other instruments or documents required to be served upon the Board shall be served by delivering the same to the Historic Preservation Officer or by mailing the same either to the Historic Preservation Officer or to the Landmarks Preservation Board at the then current address for such Officer or Board. Transmittals by mail shall be sent by first-class mail, certified with return receipt requested and with postage prepaid. Service shall be deemed to have been given when all of the steps specified above have been completed. Failure to send notice by mail to any owner whose address is not listed in the above sources, and failure to give actual notice to any owner whose name and address is unknown, shall not invalidate any proceedings in connection with the proposed designation.

B. Notice to parties of record shall include at least those documents sent to the owner. Such notice shall be served by first-class mail.

C. Notice to interested persons of record shall include at least the following: a description of the most recent action taken by the Board, the Hearing Examiner or Council; the time and place of the next public meeting or hearing, if any; the procedure to be followed at such meeting or hearing; the rights of appeal available, if applicable; and the time and place where documents in the record may be inspected. Such notice shall be served by first-class mail.

D. The Historic Preservation Officer may give such other notice as he or she may deem desirable and practicable.
(Ord. 118012 § 119, 1996: Ord. 106348 § 14.01, 1977.)

25.12.845 Requests for interpretation.

A. An applicant for a certificate of approval may request an interpretation of the meaning of any part of this chapter as it relates to the requested certificate of approval. An interpretation shall not have any effect on certificates of approval that have already been granted, or on the provisions of an enacted designating ordinance.

B. An interpretation shall be requested in writing, specifying the section of the code to be interpreted, and specify the question to be addressed. Requests shall be submitted to the Historic Preservation Officer.

C. If the requested interpretation relates to a certificate of approval for which an application has been filed, then the request for an interpretation cannot be made any later than fourteen (14) days after the application for the certificate of approval was submitted. Provided, however, that a request for an interpretation may be sought by the applicant at a later time if the applicant agrees in writing to suspend the time frames for review of the certificate of approval, and the time frames applicable to any related permits that are under review, until the interpretation is issued.

D. Interpretations shall be made in writing by the Historic Preservation Officer, and shall be issued within twenty-five (25) days of submission of the request. The interpretation decision shall be provided to the requesting party, and notice of the decision shall be mailed to parties of record and interested persons of record.

E. A fee shall be charged for interpretations in the amount provided in the Permit Fee Subtitle of the Seattle Municipal Code, Chapter 22.901E, Table 6, Land Use Fees, and shall be collected by the Department of Neighborhoods.

F. An interpretation may be appealed by the applicant if the certificate of approval that the interpretation addresses is denied and the applicant is appealing the denial, or if the interpretation relates to conditions placed on the certificate of approval that the applicant is appealing. An appeal of an interpretation shall be filed at the same time as appeal of the related certificate of approval, and shall be consolidated with the appeal of the related certificate of approval. Appeal of the interpretation shall proceed according to the same procedures and time frames provided in Sections 25.12.740 and 25.12.760 for appeal of a certificate of approval, including the provisions of consolidation with appeals of any related permit decisions.

G. The Hearing Examiner shall give substantial weight to the Historic Preservation Officer's interpretation. The appellant shall have the burden of establishing that the interpretation is erroneous.

H. The Hearing Examiner may affirm, reverse, or modify the Historic Preservation Officer's interpretation, in whole or in part. The Hearing Examiner may also remand the interpretation to the Historic Preservation Officer for further consideration.

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be mailed to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.
(Ord. 120157 § 13, 2000; Ord. 118012 § 120, 1996.)

25.12.850 Termination of proceedings.

A. In any case where a site, improvement, or object is nominated for designation as a landmark site or landmark and thereafter the Board fails to approve such nomination or to adopt a report approving designation of such site, improvement or object, such proceeding shall terminate and no new proceeding under this chapter may be commenced with respect to such site, improvement or object within five (5) years from the date of such termination without the written agreement of the owner, except that when the site or improvement nominated is Seattle School District property and is in use as a public school facilities, no new proceeding may be commenced within ten (10) years from the date of such termination.

B. In any case where a site, improvement or object has been designated by the Board, in the absence of a written agreement with the owner deferring consideration of the imposition of controls or Board approval of a negotiated agreement pursuant to Section 25.12.500, such proceeding shall terminate and no new proceeding under this chapter with respect to such site, improvement or object may be commenced within four (4) years from the date of such termination without the written agreement of the owner if:

1. The Board fails to file with the Hearing Examiner its statement of proposed controls within the time prescribed in Section 25.12.530; or

2. The Hearing Examiner does not issue a decision which recommends controls, together with a proposed form of designating ordinance, within one hundred (100) days after the filing of the Board's recommendations on controls and incentives, or within such further time as the Board and the owner may agree to by written stipulation; provided, that if the Hearing Examiner issues a decision which does not recommend controls such proceedings shall terminate if no appeal is filed with the City Council within the time limited for filing such appeal.

C. In any case where a designating ordinance imposing specific controls is enacted, no further proceedings under this chapter to impose other or further controls on such landmark or landmark site may be commenced within four (4) years from the effective date of such designating ordinance without the written agreement of the owner.

D. When delays in the proceedings pursuant to this chapter result from any of the following:

1. The owner's request for a continuance or extension; or

2. The owner's stipulation to a continuance or extension; or

3. The requirements of any other ordinances or any statutes; or

4. The institution of court proceedings challenging any proceedings under any section of this chapter; then, the time limits specified in this chapter shall be extended accordingly, and in the case of the institution of court proceedings such time periods will be stayed until the termination of such court action.

(Ord. 119439 § 3, 1999; Ord. 106348 § 14.02, 1977.)

25.12.860 Revision or revocation of designation, controls, incentives.

At the end of four (4) years after the effective date of a designating ordinance, the owner may file with the Board an application to revoke designation of a site, improvement or object as a landmark or an application to modify or revoke the controls or economic incentives previously established with respect thereto. Proceedings with respect to any such application shall proceed in the manner specified in Sections 25.12.380 through 25.12.640; provided that the burden shall be on the owner to demonstrate that a substantial change in circumstances has occurred to justify revision or revocation. Revocation of designation shall have the further effect of the termination of all controls and all present and future benefits from granted economic incentives. Termination of revocation or revision proceedings shall have the effects specified in Section 25.12.850.
(Ord. 118012 § 120A, 1996: Ord. 106348 § 14.03, 1977.)

25.12.870 Staff reports and studies.

When a site, improvement or object is the subject of any proceeding pursuant to this chapter, the owner, upon request therefor, shall be promptly furnished with a copy of all Board staff reports, inspections, and studies prepared for the use of the Board with respect to the issues under consideration. Unless otherwise expressly specified by the owner, a request for a copy of such report, inspection and studies shall be treated as a continuing request for copies of all such documents prepared until the proceeding has terminated.
(Ord. 106348 § 14.04, 1977.)

25.12.880 Economic incentives--City authorities.

All City authorities, including the Council, to the extent that they have the power to do

so, may take such action as may be necessary to grant economic incentives, and may make any such action or grant conditional upon the subsequent enactment of a designating ordinance. When any application is made for the granting of recommended, requested or required economic incentives, all responsible City authorities shall give such application priority on their respective schedules and shall reach their respective decisions with all possible speed.
(Ord. 106348 § 14.05, 1977.)

25.12.890 Conformance with general development.

In all proceedings under this chapter, the Board and the Hearing Examiner shall consider and in their respective reports or decisions make findings on the conformance or lack of conformance of the proposed action with the desirable long-term overall development of the City, including, without limitation, any then existing comprehensive plan.
(Ord. 106348 § 14.06, 1977.)

25.12.900 Advice and guidance to property owners.

The Board may, upon request of the owner of the site, improvement or object, render advice and guidance with respect to any proposed work on a landmark.
(Ord. 118012 § 120B, 1996: Ord. 106348 § 14.07, 1977.)

Subchapter VIII

Enforcement and Penalties

25.12.910 Designated.

The Director of the Department of Planning and Development shall enforce this chapter and any designating ordinances enacted pursuant thereto or pursuant to Ordinance 102229[1] and may, in addition to any other remedy or penalty provided in this chapter, seek injunctive relief for such enforcement. Anyone violating or failing to comply with the provisions of this chapter or any designating ordinance shall, upon conviction thereof, be fined a sum not exceeding Five Hundred Dollars ($500), and each day's violation or failure to comply shall constitute a separate offense; provided, however, that no penalty shall be imposed for any violation or failure to comply which occurs during the pendency of legal proceedings filed in any court challenging the validity of the provision or provisions of this chapter, as to which such violation or failure to comply is charged.
(Ord. 121276 § 37, 2003; Ord. 118012 § 121, 1996: Ord. 106348 § 14.08, 1977.)
1. Editor's Note: Ord. 102229 is the previous Landmarks Preservation Ordinance.

Chapter 25.16

BALLARD AVENUE LANDMARK DISTRICT

Sections:

Editor's Note: A map of the Ballard Avenue Landmark District is included at the end of this chapter.

25.16.010 Legislative findings and purposes.

Throughout the City there are a few areas that retain individual identity through consistent historical or architectural character. The protection, enhancement, and perpetuation of such areas is in the interest of the prosperity, civic pride, and general welfare of the citizens of Seattle. The aesthetic standing of this City cannot be maintained or enhanced by disregarding the heritage of its communities or by allowing the destruction or defacement of these cultural assets. Ballard Avenue is an area of historical significance to the community of Ballard and The City of Seattle. The purposes for the creation of a Ballard Avenue Landmark District are:

A. To preserve, protect, enhance, and perpetuate those elements of the District's cultural, social, economic, architectural, historic, or other heritage;

B. To foster civic pride in the significance and accomplishments of the past;

C. To stabilize or improve the aesthetic and economic vitality and values of the District;

D. To promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and used; and

E. To promote the local identity of the area to the extent that the objectives previously listed can be reasonably attained under such a policy.
(Ord. 105462 § 1, 1976.)

25.16.020 Legal description.

There is established the Ballard Avenue Landmark District whose boundaries are as follows:

Beginning at the intersection of the centerline of Northwest Market Street with the projection northwesterly of the southwestern margin of the alley in Block 72, Gilman Park Addition, thence southeasterly along said projection and margin to the west margin

of 22nd Avenue Northwest, thence easterly across 22nd Avenue Northwest to the intersection of the east margin of 22nd Avenue Northwest and the midblock line of Block 71 Gilman Park Addition (said midblock line being that line which separates Lots 2 through 19 from Lots 21 through 37 in said Block 71), thence southeasterly along said midblock line through said Block 71 to the westerly margin of 20th Avenue Northwest, thence across 20th Avenue Northwest to the intersection of the easterly margin of 20th Avenue Northwest and the midblock line of Block 70, Gilman Park Addition (said midblock line being that line which separates Lots 2 through 8, from Lots 31 through 35 in said Block 70), thence southeasterly along said midblock line to the southernmost corner of Lot 8, Block 70, Gilman Park Addition, thence northeasterly along the southeasterly margin of said Lot 8 to the southwesterly margin of Ballard Avenue Northwest, thence easterly across Ballard Avenue Northwest to the intersection of the northeasterly margin of Ballard Avenue Northwest and the southeasterly margin of Lot 22, Block 76, Gilman Park Addition, thence northeasterly along said southeasterly margin of said Lot 22, to the easternmost corner of said Lot 22, thence northwesterly along the northeasterly margin of said Lot 22 to its intersection with southeasterly margin of Northwest Dock Place, thence across Northwest Dock Place to the intersection of northwesterly margin of Northwest Dock Place and the midblock line of Block 75, Gilman Park Addition (said midblock line being that line which separates Lots 14 through 23, from Lots 2 through 13 in said Block 75), thence northwesterly along said midblock line to the easterly margin of 20th Avenue Northwest, thence across 20th Avenue Northwest to intersection of the westerly margin of 20th Avenue Northwest and the midblock line of Block 74 Gilman Park Addition (said midblock line being that line which separates Lots 21 through 37 from Lots 2 through 19), thence northwesterly along said midblock line to the easterly margin of 22nd Avenue Northwest, thence across 22nd Avenue Northwest to the intersection of the westerly margin of 22nd Avenue Northwest and the midblock line of Block 73, Gilman Park Addition (said midblock line being that line which separates Lots 5 through 8 from Lots 1 through 3 in said Block 73), thence northwesterly along said midblock line and its northwesterly projection to the centerline of Northwest Market Street, thence westerly along said centerline to the point of beginning.

all in Seattle, King County, Washington, and illustrated on a map attached as Exhibit "A" to Ordinance 105462 which is codified at the end of this chapter; and the custodian of the Official Zoning Map of the City is directed to add said District to the Official Zoning Map. All property within said District shall be subject to the controls, procedures and standards set forth or provided for in this chapter.
(Ord. 105462 § 2, 1976.)

25.16.030 Criteria for designation of the District.

A. Ballard Avenue has significant interest and value as part of the development of Seattle. Lumber and other mills located in Ballard contributed significantly to the rebuilding of Seattle following the 1889 fire. Certain commercial buildings on Ballard Avenue dating from the same era as those lumber and shingle industries are all that remain of the early "boomtown." Ballard Avenue therefore represents the early history and heritage of the Ballard community

which has contributed greatly to the development of Seattle.

B. Ballard Avenue exemplifies the historic heritage of the Ballard community. It was the location of the first commercial development in Ballard before business interests moved further north to Northwest Market Street.

C. A significant number of buildings within the Ballard Avenue Landmark District embody the distinctive characteristics of turn-of-the-century modest commercial architecture. They possess integrity of location, compatibility of design, scale, and use of materials, and impart a feeling of association and sense of place.
(Ord. 105462 § 3, 1976.)

25.16.040 Ballard Avenue Landmark District Board--Created--Membership.

There is created the Ballard Avenue Landmark District Board (hereinafter called the "District Board"), which shall consist of seven (7) members, five (5) of whom shall be chosen at annual elections called and conducted by the Director of the Department of Neighborhoods (hereinafter called the "Director") for such purpose and at which all residents, tenants, persons who operate businesses and property owners of the Ballard Avenue Landmark District, of legal voting age, shall be eligible to vote. The elected membership of the District Board shall include two (2) property owners, two (2) property owner-district business persons, and one (1) tenant or resident. The remaining two (2) members of the District Board shall be appointed by the Mayor and approved by the City Council, and shall be an architect and a Ballard historian or a person having a demonstrated interest in the Ballard community. Initial terms for two (2) of the elected and one (1) of the appointed members shall be for one (1) year, and initial terms for the remaining four (4) persons shall be for two (2) years; thereafter all terms shall be for two (2) years. In the event of a vacancy an appointment shall be made by the Mayor subject to Council confirmation for the remainder of the unexpired term. The Director shall consult with the District Board regarding the scheduling and conduct of elections and shall adopt rules and procedures regarding the conduct of elections and shall file the same with the City Clerk.
(Ord. 115958 § 34, 1991: Ord. 105462 § 4(a), 1976.)

25.16.050 District Board--Rules of procedure.

The District Board shall elect its own chairman and adopt in accordance with the Administrative Code (Ordinance 102228)[1] such rules of procedure as shall be necessary in the conduct of its business, including: (A) a code of ethics, (B) rules for reasonable notification of public hearings on applications for certificates of approval and applications for permits requiring certificates of approval in accordance with Sections 25.16.070 through 25.16.110, and (C) rules for reasonable notification of public hearings on development and design review guidelines and amendment thereof. A majority of the currently qualified and acting members of the District Board shall constitute a quorum necessary for the purpose of transacting business. All decisions shall be made by majority vote of those members present, and in case of a tie vote, the motion shall be lost. The District Board shall keep minutes of all of its official meetings, which shall be filed with the Director.
(Ord. 105462 § 4(b), 1976.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.16.060 District Board--Staffing.

The District Board shall receive administrative assistance from the Director of the Department of Neighborhoods, who shall assign a member of his staff to provide such assistance. Such staff member shall be the custodian of the records of the District Board, shall conduct official correspondence, and organize and supervise the clerical and technical work of the District Board as required to administer this chapter.
(Ord. 115958 § 35, 1991: Ord. 105462 § 4(c), 1976.)

25.16.065 Certificate of approval--Definition.

"Certificate of approval" means written authorization that must be issued by the Board before any change may be made to the external appearance of any building or structure in the district or to the external appearance of any other property visible from a public street, alley or way in the district, or any new building or structure is constructed. The term "certificate of approval" includes written approval of a preliminary design of a project as well as its subsequent design phases as provided for in Section 25.16.080.
(Ord. 119121 § 7, 1998.)

25.16.070 Building alterations--Certificate of approval required.

No person shall make any change (including but not limited to alteration, demolition, construction, reconstruction, restoration, remodeling, painting, or signing) to the external appearance of any building or structure in the district, or to the external appearance of any other property in the district which is visible from a public street, alley or way, nor construct a new building or structure in the district, nor shall any permit for such be issued, except pursuant to a certificate of approval issued by the Director pursuant to this chapter.
(Ord. 109125 § 11(part), 1980: Ord. 105462 § 5(a), 1976.)

25.16.080 Certificate of approval--Application.

A. Application.

1. All applications for a certificate of approval shall be submitted to the District Board.

2. The following information must be provided in order for the application to be complete, unless the Board staff indicate in writing that specific information is not necessary for a particular application:

   a. Building name and building address;

   b. Name of the business(es) located at the site of the proposed work;

   c. Applicant's name and address;

d. Building owner's name and address;

e. Applicant's telephone number;

f. The building owner's signature on the application, or a signed letter from the owner designating the applicant as the owner's representative, if the applicant is not the owner;

g. Confirmation that the fee required by SMC Chapter 22.901T of the Permit Fee Subtitle has been paid;

h. A detailed description of the proposed work; including:

i. Any changes it will make to the building or the site,

ii. Any effect that the work would have on the public right-of-way or other public spaces,

iii. Any new construction;

i. Four (4) sets of scale drawings, with all dimensions shown, of:

i. A site plan of existing conditions, showing adjacent streets and buildings, and, if the proposal includes any work in the public right-of-way, the existing street uses, such as street trees and sidewalk displays, and another site plan showing proposed changes to the existing conditions,

ii. A floor plan showing the existing features and a floor plan showing the proposed new features,

iii. Elevations and sections of both the proposed new features and the existing features,

iv. Construction details,

v. A landscape plan showing existing features and plantings, and another landscape plan showing proposed site features and plantings;

j. Photographs of any existing features that would be altered and photographs showing the context of those features, such as the building facade where they are located;

k. One (1) sample of proposed colors, if the proposal includes new finishes

or paint, and an elevation drawing or a photograph showing the location of proposed new finishes or paint;

l. If the proposal includes new signage, awnings, or exterior lighting:

i. Four (4) sets of scale drawings of proposed signage or awnings, showing the overall dimensions, material, design graphics, typeface, letter size, and colors,

ii. Four (4) sets of a plan, photograph, or elevation drawing showing the location of the proposed awning, sign, or lighting,

iii. Four (4) copies of details showing the proposed method of attaching the new awning, sign or lighting,

iv. The wattage and specifications of the proposed lighting, and a drawing or picture of the lighting fixture,

v. One (1) sample of proposed sign colors or awning material and color;

m. If the proposal includes demolition of a structure or object:

i. A statement of the reason(s) for demolition,

ii. A description of the replacement structure or object;

n. If the proposal includes replacement, removal, or demolition of existing features, a survey of the existing conditions of the features that would be replaced, removed, or demolished.

3. The staff shall determine whether an application is complete and shall notify the applicant in writing within twenty-eight (28) days of the application being filed whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete. Within fourteen (14) days of receiving the additional information, the staff shall notify the applicant in writing whether the application is now complete or what additional information is necessary. An application shall be deemed to be complete if the staff does not notify the applicant in writing by the deadlines in this section that the application is incomplete. A determination that the application is complete is not a determination that the application is vested.

4. The determination of completeness does not preclude the staff or the District Board from requiring additional information during the review process if more information is needed to evaluate the application according to the standards in this chapter and in any rules adopted by the Board, or if the proposed work changes.

For example, additional information that may be required could include a shadow study or a traffic study when new construction is proposed.

B. An applicant may make a written request to submit an application for a certificate of approval for a preliminary design of a project if the applicant waives in writing the deadline for the decision on the certificate of approval for a subsequent desigin phase or phases of the project and the applicant agrees in writing that the Board decision on the preliminary design is immediately appealable by the applicant or any interested person of record. The staff may reject the request if it appears that approval of a preliminary design would not be an efficient use of staff or District Board time and resources, or would not further the goals and objectives of this chapter. To be complete, an application for a certificate of approval for a preliminary design must include the information listed above in subsection A2, subparagraphs a through h, i(i) through i(iii), j, m and n. A certificate of approval that is granted for a preliminary design shall be conditioned upon subsequent submittal of the final design and all of the information listed above in subsection A2, and upon obtaining a certificate of approval for final design, prior to issuance of permits for work affecting any building or property in the District.

C. If before a certificate of approval is obtained, an application is made to the Department of Construction and Land Use for a permit for which a certificate of approval is required, the Director of Construction and Land Use shall require the applicant to submit an application to the District Board for a certificate of approval. Submission of a complete application for a certificate of approval to the District Board shall be required before the permit application to the Department of Construction and Land Use may be deemed to be complete. The Department of Construction and Land Use shall continue to process such application, but shall not issue any permit until a certificate of approval has been issued pursuant to this chapter, or the time has expired for filing with the Director of the Department of Construction and Land Use the notice of denial of a certificate of approval.

D. After the Board has commenced proceedings for the consideration of any application for a certificate of approval for a particular alteration or significant change by giving notice of a meeting pursuant to this section or otherwise, no other application for the same or a similar alteration or significant change may be made until the application has been withdrawn or such proceedings and all appeals therefrom have been concluded, except than an application may be made for a certificate of approval for the preliminary design of a project and a later application made for a certificate of approval for a subsequent design phase or phases of the same project.
(Ord. 119121 § 8, 1998: Ord. 118181 § 15, 1996: Ord. 118012 § 122, 1996: Ord. 109125 § 11(part), 1980: Ord. 105462 § 5(b), 1976.)

25.16.090 Certificate of approval--Consideration by Board.

In considering such application, the District Board shall keep in mind the purpose of this chapter, the criteria specified in Section 25.16.030, and the guidelines promulgated pursuant to this chapter, and among other things, the historical and architectural value and significance; architectural style and the general design; arrangement, texture, material and color of the building or structure in question and its appurtenant fixtures, including signs; the relationship of

such features to similar features of other buildings within the Ballard Avenue Landmark District; and the position of such building or structure in relation to the street or public way and to other buildings and structures.
(Ord. 118012 § 123, 1996: Ord. 109125 § 11(part), 1980: Ord. 105462 § 5(c), 1976.)

25.16.100 Certificate of approval--Issuance or denial.

A. Within thirty (30) days after receipt of a complete application the District Board shall hold a public meeting thereon. If after such meeting and upon consideration of the foregoing, the District Board determines that the changes and any new construction proposed in the application are consistent with the purpose of this chapter, the criteria specified in Section 25.16.030, and the guidelines promulgated pursuant to this chapter, it shall recommend that a certificate of approval be granted and the Director shall, within fifteen (15) days of receiving the recommendation, issue a decision granting the certificate of approval in accordance with the District Board's recommendation. If the recommendation is to deny such application, the Director shall issue a written notice of denial. If the District Board does not recommend granting, granting with conditions, or denial of an application within the time provided for such recommendation, the Director of the Department of Neighborhoods shall issue a decision without a recommendation from the District Board. If the Director of the Department of Neighborhoods does not issue a decision within the time provided by this chapter, then the application shall be deemed approved. Provided, however, that the applicant may waive the deadlines in writing for the District Board to make a recommendation or the Director of the Department of Neighborhoods to make a decision, if the applicant also waives in writing any deadlines on the review or issuance of related permits that are under review by the Department of Construction and Land Use. Before issuing a recommendation of denial, the District Board may, upon agreement with the applicant that the deadlines shall be waived, defer such action and consult with the applicant for the purpose of considering means of modifying the application and considering alternatives in keeping with the aforesaid purpose, criteria and guidelines. If at the end of an agreed upon period of time no acceptable solution has been reached, the District Board shall make its recommendation and the applicant shall be so notified by letter.

B. The Director of the Department of Neighborhoods shall send copies of the decision to the applicant, the property owner, the Director of Construction and Land Use and to the District Board. Notice of the Director's decision shall be provided to any person who, prior to the rendering of the decision, made a written request to receive notice of the decision or made written substantive comments on the application.

C. A certificate of approval shall be valid for eighteen (18) months from the date of issuance of the decision granting it unless the Director of the Department of Neighborhoods grants an extension in writing; provided however, that certificates of approval for actions subject to permits issued by the Department of Construction and Land Use shall be valid for the life of the permit, including any extensions granted in writing by the Department of Construction and Land Use.
(Ord. 118181 § 16, 1996; Ord. 118012 § 124, 1996: Ord. 109125 § 11(part), 1980: Ord. 105462 § 5(d), 1976.)

25.16.110 Certificate of approval--Appeal if denied.

A. The applicant may appeal the final denial of any such application to the Hearing Examiner within fourteen (14) days of the date of notice of the denials. When the proposed action that is the subject of the certificate of approval is also the subject of one (1) or more related permit applications under review by the Department of Construction and Land Use, then the appellant must also file notice of the appeal with the Department of Construction and Land Use, and the appeal of the certificate of approval shall not be heard until all of the time periods for filing administrative appeals on the other permits have expired, except that an appeal of a certificate of approval for the preliminary design or for subsequent design phases may proceed immediately according to Section 25.16.080 without being consolidated. If one (1) or more appeals are filed regarding the other permits, then the appeal of the certificate of approval shall be consolidated with them and shall be heard according to the same timelines established for the other appeals, except that appeals to the State Shoreline Hearings Board shall proceed independently according to the timelines set by the state for such appeals, and except that an appeal of a certificate of approval for a preliminary design or for a subsequent design phase may proceed according to Section 25.16.080 without being consolidated. If the related permit decisions would not be appealable, then the appeal of the certificate of approval decision shall proceed immediately after it is filed.

B. The applicant for the certificate of approval may elect to have the appeal proceed immediately rather than postponed for consolidation with appeals of related permit applications, if the applicant agrees in writing that the Department of Construction and Land Use may suspend its review of the related permits, and that the time period for review of those permits shall be suspended until the Hearing Examiner issues a decision on the appeal of the certificate of approval.

C. The time period to consider and decide the appeal of a certificate of approval shall be exempt from the deadlines for review and decision on both the certificate of approval and any related permit applications.

D. The Hearing Examiner after a public hearing in accordance with the procedure for hearings in contested cases in the Seattle Administrative Code, Chapter 3.02 of the Seattle Municipal Code, and in accordance with the Hearing Examiner's Rules of Practice and Procedure (unless all parties of record affected by such Board's decision consent to the review and decision without a public hearing) may affirm, reverse or modify the denial, but may reverse or modify only if the Hearing Examiner finds that:

1. Such denial violates the terms of this chapter or guidelines adopted pursuant to the authority of this chapter; or

2. Such denial is based upon a recommendation made in violation of the procedures set forth in this chapter or procedures adopted pursuant to the authority of this chapter and such procedural violation operates unfairly against the applicant.

E. The Hearing Examiner shall issue a decision not later than ninety (90) days after

the last of the appeals of related permit decisions is filed, or, if the applicant chooses to proceed immediately with the appeal of the certificate of approval, as provided in subsection B, then not later than ninety (90) days from the filing of that appeal. The decision of the Hearing Examiner shall be final. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040. Copies of the decision shall be mailed to all parties of record and transmitted to the Director, the District Board, and the property owner if the owner is not a party of record.
(Ord. 120157 § 14, 2000; Ord. 119121 § 9, 1998; Ord. 118012 § 125, 1996: Ord. 109125 § 11(part), 1980: Ord. 105462 § 5(e), 1976.)

25.16.115 Requests for interpretation.

A. An applicant for a certificate of approval may request an interpretation of the meaning of any part of this chapter as it relates to the requested certificate of approval. An interpretation shall not have any effect on certificates of approval that have already been granted.

B. An interpretation shall be requested in writing, specify the section of the code to be interpreted, and specify the question to be addressed. Requests shall be submitted to the Historic Preservation Officer.

C. If the requested interpretation relates to a certificate of approval for which an application has been filed, then the request for an interpretation cannot be made any later than fourteen (14) days after the application for the certificate of approval was submitted. Provided, however, that a request for an interpretation may be sought by the applicant at a later time if the applicant agrees in writing to suspend the time frames for review of the certificate of approval, and the time frames applicable to any related permits that are under review, until the interpretation is issued.

D. Interpretations shall be made in writing by the Historic Preservation Officer, and shall be issued within twenty-five (25) days of submission of the request. The interpretation decision shall be provided to the requesting party, and notice of the decision shall be mailed to parties of record and interested persons of record.

E. A fee shall be charged for interpretations in the amount provided in the Permit Fee Subtitle of the Seattle Municipal Code, Chapter 22.901E, Table 6, Land Use Fees, and shall be collected by the Department of Neighborhoods.

F. An interpretation may be appealed by the applicant if the certificate of approval that the interpretation addresses is denied and the applicant is appealing the denial, or if the interpretation relates to conditions placed on the certificate of approval that the applicant is appealing. An appeal of an interpretation shall be filed at the same time as appeal of the related certificate of approval, and shall be consolidated with the appeal of the related certificate of approval. Appeal of the interpretation shall proceed according to the same procedures and time frames provided in Section 25.16.110 for appeal of a certificate of approval, including the provisions for consolidation with appeals of any related permit decisions.

G. The Hearing Examiner shall give substantial weight to the Historic Preservation Officer's decision. The appellant shall have the burden of establishing that the interpretation is erroneous.

H. The Hearing Examiner may affirm, reverse, or modify the Historic Preservation Officer's interpretation, in whole or in part. The Hearing Examiner may also remand the interpretation to the Historic Preservation Officer for further consideration.

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be mailed to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.
(Ord. 120157 § 15, 2000; Ord. 118012 § 126, 1996.)

25.16.120 Development and design review guidelines.

A. The District Board shall draft, and after consideration and review at least one (1) public hearing shall adopt development and design review guidelines and amendments thereof, which shall become effective upon filing with the City Clerk. Notice of such public hearings shall be given in accordance with rules adopted by the District Board.

B. The development and design review guidelines shall identify the unique values of the District, shall include a statement of purpose and intent, and shall be consistent with the purposes of this chapter and the criteria specified in Section 25.16.030. The guidelines shall identify design characteristics which have either a positive or negative effect upon such unique values of the District and shall specify the materials, colors, signage, planting and other design-related considerations which will be allowed, encouraged, limited, or excluded from the District. If such design considerations are limited, the guidelines shall state either the reasons for such limitation or conditions under which such considerations will be permitted.
(Ord. 105462 § 6, 1976.)

25.16.130 Advice and guidance to property owners.

The District Board may, at its official meetings upon request of a District property owner or business tenant, render advice and guidance with respect to any proposed work within the District.
(Ord. 105462 § 7, 1976.)

25.16.140 Enforcement and penalties.

The Director of Construction and Land Use shall enforce this chapter and anyone violating or failing to comply with its provisions shall, upon conviction thereof, be fined in any sum not exceeding Five Hundred Dollars ($500.00). Each day's violation or failure to comply shall constitute a separate offense.

(Ord. 109125 § 11(part), 1980: Ord. 105462 § 8, 1976.)

25.16.150 Conflicting provisions.

In case of conflict between this chapter and the Landmarks Preservation Ordinance (Ordinance 102229),1 the provisions of this chapter shall govern the Ballard Avenue Landmark District.

(Ord. 105462 § 9, 1976.)

1. Editor's Note: Ord. 102229 was repealed by Ord. 106348, the new Landmarks Preservation Ordinance codified in Chapter 25.12 of this Code.

GRAPHIC UNAVAILABLE: Exhibit "A"--Ballard Avenue Landmark District

Chapter 25.20

COLUMBIA CITY LANDMARK DISTRICT

Sections:

Editor's Note: A map of the Columbia City Landmark District is included at the end of this chapter.

25.20.010 Definitions.

The following terms used in this chapter shall, unless the context clearly demands a different meaning, mean as follows:

A. "Alteration" is any construction, modification, demolition, restoration or remodeling for which a permit from the Director of Planning and Development is required.

B. "Application Review Committee" is the committee established by this chapter to conduct informal reviews of applications for certificates of approval and make recommendations to the Landmarks Board.

C. "Board" is the Seattle Landmarks Preservation Board as created by Ordinance 106348.1

D. "Certificate of approval" means written authorization which must be issued by the Board before any alteration or change may be made to the exterior of any building or structure,

to the exterior appearance of any other property or right-of-way visible from a public street, alley, way or other public property, or to painting or signs, or before any new building or structure is constructed within the District. The term "certificate of approval" includes written approval of a preliminary design of a project as well as its subsequent design phases, as contemplated in Section 25.20.080.

E. "Council" is the City Council of The City of Seattle.

F. "Department or Director of Construction and Land Use" is the Department or Director of Planning and Development of the City of Seattle or such other official as may be designated from time to time to issue permits for construction or demolition of improvements upon real property in the City.

G. "Hearing Examiner" means any person authorized to act as a hearing examiner pursuant to the Administrative Code, Chapter 3.02 of the Seattle Municipal Code, or any ordinance amendatory or successor thereto.

H. "Historic Preservation Officer" means the person described in the Landmarks Preservation Ordinance, SMC Section 25.12.320.

I. "Significant change" is any change in external appearance, other than routine maintenance or repair in kind, not requiring a permit from the Director of Planning and Development, but for which a certificate of approval is expressly required by the Landmarks Board and by this chapter.
(Ord. 121276 §§ 32, 37, 2003; Ord. 119121 § 10, 1998; Ord. 118012 § 127, 1996; Ord. 109125 § 18, 1980; Ord. 107679 § 1, 1978.)
1. Editor's Note: Ord. 106348 is codified in Chapter 25.12 of this Code.

25.20.020 Legislative findings and purposes.

Throughout this City there are few areas that have retained individual identity, historical continuity or consistency of architectural character. The protection, enhancement and perpetuation of such areas is in the interests of the prosperity, civic pride, urban and visual quality, and general welfare of the citizens of Seattle. The aesthetic standing of this City cannot be maintained or enhanced by disregarding the heritage of its communities or by allowing the destruction or defacement of its patrimony. The purposes of the creation of the Columbia City Landmark District are:

A. To preserve, protect, enhance, and perpetuate those elements of the District's cultural, social, economic, architectural, and historic heritage;

B. To foster community and civic pride in the significance and accomplishments of the past;

C. To stabilize or improve the historic authenticity, economic vitality, and aesthetic value of the district;

D. To promote and encourage continued private ownership and use of buildings and other structures;

E. To ensure compliance with the District plan prepared in the spring of 1978 by The Richardson Associates;

F. To encourage continued City interest and support in the District; and

G. To promote the local identity of the area.

(Ord. 107679 § 2, 1978.)

25.20.030 Legal description.

There is established the Columbia City Landmark District whose boundaries are particularly described as follows:

A piece of land lying in the northwest one-quarter of Section 22, Township 24 North, Range 4 East W.M., in the County of King, State of Washington; more particularly described as follows:

Beginning at the northeast corner of Lot 1702, Block 60, Columbia Supplemental No. 1 as recorded in Volume 8 of plats, page 12, records of King County, Washington; thence north on a straight line to the northeast corner of Lot 1622, Block 59 of said plat; thence west on the north line of said Block 59 to an intersection with the centerline of an alley produced south, said alley being in Block 56 of said plat; thence north on the last described line to an intersection with the centerline of South Alaska Street; thence east along said centerline to an intersection with the easterly line of Rainier Ave. South produced northwesterly; thence southeasterly along said easterly line of Rainier Ave. South to an intersection with the north line of South Angeline Street; thence east along said north line produced east to intersect with the centerline of 39th Ave. South; thence south along said centerline to an intersection with the south line of an alley produced east, said alley being in Block 9, Plat of Columbia as recorded in Volume 7 of plats, page 97, records of King County, Washington; thence west along said south line to the northwest corner of Lot 224, Block 9 of said plat; thence south along the west line of said Lot to the southwest corner of said Lot 224; thence east along the north line of South Ferdinand Street to the southeast corner of Lot 229, Block 9 of said plat; thence south on a straight line to the northeast corner of Lot 270, Block 15 of said plat; thence west along the south line of South Ferdinand Street to the northwest corner of Lot 272, Block 15 of said plat; thence south on a straight line produced through the southwest corner of Lot 291, Block 15 of said plat to a point on the south line of South Hudson Street; thence east along said south line to an intersection with the west line of 39th Ave. South; thence south along said west line, 252.72 feet to the point of curve; thence on a curve to the right, having a radius of 10.00 feet, an arc distance of 24.21 feet to a point of the end of curve, said point being on the northeasterly line of Rainier Ave. South; thence northwesterly along said northeasterly line to an intersection with a line produced east, 0.10 feet south of and parallel with the south line of Tract 14, Morningside Acre Tracts as recorded in Volume 9

of plats, page 64, records of King County, Washington; thence west along said parallel line to the east line of Tract 16 of said plat; thence south along said east line, 13.59 feet to the southeast corner of said Tract 16; thence west 180.2 feet, more or less, along the south line of said Tract 16 to an intersection with a line produced south, said line being the extension south of west line of Lots 277 and 286, Block 16, Plat of Columbia as recorded in Volume 7 of plats, page 97, records of King County, Washington; thence north along the last described line to the northwest corner of Lot 277, Block 16 of said Plat of Columbia; thence west along the south line of South Ferdinand Street to the northeast corner of Lot 1702, Block 60, Columbia Supplemental No. 1, as recorded in Volume 8 of plats, page 12, records of King County, Washington, and the point of beginning.

all in Seattle, King County, Washington and illustrated on map, Exhibit A, attached to Ordinance 107679 and codified at the end of this chapter; and the custodian of the Official Zoning Map of the City is directed to add said district to the Official Zoning Map. All property within the District shall be subject to the controls, procedures, and standards set forth or provided for in this chapter, whether publicly or privately owned.
(Ord. 107679 § 3, 1978.)

25.20.040 Criteria for designation of the District.

A. Historical. Columbia City has significance and value as part of the development of Seattle. Its early growth, like that of Seattle, Ballard and other Puget Sound settlements, was as a pioneer mill town. But while Seattle grew and remained dominant in the region, because of its harbor, and later the railroads, Columbia City developed less dramatically only to be annexed by Seattle after fourteen (14) years as an incorporated town. Nonetheless, Columbia City retained its identity even following annexation, and to this day remains a distinct and historic part of Greater Seattle. Columbia City as a separate municipality contributed to the historic growth of the Seattle Area from the time of its incorporation in 1893 until its annexation in 1907, growing with logging and railroad development. When the Seattle, Renton and Southern Railways stretched the seven (7) miles from Seattle to Columbia City in 1890 it claimed a lucrative two-way freight business. Columbia City shipped surplus lumber to a rebuilding Seattle (after 1889 fire) and Columbia City needed the finished goods Seattle could provide. Much of Columbia City's lumber, as well as the goods from Seattle, went into its own buildings and lakeshore summer residences. Remote Columbia City, thanks to nearby Lake Washington and Wetmore Slough, was a busy summer escape for the neighboring city's residents. Until the lowering of Lake Washington with the cutting of the Ship Canal, Wetmore Slough had been considered by Columbia City as its port to the sea.

B. Sociological. The District is associated with the lives of many of the region's pioneers through business, transportation and commercial activities and general pioneering efforts that were concentrated in the area.

C. Architectural. A significant number of buildings within the Columbia City Landmark District embody distinctive characteristics of turn-of-the-century modest commercial and residential architecture. They possess integrity of location, compatibility of design, scale,

and use of materials, and impart a sense of historic continuity, a feeling of association and a sense of place. The area is significant for landmark designation not only because of its buildings, but especially because of the total quality of an earlier small town: a pleasant admixture of commercial buildings, churches, apartments and houses, and within its core a small and integral park.
(Ord. 107679 § 4, 1978.)

25.20.050 Administration.

Jurisdiction over changes and improvements in the District is vested in the Seattle Landmarks Preservation Board. In order, however, to maintain adequate community involvement and contact, an Application Review Committee is created which shall consist of two (2) members of the Landmarks Board appointed by the Chairman, at least one (1) of whom shall be an architect, and three (3) members of the Columbia City Development Association, appointed by the President of that organization, to review all proposed changes to public and private property and to make recommendations to the Landmarks Board for issuance or denial of certificates of approval. The two (2) Board Members of the Committee shall be appointed for renewable two (2) year terms, and the Association Members shall also be appointed for two (2) year renewable terms, but appointments shall be staggered with one (1) member of each group initially appointed for one (1) year only.
(Ord. 107679 § 5, 1978.)

25.20.060 Development and design review guidelines.

A. The Landmarks Preservation Board shall draft and, after consideration and review at no less than one (1) public hearing, shall adopt development and design review guidelines and amendments which shall become effective upon filing with the City Clerk; these guidelines shall include at least by reference the Columbia City Business District Plan prepared by The Richardson Associates for guidance in reviewing public properties and new developments. Notice and conduct of such public hearing(s) shall be in accordance with rules adopted by the Landmarks Preservation Board.

B. The development and design review guidelines shall identify the unique values of the District, shall include a statement of purpose and intent, and shall be consistent with the purposes of this chapter and the criteria specified in Section 25.20.030. The guidelines shall identify design characteristics which have either a positive or negative effect upon the unique values of the District and shall specify the materials, colors, signage, planting, and other design-related considerations which will be allowed, encouraged, limited or excluded from the District.
(Ord. 107679 § 6, 1978.)

25.20.070 Approval of changes to buildings, structures and other property.

No person shall make any change, including but not limited to alteration, demolition, construction, reconstruction, restoration, remodeling, and changes involving painting or signs, (but excluding in-kind maintenance and repairs which do not affect the appearance of the

structure(s)) to the exterior of any building or structure in the District, or to the external appearance of any other property or public right-of-way in the District which is visible from a public street, alley, way, or other public property, nor construct any new building or structure in the District without first securing a certificate of approval from the Landmarks Preservation Board. No City building permit or other permit for alterations or new construction shall be issued until the Landmarks Preservation Board has granted a certificate of approval for the proposed activity.
(Ord. 107679 § 7, 1978.)

25.20.080 Application for certificate of approval.

A. Application.

1. Application for a certificate of approval may be made by filing an application for such a certificate with the Board.

2. The following information must be provided in order for the application to be complete, unless the Board staff indicate in writing that specific information is not necessary for a particular application:

a. Building name and building address;

b. Name of the business(es) located at the site of the proposed work;

c. Applicant's name and address;

d. Building owner's name and address;

e. Applicant's telephone number;

f. The building owner's signature on the application, or a signed letter from the owner designating the applicant as the owner's representative, if the applicant is not the owner;

g. Confirmation that the fee required by SMC Chapter 22.901T of the Permit Fee Subtitle has been paid;

h. A detailed description of the proposed work, including:

(1) Any changes it will make to the building or the site,

(2) Any effect that the work would have on the public right-of-way or other public spaces,

(3) Any new construction;

i. Four (4) sets of scale drawings, with all dimensions shown, of:

(1) A site plan of existing conditions, showing adjacent streets and buildings, and, if the proposal includes any work in the public right-of-way, the existing street uses, such as street trees and sidewalk displays, and another site plan showing proposed changes to the existing conditions,

(2) A floor plan showing the existing features and a floor plan showing the proposed new features,

(3) Elevations and sections of both the proposed new features and the existing features,

(4) Construction details,

(5) A landscape plan showing existing features and plantings, and another landscape plan showing proposed site features and plantings;

j. Photographs of any existing features that would be altered and photographs showing the context of those features, such as the building facade where they are located;

k. One (1) sample of proposed colors, if the proposal includes new finishes or paint, and an elevation drawing or a photograph showing the location of proposed new finishes or paint;

l. If the proposal includes new signage, awnings, or exterior lighting:

(1) Four (4) sets of scale drawings of proposed signage or awnings, showing the overall dimensions, material, design graphics, typeface, letter size, and colors,

(2) Four (4) sets of a plan, photograph, or elevation drawing showing the location of the proposed awning, sign, or lighting,

(3) Four (4) copies of details showing the proposed method of attaching the new awning, sign, or lighting,

(4) The wattage and specifications of the proposed lighting, and a drawing or picture of the lighting fixture,

(5) One (1) sample of proposed sign colors or awning material and color;

m. If the proposal includes demolition of a structure or object:

(1) A statement of the reason(s) for demolition,

(2) A description of the replacement structure or object;

n. If the proposal includes replacement, removal, or demolition of existing features, a survey of the existing conditions of the features that would be replaced, removed, or demolished.

3. The staff shall determine whether an application is complete and shall notify the applicant in writing within twenty-eight (28) days of the application being filed whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete. Within fourteen (14) days of receiving the additional information, the staff shall notify the applicant in writing whether the application is now complete or what additional information is necessary. An application shall be deemed to be complete if the staff does not notify the applicant in writing by the deadlines in this section that the application is incomplete. A determination that the application is complete is not a determination that the application is vested.

4. The determination of completeness does not preclude the staff or the Board from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter and in any rules adopted by the Board, or if the proposed work changes. For example, additional information that may be required could include a shadow study or a traffic study when new construction is proposed.

B. An applicant may make a written request to submit an application for a certificate of approval for a preliminary design of a project if the applicant waives in writing the deadline for a Board decision on the subsequent design phase or phases of the project and any deadlines for decisions on related permit applications under review by the Department of Construction and Land Use and the applicant agrees in writing that the Board decision on the preliminary design is immediately appealable by the applicant or any interested person of record. The staff may reject the request if it appears that approval of a preliminary design would not be an efficient use of staff or Board time and resources, or would not further the goals and objectives of this chapter. To be complete, an application for a certificate of approval for a preliminary design must include the information listed above in subsection A2, subparagraphs a through h, i(1) through i(3), j, m and n. A certificate of approval that is granted for a preliminary design shall be conditioned upon subsequent submittal of the final design and all of the information listed above in subsection A2, and upon Board approval, prior to issuance of permits for work affecting any building or property in the District.

C. If before a certificate of approval is obtained, an application is made to the Department of Construction and Land Use for a permit for which a certificate of approval is

required, the Director of Construction and Land Use shall require the applicant to submit an application to the Board for a certificate of approval. Submission of a complete application for a certificate of approval to the Board shall be required before the permit application to the Department of Construction and Land Use may be deemed to be complete. The Department of Construction and Land Use shall continue to process such application, but shall not issue any permit until a certificate of approval has been issued pursuant to this chapter, or the time has expired for filing with the Director of the Department of Construction and Land Use the notice of denial of a certificate of approval.

D. After the Board has commenced proceedings for the consideration of any application for a certificate of approval for a particular alteration or significant change, by giving notice of a meeting pursuant to this section or otherwise, no other application for the same or a similar alteration or significant change may be made until the application is withdrawn or such proceedings and all appeals therefrom have been concluded, except that an application may be made for a certificate of approval for the preliminary design of a project and a later application for a certificate of approval for a subsequent design phase or phases of the same project.
(Ord. 119121 § 11, 1998; Ord. 118181 § 17, 1996: Ord. 118012 § 128, 1996: Ord. 107679 § 8, 1978.)

25.20.090 Board meeting on certificate of approval.

A. Within thirty (30) days after the filing of an application for a certificate of approval with the Board, the Board shall hold a meeting thereon and shall serve notice of the meeting on the owner and the applicant not less than five (5) days before the date of the meeting.

B. In reviewing applications, the Application Review Committee and the Landmarks Preservation Board and the Hearing Examiner shall consider: (1) the purposes of this chapter; (2) the criteria specified in Section 25.20.040; (3) any guidelines promulgated pursuant to this chapter; (4) the properties' historical and architectural value and significance; (5) the properties' architectural style and general design; (6) the arrangement, texture, material and color of the building or structure in question, and its appurtenant fixtures, including signs; (7) the relationship of such features to similar features of other buildings within the Columbia City Landmark District; and (8) the position of such buildings or structures in relation to the street or public way and to other buildings and structures.
(Ord. 118012 § 129, 1996: Ord. 107679 § 9, 1978.)

25.20.100 Issuance of Board decision.

A. The Board shall issue a written decision either granting or denying a certificate of approval or granting it with conditions not later than forty-five (45) days after the application for a certificate of approval is determined to be complete and shall serve a copy thereof upon the owner, the applicant and the Director of the Department of Construction and Land Use within three (3) working days after such grant or denial. Notice of the Board's decision shall be provided to any person who, prior to the rendering of the decision, made a written request to receive notice of the decision or submitted written substantive comments on the application. A decision denying a certificate of approval shall contain an explanation of the reasons for the

Board's decision and specific findings with respect to this chapter and adopted guidelines for the District.

B. A certificate of approval shall be valid for eighteen (18) months from the date of issuance of the Board's decision granting it unless the Board grants an extension in writing; provided however, that certificates of approval for actions subject to permits issued by the Department of Construction and Land Use shall be valid for the life of the permit, including any extensions granted in writing by the Department of Construction and Land Use.
(Ord. 118012 § 130, 1996: Ord. 107679 § 10, 1978.)

25.20.110 Appeal to Hearing Examiner.

A. Any interested person of record may appeal to the Hearing Examiner the decision of the Board to grant, deny or attach conditions to a certificate of approval by serving written notice of appeal upon the Board and filing such notice and a copy of the Board's decision with the Hearing Examiner within fourteen (14) days after such grant, denial or conditional grant.

B. When the proposed action that is the subject of the certificate of approval is also the subject of one (1) or more related permit applications under review by the Department of Construction and Land Use, then the appellant must also file notice of the appeal with the Department of Construction and Land Use, and the appeal of the certificate of approval shall not be heard until all of the time periods for filing administrative appeals on the other permits have expired, except that an appeal of a certificate of approval for the preliminary design or for subsequent design phases may proceed immediately according to Section 25.20.080 without being consolidated. If one (1) or more appeals are filed regarding the other permits then the appeal of the certificate of approval shall be consolidated with them and shall be heard according to the same timelines established for the other appeals, except that appeals to the State Shoreline Hearings Board shall proceed independently according to the timelines set by the state for such appeals, and except that an appeal of a certificate of approval for a preliminary design or for a subsequent design phase may proceed according to Section 25.20.080 without being consolidated. If the related permit decisions would not be appealable, then the appeal of the certificate of approval decision shall proceed immediately after it is filed.

C. The applicant for the certificate of approval may elect to have the appeal proceed immediately rather than postponed for consolidation with appeals of related permit applications, if the applicant agrees in writing that the Department of Construction and Land Use may suspend its review of the related permits, and that the time period for review of those permits shall be suspended until the Hearing Examiner issues a decision on the appeal of the certificate of approval.

D. The Hearing Examiner shall issue a decision not later than ninety (90) days after the last of the appeals of related permit decisions is filed, or, if the applicant chooses to proceed immediately with the appeal of the certificate of approval, as provided in subsection C, then not later than ninety (90) days from the filing of that appeal. The time period to consider and decide the appeal of a certificate of approval shall be exempt from the deadlines for review and decision on both the certificate of approval and any related permit applications.

E. The Hearing Examiner shall hear and determine the appeal in accordance with the standards and procedures established for appeals to the Hearing Examiner under Sections 25.12.740 through 25.12.770 of this Code.

F. The Hearing Examiner's decision shall be final. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.
(Ord. 120157 § 16, 2000; Ord. 119121 § 12, 1998; Ord. 118012 § 131, 1996: Ord. 107679 § 11, 1978.)

25.20.115 Requests for interpretation.

A. An applicant for a certificate of approval may request an interpretation of the meaning of any part of this chapter as it relates to the requested certificate of approval. An interpretation shall not have any effect on certificates of approval that have already been granted.

B. An interpretation shall be requested in writing, specify the section of the code to be interpreted, and specify the question to be addressed. Requests shall be submitted to the Historic Preservation Officer.

C. If the requested interpretation relates to a certificate of approval for which an application has been filed, then the request for an interpretation cannot be made any later than fourteen (14) days after the application for the certificate of approval was submitted. Provided, however, that a request for an interpretation may be sought by the applicant at a later time if the applicant agrees in writing to suspend the time frames for review of the certificate of approval, and the time frames applicable to any related permits that are under review, until the interpretation is issued.

D. Interpretations shall be made in writing by the Historic Preservation Officer, and shall be issued within twenty-five (25) days of submission of the request. The interpretation decision shall be served on the requesting party, and notice of the decision shall be mailed to parties of record and interested persons of record.

E. A fee shall be charged for interpretations in the amount provided in the Permit Fee Subtitle of the Seattle Municipal Code, Chapter 22.901E, Table 6, Land Use Fees, and shall be collected by the Department of Neighborhoods.

F. An interpretation may be appealed by the applicant if the certificate of approval that the interpretation addresses is denied and the applicant is appealing the denial, or if the interpretation relates to conditions placed on the certificate of approval that the applicant is appealing. An appeal of an interpretation shall be filed at the same time as appeal of the related certificate of approval, and shall be consolidated with the appeal of the related certificate of approval. Appeal of the interpretation shall proceed according to the same procedures and time frames provided in Section 25.20.110 for appeal of a certificate of approval, including the provisions for consolidation with appeals of any related permit decisions.

G. The Hearing Examiner shall give substantial weight to the Historic Preservation Officer's interpretation. The appellant shall have the burden of establishing that the interpretation is erroneous.

H. The Hearing Examiner may affirm, reverse, or modify the Historic Preservation Officer's interpretation, in whole or in part. The Hearing Examiner may also remand the interpretation to the Historic Preservation Officer for further consideration.

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be mailed to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.
(Ord. 120157 § 17, 2000; Ord. 118012 § 132, 1996.)

25.20.120 Enforcement and penalties.

The Director of Construction and Land Use shall enforce this chapter and anyone violating or failing to comply with its provisions shall, upon conviction thereof, be fined in any sum not exceeding Five Hundred Dollars ($500). Each day's violation or failure to comply shall constitute a separate offense.
(Ord. 118012 § 132A, 1996: Ord. 107679 § 12, 1978.)

GRAPHIC UNAVAILABLE: Exhibit "A"--Columbia City Landmark District

Chapter 25.22

HARVARD-BELMONT LANDMARK DISTRICT

Sections:

25.22.010 Legislative findings and purposes.

Throughout the City there are few areas that have retained individual identity, historical continuity or consistency of architectural character.

The Harvard-Belmont Landmark District, situated on the west slope of Capitol Hill above the City's major freeway and representing gracious residential quality in the urban setting, is one such area. The character of the district is defined by a substantial, well-established, and well-maintained residential fabric encompassing both large estates and modest houses, a mix of urban cultural and commercial institutions, within a framework of tree-lined streets, well-maintained grounds, and distinctive natural features.

The topography of the area is typical of those where the first outlying neighborhoods of quality residences were established in Seattle during a decade of rapid growth just after the turn of the century. From the relatively flat eastern boundaries of Broadway East and Harvard Avenue East the land slopes gradually and then more precipitously downward to the west, providing many of the properties with dramatic sites affording views of Lake Union and Queen Anne Hill. The northern boundary is marked by a deep wooded ravine separating the Sam Hill House from the properties around St. Mark's Cathedral. The southern boundary at East Roy Street changes to apartment, institutional, and commercial use and marks the transition to the denser multiple-unit residential area and the commercial shopping strip of Broadway East to the south. Within these boundaries the normally overriding grid system of platting gives way to some diagonal and curving streets that generally conform to the natural contours of the land.

H. C. Henry, a railroad builder and a powerful force in Seattle's business community, was the first man of influence to settle in the district. Although his house is now gone, his presence was instrumental in attracting others of like means and ability to the area. During the first decade of the twentieth century merchants, bankers, lawyers, engineers, and then lumber barons, successful businessmen and entrepreneurs built impressive residences along Harvard Avenue East, Belmont Place East and neighboring streets.

In the next two decades some additional large houses were built and some of the existing mansions were sold to equally affluent buyers.

Although many architectural styles are represented in the district, among the buildings of primary significance are a substantial number of residences which exhibit the enduring influence of Richard Norman Shaw. These Shavian houses impart a special quality to the area, a distinctive element which can be found in northern Pacific coast cities (Victoria and Vancouver, B.C., Seattle, Portland). The two Fisher houses on Belmont Place East together with their garage below on Summit Avenue East form a distinctive group of brick and half-timbered dwellings with fine leaded and beveled glass. The M. H. Young House, the C. H. Bacon House, the J. A. Kerr House, and the W. L. Rhodes House are additional examples of the use of brick and half-timbering to evoke the spirit of a romantic medievalism as filtered through the precepts of Shaw.

Other residences display the symmetry of a more classical tradition. The restrained formality of the R. D. Merrill House, the imposing mass of the Chapin-Eddy House relieved by delicate ornamentation, and the strong simple statement of the Brownell-Bloedel House all

contribute a sense of solidity and permanence to the district.

Sometimes architects outside the City, such as Charles Al Platte, Hornblower & Marshall, Cutter & Malmgren, and Arthur Bodely, were called upon to satisfy a client's particular wishes. More often local firms with established reputations were commissioned, and works by Carl F. Gould, Somerwell & Cote, Bebb & Mendel, the Beezer Brothers, James H. Schack, Graham & Myers, Blackwell & Baker, and Andrew Willatsen can be found in the district. Interspersed among the mansions of the wealthy bankers, shipbuilders, lumbermen, and merchants are numerous wood frame houses of more modest scale. A few of these were built before 1900, many date from the first decade of the twentieth century, and there are a number of simple residences from the late 1930's and early 1940's.

The 1920's brought the introduction of the Spanish style Hacienda Apartments, the Tudor influenced Anhalt apartment groups, as well as the Cornish School and the Woman's Century Club. These structures, concentrated along the southern and western boundaries of the District, are particularly representative of the Capitol Hill character where a rich mix of architecture, and a successful mix of residential and commercial uses, exists.

The protection, enhancement and perpetuation of the Harvard-Belmont District is in the interests of the prosperity, civic pride, urban and visual quality, and general welfare of the citizens of Seattle.

The cultural standing of this City cannot be maintained or enhanced by disregarding the history of its communities or by allowing the destruction or defacement of its heritage. The Seattle Landmarks Preservation Board has identified the Harvard/Belmont area as one of these few remaining areas reflecting, in its architectural and landscape elements, its historical origins significant in the development of Capitol Hill and, therefore, Seattle.

The purposes for the creation of the Harvard-Belmont Landmark District are:

A. To preserve, protect, enhance, and perpetuate those elements of the District's cultural, social, economic, architectural, and historic heritage;

B. To foster community and civic pride in the significance and accomplishments of the past;

C. To stabilize or improve the historic authenticity, economic vitality, and aesthetic value of the district;

D. To promote and encourage continued private ownership and use of buildings and other structures;

E. To encourage continued City interest and support in the District; and to recognize and promote the local identity of the area.
(Ord. 109388 § 1, 1980.)

25.22.020 Definitions.

The following terms used in this chapter shall, unless the context clearly demands a different meaning, mean as follows:

A. "Application Review Committee" is the committee established by this chapter to conduct informal reviews of applications for certificates of approval and make recommendations to the Landmarks Board.

B. "Board" is the Seattle Landmarks Preservation Board as created by Ordinance 1063481 or any ordinance amendatory or successor thereto.

C. "Certificate of approval" means written authorization which must be issued by the Board before any demolition or exterior alteration of a structure, any new construction, any addition or removal of major or significant landscape and site elements may be undertaken within the District. The term "certificate of approval" includes written approval of a preliminary design of a project as well as its subsequent design phases, as provided for in Section 25.22.100.

D. "Council" is the City Council of The City of Seattle.

E. "Director" is the Director of the Department of Planning and Development of the City or such other official as may be designated from time to time to issue permits for construction, alteration, reconstruction or demolition of improvements upon real property in the City.

F. "Hearing Examiner" is any person authorized to act as a hearing examiner pursuant to the Administrative Code, Chapter 3.02 of the Seattle Municipal Code, or any ordinance amendatory or successor thereto.

G. "Historic Preservation Officer" means the person described in the Landmarks Preservation Ordinance, SMC Section 25.12.320.

H. "Significant change" is any external alteration, new construction, restoration or demolition other than routine maintenance or repair.
(Ord. 121276 § 33, 2003; Ord. 119121 § 13, 1998; Ord. 118012 § 133, 1996: Ord. 109388 § 2, 1980.)
1. Editor's Note: Ord. 106348 is codified in Chapter 25.12 of this Code.

25.22.030 District established--Boundaries.

There is established the Harvard-Belmont Landmark District whose boundaries are particularly described as follows:

Beginning at the northeast corner of Lot 10, Block 33, Supplemental Plat of A. Pontius Addition, as recorded in Volume 8, of King County Plats, Page 39; which is the point of beginning; thence south along the east line of said Lot 10 and Lot 9 to the southeast corner of Lot 9, said Block 33; thence west along the south line of Lot 9 to the east

margin of Harvard Avenue East; thence north along said east margin to the south margin of East Roy Street; thence west along the south margin and margin extended of East Roy Street to the intersection of the southwest margin of Belmont Avenue East extended; thence northwesterly along said southwest margin and margin extended of Belmont Avenue East to the northwest margin of Bellevue Place East extended; thence northeast along the northwest margin and margin extended of Bellevue Place East to the west margin of Summit Avenue East; thence north along the west margin of Summit Avenue East to the most easterly corner of Lot 3, Block 17, East Park Addition, as recorded in Volume 8, of King County Plats, Page 83; thence northwest along the northeasterly line of said Lot 3, a distance of 55.93 feet; thence southwest parallel with the southeast line of said Lot 3 a distance of 80.83 feet; thence northwesterly at right angles a distance of 49.66 feet; thence southwesterly at right angles a distance of 10.14 feet; thence northwesterly at right angles to the southeast line of Lot 5, of said Block 17; thence southwest along the southeast line of said Lot 5 to the northeast margin of Belmont Avenue East; thence northwest along said northeast margin of Belmont Avenue East to the intersection of the southeasterly margin of Lakeview Boulevard East; thence northeast along the southeast margin of Lakeview Boulevard East to the most westerly corner of Lot 9, of said Block 17; thence southeast along the southwest line of said Lot 9 to the southernmost corner of said Lot 9; thence northeasterly, along the southeasterly line of Lots 9, 10, 11, and 12, to the easterly corner of said Lot 12, thence northwesterly along the northeast line of said Lot 12 to the southeasterly margin of East Prospect Street; thence northeast to the intersection of the north margin of East Prospect Street and the northwest margin of Summit Avenue East; thence northeasterly and southeasterly along said margin of Summit Avenue East to the west margin of Boylston Avenue East; thence east to the east margin of Boylston Avenue East; thence north along said east margin to the northwest corner of Lot 12, as platted, Block J, Phinney's Addition as recorded in Volume 1, of King County Plats, Page 175; thence east along the north line and line extended of said Lot 12 to the northeast corner of Lot 13, as platted, Block I, said Phinney's Addition; thence south along the east lot line and line extended to the northeast corner of Block B, said addition; thence west along the south margin of East Highland Drive to the east margin of Harvard Avenue East; thence south along said east margin to the northwest corner of Lot 8, Block B, of said Phinney's Addition; thence east along the north line of said Lot 8 to the northeast corner of said Lot 8; thence south along the east line of Lots 8, 9, and 10, to the southeast corner of said Lot 10; thence east along the south line of Lot 15, said Block B, a distance of 35 feet; thence at right angles south 35 feet; thence east, parallel to said south line of Lot 15, to the west margin of Broadway East; thence south along said west margin to the north margin of East Prospect Street; thence east along said north margin and margin extended to the southeast corner of Lot 12, Block C, said Phinney's Addition; thence south to the northeast corner of Lot 12, Block 5, Sarah B. Yesler's 1st Addition as recorded in Volume 2 of King County Plats, Page 31; thence south along the east lines of Lots 12, 11 and 10, said Block 5 to the southeast corner of said Lot 10; thence west along the south line of said Lot 10 to the east line of Broadway East; thence continuing west to the southeast corner of Lot 15, Block 4, of said Yesler's Addition; thence continue west along the south line of said Lot 15 to the southwest corner thereof; thence south along the east lines of Lots 1 through 9 inclusive of Block 4 to the north margin of East Aloha Street; thence south to the south margin of

said street; thence west along said margin and margin extended to the west margin of Boylston Avenue East; thence north along said west margin to the northeast corner of Lot 13, Block 1, of before-mentioned East Park Addition; thence west along the north margin of said Lot 13 a distance of 60 feet; thence south parallel to the east margin of Lot 13 to the south line of Lot 13; thence west along the said south lot line and south lot line extended to the west margin of Belmont Place East; thence north along said west margin to the southeast margin of Bellevue Place East, which is the most northerly corner of Lot 9, Block 2, said East Park Addition; thence southwesterly along the northwesterly line of said Lot 9, to the northwest corner of said lot; thence south parallel to Belmont Place East to a point 20 feet north of the southwest corner of Lot 4, said Block 2; thence east parallel to the south line of said Lot 4 a distance of 8 feet; thence south parallel to Belmont Place East 40 feet; thence east parallel to said south line of Lot 4 a distance of 12 feet; thence south parallel to Belmont Place East a distance of 40 feet to the north line of Lot 2, said Block 2; thence west along said north line and north line extended to the northeast margin of Belmont Avenue East; thence southeast along said northeast margin to the south line of said Lot 2; thence east along said south line and south line extended to the east margin of Belmont Place East; thence south along said east margin to a point 20 feet north of the southwest corner of Lot 5, Block 1, said East Park Addition; thence east parallel to the south line of said Lot 5 to the east margin of Boylston Avenue East and the northwest corner of Lot 7, Block 2, of before-mentioned Yesler's 1st Addition; thence south along the west margin of said Block 2 to the southwest corner of Lot 3, said Block 2; thence easterly along the south lines of Lots 3 and 22, said Block 2, to the west margin of Harvard Avenue East; thence continuing easterly to the southwest corner of Lot 3, Block 3, said Yesler's 1st Addition; thence easterly along the south line of said Lot 3, to the southwest corner of Lot 22, said Block 3; thence north along the west line of said Lot 22 to the northwest corner of Lot 22; thence easterly along the north line of Lot 22 to the west margin of Broadway East; thence south along said margin to the north margin of East Roy Street as established by Ordinance 10065;1 thence south to the point of beginning.

all in Seattle, King County, Washington, and illustrated on the map attached hereto as Exhibit A.2 The City Clerk is directed to indicate the District on pages 102 and 103 of the Official Zoning Map. All property within the District shall be subject to the controls, procedures, and standards set forth in this chapter.
(Ord. 109388 § 3, 1980.)
1. Editor's Note: Ord. 10065 is not included in this Code. It is on file in the office of the City Clerk.
2. Editor's Note: Exhibit A to Ord. 109388 is not included in this Code. It is on file in the office of the City Clerk.

25.22.040 Historical criteria for District designation.

The history of Seattle and of its neighborhoods is a history of the destruction and reshaping of forested virgin lands for economic returns; the filling of tide flats and the cutting of new waterways for industry and commerce; the clearcutting of native forests by pioneer lumber barons; and the regrading of the natural topography to an extent seldom before or since practiced in an American city.

Neighborhoods such as Harvard-Belmont, which today have the appearance of heavily

wooded retreats, were created from the wasteland left by the lumbering industry. Mansions were built on treeless lots, and landscaping, shrubs, and seeds were left to the graces of the climate and the fertile soil.

Within the first two decades of this century, the District was home to Samuel Hill (railroads), C. H. Bacon (building materials), J. H. Bloedel, and R. D. Merril (lumbering), C. J. Smith (banking), Dexter Horton (bank president), O. W. Fisher (flour mills), and John Eddy (lumbering and shipbuilding), among others. Queen Marie of Rumania, her children Prince Nicholas and Princess Ileeana, Marshall Joffre of France, and Grand Duchess Marie of Russia, were among the many distinguished foreign guests to the district.

A number of central Seattle residential areas have felt the effects of the move to the suburbs, changing populations, changes in use and zoning and deteriorating services. The Harvard-Belmont district, however, has maintained its identity, character, and quality to a degree which permits its continuance as a prestigious, liveable and highly desirable neighborhood in which to live.
(Ord. 109388 § 4(a), 1980.)

25.22.050 Sociological criteria for District designation.

Much of the area known today as Capitol Hill was laid out and developed by realtor J. A. Moore. He opened the area north of Howell Street to homeowners in 1901, naming it after Capitol Hill in Denver. The area, even then, had enormous advantages as a new residential district because of its closeness to the business district, its prominent siting and its spectacular views. As a result, and in addition to a sprinkling of existing farm or country houses, many magnificent homes were built on the hill from 1901 until the Great Depression. In the Harvard-Belmont area of Capitol Hill, most of these older and impressive homes are still extant and interspersed with them are good examples of more modest residential architecture representative of every decade of this century (to date). Included in the District also are several of the Anhalt apartment houses, precursors of planned group living, including carefully maintained yards, romantic details, and garaging for automobiles; the main building of Cornish Institute, one of the more significant cultural-historical landmarks in the City; the Loveless apartment-retail building; the Harvard Exit Theatre, for many years the home of the Woman's Century Club; and the Rainier Chapter of the D.A.R., a careful replica of George Washington's home, Mt. Vernon. This mixture of function, uses, scale and economics is among the more interesting aspects of the area. Moreover, the combination of urban and almost pastoral qualities, the tree-shaded streets, the several open vistas, and the wooded ravines to the northwest, all create a neighborhood of outstanding and enduring character.
(Ord. 109388 § 4(b), 1980.)

25.22.060 Architectural criteria for District designation.

The Harvard-Belmont District includes a rich variety of residential buildings in the prevailing eclectic styles of the earlier years of this century, combined with a few late Victorian residences, significant Spanish and Tudor apartment groups, the modified Spanish style of the Cornish Institute, and many modest, noneclectic houses. Uniting this variety of architectural

expression are the tree-lined streets, the many walled yards and drives, interesting retaining walls and generous plantings all of which collectively create a backdrop and contiguous streetscape and neighborhood that are compatible in terms of design, scale and use of materials.
(Ord. 109388 § 4(c), 1980.)

25.22.070 Development and design review guidelines.

A. The Landmarks Preservation Board shall draft and, after consideration and review in accordance with the Administrative Procedure Ordinance (102228)1 shall adopt development and design review guidelines as rules which shall become effective upon filing with the City Clerk. Notice and conduct of such public hearing(s) shall be in accordance with the rules of the Landmarks Preservation Board and Ordinance 102228.1

B. The development and design review guidelines shall identify the unique values of the District, shall include a statement of purpose and intent, and shall be consistent with the purposes of this chapter and the criteria specified in Section 25.22.030. The guidelines shall identify design characteristics which have either a positive or negative effect upon the unique values of the District and shall specify design-related considerations which will be allowed, encouraged, limited or excluded from the District when certificate of approval applications are reviewed. All guidelines shall be consistent with the Zoning Ordinance (86300)2 and other applicable ordinances.
(Ord. 109388 § 5, 1980.)
1. Editor's Note: Ord. 102228 is codified in Chapter 3.02 of this Code.
2. Editor's Note: Ordinance 86300 and Title 24 were repealed by Ordinance 117570.

25.22.080 District administration.

Jurisdiction over changes and improvements in the District is vested in the Seattle Landmarks Preservation Board. In order, however, to maintain adequate community involvement and contact, an Application Review Committee is created which shall consist of two (2) members of the Landmarks Board, at least one (1) of whom shall be an architect, and three (3) members selected from property owners, residents, business owners or employees, or officers of institutions within the District boundaries.

The members of the committee shall be appointed annually by the Chairman of the Landmarks Board with the approval of the Landmarks Board. The Committee shall review and make recommendations to the Landmarks Board for issuance or denial of applications for certificates of approval within the District.
(Ord. 109388 § 6, 1980.)

25.22.090 Approval of significant changes to buildings, structures and other property.

Within the District, a certificate of approval, issued by the Landmarks Preservation Board, is required prior to the issuance of any City building, demolition, street use, or other permits for proposed work which work is within or visible from a public street, alley or way, and, which involves:

A. The demolition of, or exterior alterations or additions to, any building or structure;

B. Any new construction;

C. The addition or removal of major landscape and site elements, such as retaining walls, gateways, trees or driveways.In addition, for proposed removal or addition of significant landscape and site elements for which permits are not required, and which are identified specifically in the District development and design review guidelines, a certificate of approval from the Landmarks Preservation Board shall also be required prior to the initiation of the proposed work.
(Ord. 109388 § 7, 1980.)

25.22.100 Application for certificate of approval.

A. Application.

1. Application for a certificate of approval may be made by filing an application for such a certificate with the Board.

2. The following information must be provided in order for the application to be complete, unless the special review board staff indicate in writing that specific information is not necessary for a particular application:

a. Building name and building address;

b. Name of the business(es) located at the site of the proposed work;

c. Applicant's name and address;

d. Building owner's name and address;

e. Applicant's telephone number;

f. The building owner's signature on the application, or a signed letter from the owner designating the applicant as the owner's representative, if the applicant is not the owner;

g. Confirmation that the fee required by SMC Chapter 22.901T of the Permit Fee Subtitle has been paid;

h. A detailed description of the proposed work, including:

(1) Any changes it will make to the site,

(2) Any effect that the work would have on the public right-of-way or other public spaces,

(3) Any new construction;

i. Four (4) sets of scale drawings, with all dimensions shown, of:

(1) A site plan of existing conditions, showing adjacent streets and buildings, and, if the proposal includes any work in the public right-of-way, the existing street uses, such as street trees and sidewalk displays, and another site plan showing proposed changes to the existing conditions,

(2) A floor plan showing the existing features and a floor plan showing the proposed new features,

(3) Elevations and sections of both the proposed new features and the existing features,

(4) Construction details,

(5) A landscape plan showing existing features and plantings, and another landscape plan showing proposed site features and plantings;

j. Photographs of any existing features that would be altered and photographs showing the context of those features, such as the building facade where they are located;

k. One (1) sample of proposed colors, if the proposal includes new finishes or paint, and an elevation drawing or a photograph showing the location of proposed new finishes or paint;

l. If the proposal includes new signage, awnings, or exterior lighting:

(1) Four (4) sets of scale drawings of proposed signage or awnings, showing the overall dimensions, material, design graphics, typeface, letter size, and colors,

(2) Four (4) sets of a plan, photograph, or elevation drawing showing the location of the proposed awning, sign, or lighting,

(3) Four (4) copies of details showing the proposed method of attaching the new awning, sign, or lighting,

(4) The wattage and specifications of the proposed lighting, and a drawing or picture of the lighting fixture,

(5) One (1) sample of proposed sign colors or awning material and color;

m. If the proposal includes demolition of a structure or object:

(1) A statement of the reason(s) for demolition,

(2) A description of the replacement structure or object;

n. If the proposal includes replacement, removal, or demolition of existing features, a survey of the existing conditions of the features that would be replaced, removed, or demolished.

3. The staff shall determine whether an application is complete and shall notify the applicant in writing within twenty-eight (28) days of the application being filed whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete. Within fourteen (14) days of receiving the additional information, the staff shall notify the applicant in writing whether the application is now complete or what additional information is necessary. An application shall be deemed to be complete if the staff does not notify the applicant in writing by the deadlines in this section that the application is incomplete. A determination that the application is complete is not a determination that the application is vested.

4. The determination of completeness does not preclude the staff or the Board from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter and in any rules adopted by the Board, or if the proposed work changes. For example, additional information that may be required could include a shadow study or a traffic study when new construction is proposed.

B. An applicant may make a written request to submit an application for a certificate of approval for a preliminary design of a project, if the applicant waives in writing the deadline for a Board decision on the subsequent design phase or phases of the project and the applicant agrees in writing that the Board decision on the preliminary design is immediately appealable by the applicant or any interested person of record. The staff may reject the request if it appears that approval of a preliminary design would not be an efficient use of staff or Board time and resources, or would not further the goals and objectives of this chapter. To be complete, an application for a certificate of approval for a preliminary design must include the information listed above in subsection A2, subparagraphs a through h, i(1) through i(3), j, m and n. A certificate of approval that is granted for a preliminary design shall be conditioned upon subsequent submittal of the final design and all of the information listed above in subsection A2, and upon Board approval, prior to issuance of permits for work affecting any building or property in the District.

C. If an application is made to the Director for a permit for which a certificate of

approval is required, the Director of Construction and Land Use shall require the applicant to submit an application to the Board for a certificate of approval. Submission of a complete application for a certificate of approval to the Board shall be required before the permit application to the Department of Construction and Land Use may be determined to be complete. The Director shall continue to process the application, but shall not issue any permit until a certificate of approval has been issued pursuant to this chapter, or the time for filing the notice of denial of a certificate of approval with the Director has expired.

D. After the Board has commenced proceedings for the consideration of any application for a certificate of approval for a particular alteration or significant change by giving notice of a meeting pursuant to this section or otherwise, no other application for the same or a similar alteration or significant change at the same site may be made until the application is withdrawn or such proceedings and all appeals therefrom have been concluded, except that an application may be made for a certificate of approval for the preliminary design of a project and a later application may be made for a certificate of approval for subsequent design phase or phases of the same project.

E. A certificate of approval shall be valid for eighteen (18) months from the date of issuance of the Board's decision granting it unless the Board grants an extension in writing; provided however, that certificates of approval for actions subject to permits issued by the Department of Construction and Land Use shall be valid for the life of the permit, including any extensions granted in writing by the Department of Construction and Land Use.
(Ord. 119121 § 14, 1998; Ord. 118181 § 18, 1996: Ord. 118012 § 134, 1996: Ord. 109388 § 8, 1980.)

25.22.110 Board meeting on certificate of approval.

A. Within thirty (30) days after the filing of an application for a certificate of approval with the Board, the Board shall hold a meeting thereon and shall serve notice of the meeting on the owner and the applicant not less than five (5) days before the date of the meeting.

B. In reviewing applications or appeals of decisions of the Board, the Application Review Committee, the Landmarks Preservation Board and the Hearing Examiner shall consider: (1) the purposes of this chapter; (2) the criteria specified in Sections 25.22.040 through 25.22.060; (3) guidelines promulgated pursuant to this chapter; (4) the properties' historical and architectural or landscape value and significance; (5) the properties' architectural or landscape type and general design; (6) the arrangement, texture, material and color of the building or structure in question, and its appurtenant fixtures, including signs; (7) the relationship of such features to similar features within the Harvard-Belmont Landmark District; and (8) the position of such buildings, structures or landscape elements in relation to the street or public way and to other buildings, structures and landscape elements.
(Ord. 118012 § 135, 1996: Ord. 109388 § 9, 1980.)

25.22.120 Issuance of Board decision.

The Board shall consider the recommendation of the Application Review Committee and

shall, within forty-five (45) days after the application for a certificate of approval is determined to be complete, issue a written decision either granting, granting with conditions, or denying a certificate of approval and shall mail a copy of the decision to the owner, the applicant and the Director within three (3) working days after such decision. A decision denying a certificate of approval shall contain an explanation of the reasons for the Board's decision and specific findings with respect to this chapter and the adopted guidelines for the District. Notice of the Board's decision shall be provided to any person who, prior to the rendering of the decision, made a written request to receive notice of the decision or submitted written substantive comments on the application.
(Ord. 118012 § 135A, 1996: Ord. 109388 § 10, 1980.)

25.22.130 Appeal to Hearing Examiner.

A. Any interested person of record may appeal to the Hearing Examiner the decision of the Board to grant, grant with conditions, or deny a certificate of approval by serving written notice of appeal upon the Board and by filing such notice and a copy of the Board's decision with the Hearing Examiner within fourteen (14) days after the date the Board's decision is issued.

B. When the proposed action that is the subject of the certificate of approval is also the subject of one (1) or more related permit applications under review by the Department of Planning and Development, then the appellant must also file notice of the appeal with the Department of Planning and Development, and the appeal of the certificate of approval shall not be heard until all of the time periods for filing administrative appeals on the other permits have expired except that an appeal of a certificate of approval for the preliminary design or for subsequent design phases may proceed immediately according to Section 25.22.100 without being consolidated. If one (1) or more appeals are filed regarding the other permits, then the appeal of the certificate of approval shall be consolidated with them and shall be heard according to the same timelines established for the other appeals, except that appeals to the State Shoreline Hearings Board shall proceed independently according to the timelines set by the state for such appeals, and except that an appeal of a certificate of approval for a preliminary design or for a subsequent design phase may proceed according to Section 25.22.100 without being consolidated. If the related permit decisions would not be appealable, then the appeal of the certificate of approval decision shall proceed immediately after it is filed.

C. The applicant for the certificate of approval may elect to have the appeal proceed immediately rather than postponed for consolidation with appeals of related permit applications, if the applicant agrees in writing that the Department of Planning and Development may suspend its review of the related permits, and that the time period for review of those permits shall be suspended until the Hearing Examiner issues a decision on the appeal of the certificate of approval.

D. The Hearing Examiner shall hear and determine the appeal in accordance with the standards and procedures established for appeals to the Hearing Examiner under Seattle Municipal Code Sections 25.12.740 through 25.12.760 of the Landmarks Preservation Ordinance, and as prescribed under Section 25.22.110 B.

E. The Hearing Examiner shall issue a decision not later than ninety (90) days after the last of the appeals of related permit decisions is filed, or, if the applicant chooses to proceed immediately with the appeal of the certificate of approval, as provided in subsection C, then not later than ninety (90) days from the filing of that appeal. The time period to consider and decide the appeal of a certificate of approval shall be exempt from the deadlines for review and decision on both the certificate of approval and any related permit applications.

F. The Hearing Examiner's decision shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of record to the proceeding. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040. (Ord. 121276 § 34, 2003; Ord. 120157 § 18, 2000; Ord. 119121 § 15, 1998; Ord. 118012 § 136, 1996; Ord. 109388 § 11, 1980.)

25.22.135 Requests for interpretation.

A. An applicant for a certificate of approval may request an interpretation of the meaning of any part of this chapter as it relates to the requested certificate of approval. An interpretation shall not have any effect on certificates of approval that have already been granted.

B. An interpretation shall be requested in writing, specify the section of the code to be interpreted, and specify the question to be addressed. Requests shall be submitted to the Historic Preservation Officer.

C. If the requested interpretation relates to a certificate of approval for which an application has been filed, then the request for an interpretation cannot be made any later than fourteen (14) days after the application for the certificate of approval was submitted. Provided, however, that a request for an interpretation may be sought by the applicant at a later time if the applicant agrees in writing to suspend the time frames for review of the certificate of approval, and the time frames applicable to any related permits that are under review, until the interpretation is issued.

D. Interpretations shall be made in writing by the Historic Preservation Officer, and shall be issued within twenty-five (25) days of submission of the request. The interpretation decision shall be served on the requesting party, and notice of the decision shall be mailed to parties of record and interested persons of record.

E. A fee shall be charged for interpretations in the amount provided in the Permit Fee Subtitle of the Seattle Municipal Code, Chapter 22.901E, Table 6, Land Use Fees, and shall be collected by the Department of Neighborhoods.

F. An interpretation may be appealed by the applicant if the certificate of approval that the interpretation addresses is denied and the applicant is appealing the denial, or if the interpretation relates to conditions placed on the certificate of approval that the applicant is appealing. An appeal of an interpretation shall be filed at the same time as appeal of the related certificate of approval, and shall be consolidated with the appeal of the related certificate of

approval. Appeal of the interpretation shall proceed according to the same procedures and time frames provided in Section 25.22.130 for appeal of a certificate of approval, including the provisions for consolidation with appeals of any related permit decisions.

G. The Hearing Examiner shall give substantial weight to the Historic Preservation Officer's interpretation. The appellant shall have the burden of establishing that the interpretation is erroneous.

H. The Hearing Examiner may affirm, reverse, or modify the Historic Preservation Officer's interpretation, in whole or in part. The Hearing Examiner may also remand the interpretation to the Historic Preservation Officer for further consideration.

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Board, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be mailed to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.
(Ord. 120157 § 19, 2000; Ord. 118012 § 137, 1996.)

25.22.140 Enforcement and penalties.

The Director of the Department of Construction and Land Use shall enforce this chapter. Any failure to comply with its provisions constitutes a violation subject to the provisions of Chapter 12A.02 and Chapter 12A.04 of the Seattle Criminal Code,1 and any person convicted thereof may be punished by a civil fine or forfeiture not to exceed Five Hundred Dollars ($500). Each day's violation shall constitute a separate offense.
(Ord. 109388 § 12, 1980.)
1. Editor's Note: The Criminal Code is codified in Title 12A of this Code.

Chapter 25.24

PIKE PLACE MARKET HISTORICAL DISTRICT

Sections:

Severability: If any section, paragraph, subdivision, clause, phrase or provision of this chapter shall be adjudged to be invalid or held unconstitutional, the same shall not affect the validity of this chapter as a whole or any part or

provision thereof other than the part so decided to be invalid or unconstitutional.
(Ord. 100475 § 9, 1971.)
Editor's Note: A map of the Pike Place Market Historical District is included at the end of this chapter.

25.24.010 Purpose.

In order to promote the educational, cultural, farming, marketing, other economic resources, and the general welfare; and to assure the harmonious, orderly, and efficient growth and development of the municipality, it is deemed essential by the people of the City that the cultural, economic, and historical qualities relating to the Pike Place Markets and the surrounding area, and an harmonious outward appearance and market uses which preserve property values and attracts residents and tourists be preserved and encouraged; some of the qualities being: the continued existence and preservation of historical areas and buildings; continued construction and use of buildings for market activities, especially on street levels; and a general harmony as to style, form, color, proportion, texture, material, occupancy and use between existing buildings and new construction.
(Ord. 100475 § 1, 1971.)

25.24.015 Historic Preservation Officer.

The Historic Preservation Officer is the person described in the Landmarks Preservation Ordinance, SMC Section 25.12.320.
(Ord. 118012 § 138, 1996.)

25.24.020 Historical District designated.

There is created a Pike Place Market Historical District (hereafter called "Historical District") whose physical boundaries are illustrated on a map attached as Exhibit "A" to Ordinance 100475 which is codified at the end of this chapter.1
(Ord. 113199 § 1, 1986; Ord. 100475 § 2, 1971.)
1. Editor's Note: Exhibit A was amended by Ordinance 113199.

25.24.030 Commission created.

There is created a Market Historical Commission (hereafter called "Commission") appointed by the Mayor with the consent of a majority of the City Council and to be composed of two (2) representatives each from the Friends of the Market, Inc., Allied Arts of Seattle, Inc., and the Seattle Chapter of the American Institute of Architects; and two (2) owners of property within the Historical District, two (2) merchants of the markets, and two (2) residents of the Historical District. The Mayor shall make his appointments of the representatives of Friends of the Market, Allied Arts, and the Seattle Chapter of the American Institute of Architects, from a list of four (4) nominees submitted by each of the said organizations. The members shall serve three (3) year terms with the terms of the first Commission to be staggered. The Commission shall have for its purpose the preservation, restoration, and improvement of such buildings and continuance of uses in the Historical District, as in the opinion of the Commission shall be deemed to have architectural, cultural, economic, and historical value as described in Section 25.24.040, and which buildings should be preserved for the benefit of the people of Seattle. The

Commission shall also make rules, regulations, and guidelines according to the criteria as contained in this chapter for the guidance of property owners within the Historical District. The Commission shall also develop plans for the acquisition and perpetuation of the Pike Place Markets and of market activities through either public ownership or other means and shall make recommendations to the City Council from time to time concerning their progress. Staff assistance and other services shall be provided by the Department of Neighborhoods to the Commission as requested.
(Ord. 115958 § 36, 1991: Ord. 100475 § 3, 1971.)

25.24.040 Criteria.

A. In carrying out its function, the Commission shall consider the purposes of this chapter as outlined in the chapter and the nature, function, and history of the District as described in this section.

B. The Historical District has played and continues to play a significant role in the development of Seattle and the Puget Sound Region since the inception of the Public Market in 1907. It has served as the center of local farm marketing, and other marketing businesses through varied economic times. It is significant in the culture of the region drawing together a broad spectrum of people from all ethnic, national, economic, and social backgrounds as a prototype of truly cosmopolitan urban life. It promotes local farming while making available local produce to shoppers and others. The District provides considerable housing for a community of low-income residents who are part of the life and color of the market. It has achieved world-wide fame as an uniquely American market and serves as the source of inspiration for markets elsewhere.

C. The Historical District is associated with the lives of many Seattle and Puget Sound region families and persons as farmers, merchants, and shoppers through marketing activities. It is an outstanding example of small independent businesses operating in the best tradition of American enterprise.

D. The buildings with their marketing activities and residential uses combine to form a distinctive area focusing on the central Market buildings which although humble and anonymous in character are an example of intriguing, dramatic architectural space servicing and adjusting to the varied and varying characteristic marketing activities. The central building spaces are particularly unique in form and character having grown to their present form through years of anonymous and functional creation to conform to the changing market activities always serving low-income customers along with other special needs of the public. The District possesses integrity of location, original construction, use, and of feeling and association.

E. The preservation of the Historical District will yield information of educational significance regarding our culture and our ecology as well as retaining its color, attraction, and interest for the City. Preservation of the District will retain a characteristic environment of a period of Seattle's history while continuing a vital cultural and economic aspect of the City.
(Ord. 100475 § 4, 1971.)

25.24.050 Commission procedures.

The Commission shall adopt rules and regulations for its own government, not inconsistent with the provisions of this chapter or any other ordinance of the City. Meetings of the Commission shall be open to the public and shall be held at the call of the Chairman and at such other times as the Commission may determine. All official meetings of the Commission shall keep minutes of its proceedings, showing the action of the Commission upon each question, and shall keep records of its proceedings and other official actions taken by it, all of which shall be immediately filed in the Department of Neighborhoods and shall be a public record. All actions of the Commission shall be by resolution which shall include the reasons for each decision. A majority vote shall be necessary to decide in favor of an applicant on any matter upon which it is required to render a decision under this chapter.
(Ord. 115958 § 37, 1991: Ord. 100475 § 5, 1971.)

25.24.055 Definition.

"Certificate of approval" means written authorization which must be issued by the Commission before any change to any building, structure or other visible element may be made. The term includes written approval of a preliminary design as well as of subsequent design phases.
(Ord. 119121 § 16, 1998.)

25.24.060 Approval of changes to buildings, structures and other visible elements.

A. No structure or part thereof shall be erected, altered, extended, or reconstructed, and no structure, lot or public place as defined in Section 15.02.040 shall be altered, used or occupied except pursuant to a certificate of approval authorized by the Commission which shall not be transferable; and no building permit shall issue except in conformance with a valid certificate of approval. However, no regulation nor any amendment thereof shall apply to any existing building, structure, or use of land to the extent to which it is used at the time of the adoption of such regulation or amendment or any existing division of land, except that such regulation or amendment may regulate nonuse or a nonconforming use so as not to unduly prolong the life thereof. No new off-premises advertising signs shall be established within the boundaries of the Historical District including public places except where areas have been reserved for groups of signs or for signs which identify the Market District as a whole, as determined by the Commission. The fee for certificates of approval shall be according to the SMC Chapter 22.901T, Permit Fee Subtitle.

B. Application.

1. Applications for certificates of approval involving structures or sites within the Historical District shall be submitted to the Commission. If an application is made to the Director for a permit for which a certificate of approval is required, the Director of Construction and Land Use shall require the applicant to submit an application to the Commission for a certificate of approval. Submission of the application for a certificate of approval to the Commission shall be required before the permit application to the Department of Construction and Land Use

may be determined to be complete.

2. The following information must be provided in order for the application to be complete, unless the Commission's staff indicate in writing that specific information is not necessary for a particular application:

a. Business name and business address;

b. Name of the building(s) located at the site of the proposed work;

c. The square footage of the shop where the proposed work would take place;

d. Applicant's name and address;

e. Landlord or building owner's name and address;

f. A written description of the ownership interest and role in the business operation;

g. Applicant's telephone number;

h. The building owner's signature on the application, or a signed letter from the owner designating the applicant as the owner's representative, if the applicant is not the owner;

i. Confirmation that the fee required by SMC Chapter 22.901T of the Permit Fee Subtitle has been paid;

j. A detailed description of the proposed merchandise, service, or work, including:

i. Any changes it will make to the building or the site,

ii. Any effect that the proposed work or use would have on the public right-of-way or other public spaces,

iii. Any new construction,

iv. Any proposed use, change of use, or expansion of use,

v. Any change of ownership or location,

vi. Any proposed increase in the business area;

k. Four (4) sets of scale drawings, with all dimensions shown, of:

i. A site plan of existing conditions, showing adjacent streets and buildings, and, if the proposal includes any work in the public right-of-way, the existing street uses, such as street trees and sidewalk displays, and another site plan showing proposed changes to the existing conditions,

ii. A floor plan showing the existing features and a floor plan showing the proposed new features,

iii. Elevations and sections of both the proposed new features and the existing features,

iv. Construction details,

v. A landscape plan showing existing features and plantings, and another landscape plan showing proposed site features and plantings;

l. Photographs of any existing features that would be altered and photographs showing the context of those features, such as the building facade where they are located;

m. One (1) sample of proposed colors, if the proposal includes new finishes, fixtures, furniture, or paint, and an elevation drawing or a photograph showing the location of proposed new finishes, fixtures, furniture, or paint;

n. If the proposal includes new signage, awnings, or exterior lighting:

i. Four (4) sets of scale drawings of proposed signage or awnings, showing the overall dimensions, material, design graphics, typeface, letter size, and colors,

ii. Four (4) sets of a plan, photograph, or elevation drawing showing the location of the proposed awning, sign, or lighting,

iii. Four (4) copies of details showing the proposed method of attaching the new awning, sign, or lighting,

iv. The wattage and specifications of the proposed lighting, and a drawing or picture of the lighting fixture,

v. One (1) sample of proposed sign colors or awning material and color;

o. If the proposal includes demolition of a structure or object:

i. A statement of the reason(s) for demolition,

ii. A description of the replacement structure or object, and the replacement use;

p. If the proposal includes replacement, removal, or demolition of existing features, a survey of the existing conditions of the features that would be replaced, removed, or demolished.

3. The staff shall determine whether an application is complete and shall notify the applicant in writing within twenty-eight (28) days of the application being filed whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete. Within fourteen (14) days of receiving the additional information, the staff shall notify the applicant in writing whether the application is now complete or what additional information is necessary. An application shall be deemed to be complete if the staff does not notify the applicant in writing by the deadlines in this section that the application is incomplete. A determination that the application is complete is not a determination that the application is vested.

4. The determination of completeness does not preclude the staff or the Commission from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter and in any rules adopted by the Commission, or if the proposed work changes. For example, additional information that may be required could include a shadow study or a traffic study when new construction is proposed.

5. After the Commission has given notice of the meeting at which an application for a certificate of approval will be considered, no other application for the same alteration or change of use may be submitted until the application is withdrawn or the Commission has approved or denied the existing application and all appeals have been concluded, except when an application is made for a certificate of approval for the preliminary design of a project, a later application may be made for a certificate of approval for a subsequent design phase or phases of the same project.

C. An applicant may make a written request to submit an application for a certificate of approval for a preliminary design of a project if the applicant waives in writing the deadline for a Commission decision on the subsequent design phase or phases of the project, and agrees in writing that the Commission decision on the preliminary design is immediately appealable by the applicant or any interested person of record. The staff may reject the request if it appears that approval of a preliminary design would not be an efficient use of staff or Commission time and resources, or would not further the goals and objectives of this chapter. To be complete, an application for a certificate of approval for a preliminary design must include the information

listed above in subsection B2, subparagaphs a through j, k(i), k(ii), k(iii), k(v), l, o and p. A certificate of approval that is granted for a preliminary design shall be conditioned upon subsequent submittal of the final design and all of the information listed above in subsection B2 and Commission approval prior to issuance of permits for work affecting a building, structure or other visible element.

D. The Commission shall review and make recommendations regarding appropriateness of each proposed change or addition and a certificate of approval shall be issued by the Commission as provided in this chapter. The Commission, in considering the appropriateness of any alteration, demolition, new construction, reconstruction, restoration, remodeling, or other modification of any building or other structure in the Historic District, including structures to be located in public places, shall refer to the purpose of this chapter and shall consider among other things the historical and architectural value and significance, architectural style, the general design, arrangement, texture, material, occupancy and use, and color of the building or structure in question or its appurtenant fixtures, including signs, the relationship of such features to similar features of the other buildings within the Historical District and the position of such building or structure in relation to the street, public way, or semipublic way and to other buildings and structures. The Commission shall also make no recommendations or requirements except for the purpose of preventing developments inconsistent with the criteria of this chapter. Where modification of the appearance of a structure within the Historical District does not require a building or demolition permit, an application for a certificate of approval shall nonetheless be filed with the Commission.

E. The Commission shall have sole responsibility for determining the appropriate location, design and use of signs and structures to be located on or above the surface of public places in the Historical District and the sole responsibility for licensing and determining the appropriate locations for performers as defined in Section 17.32.010 H1 of the Seattle Municipal Code, in the Historical District; provided, that property owned by the Pike Place Market Preservation and Development Authority shall not be considered a public place for the purposes of this subsection. The Commission shall establish guidelines for the use of public places in the District by performers, may assess reasonable permit fees, and may utilize the services of the Pike Place Market Preservation and Development Authority (PDA) or should the PDA decline to make its services available, may utilize the services of any other organization appropriate for implementation of performers licensing guidelines. It shall be unlawful for any performer to actively solicit donations by word of mouth, gestures, mechanical devices, second parties. It shall also be unlawful for any performer or other person to use any device for the reproduction or amplification of sound without the express written approval of the Commission secured in advance.

(Ord. 119121 § 17, 1998: Ord. 118012 § 139, 1996: Ord. 111235 § 1, 1983: Ord. 109125 § 8(part), 1980: Ord. 106985 § 7(part), 1977: Ord. 106309 § 1(part), 1977: Ord. 104658 § 1(part), 1975: Ord. 100475 § 6(part), 1971.)

1. Editor's Note: Former Chapter 17.32, on the Pike Place Market, was repealed by Ordinance 111236.

25.24.070 Issuance of certificate of approval.

A. The Commission shall consider and approve or disapprove or approve with conditions applications for a certificate of approval as contemplated in this chapter not later than

thirty (30) days after any such application is determined to be complete, and a public meeting shall be held on each such application. If after such meeting and upon review of the Commission it determines that the proposed changes are consistent with the criteria for historic preservation as set forth in Section 25.24.040, the Commission shall issue the certificate of approval within forty-five (45) days of the determination that the application is complete, and shall provide notice of its decision to the applicant, the Department of Planning and Development, and to any person who, prior to the rendering of the decision, made a written request to receive notice of the decision or commented in writing on the application. After such a decision, the Director of Planning and Development is then authorized to issue a permit.

B. A certificate of approval for a use shall be valid as long as the use is authorized by the applicable codes. Any other type of certificate of approval shall be valid for eighteen (18) months from the date of issuance of the decision granting it unless the Director of the Department of Neighborhoods grants an extension in writing; provided however, that certificates of approval for actions subject to permits issued by the Department of Planning and Development shall be valid for the life of the permit issued by the Department of Planning and Development, including any extensions granted by the Department of Planning and Development in writing.
(Ord. No. 121276 § 37, 2003; Ord. 118012 § 140, 1996: Ord. 109125 § 8(part), 1980: Ord. 106985 § 7(part), 1977: Ord. 106309 § 1(part), 1977: Ord. 104658 § 1(part), 1975: Ord. 100475 § 6(part), 1971.)

25.24.080 Appeal to Hearing Examiner.

A. Any interested person of record may appeal to the Hearing Examiner the decision of the Commission to grant, grant with conditions, or deny a certificate of approval by serving written notice of appeal upon the Commission and by filing such notice and a copy of the Commission's decision with the Hearing Examiner within fourteen (14) days after the date the Commission's decision is issued.

B. When the proposed action that is the subject of the certificate of approval is also the subject of one (1) or more related permit applications under review by the Department of Planning and Development, then the appellant must also file notice of the appeal with the Department of Planning and Development, and the appeal of the certificate of approval shall not be heard until all of the time periods for filing administrative appeals on the other permits have expired except that an appeal of a certificate of approval for the preliminary design or for subsequent design phases may proceed immediately according to Section 25.24.060 without being consolidated. If one (1) or more appeals are filed regarding the other permits, then the appeal of the certificate of approval shall be consolidated with them and shall be heard according to the same timelines established for the other appeals, except that appeals to the State Shoreline Hearings Board shall proceed independently according to the timelines set by the state for such appeals and except that an appeal of a certificate of approval for a preliminary design or for a subsequent design phase may proceed according to Section 25.24.060 without being consolidated. If the related permit decisions would not be appealable, then the appeal of the certificate of approval decision shall proceed immediately after it is filed.

C. The applicant for the certificate of approval may elect to have the appeal proceed immediately rather than postponed for consolidation with appeals of related permit applications, if the applicant agrees in writing that the Department of Planning and Development may suspend its review of the related permits, and that the time period for review of those permits shall be suspended until the Hearing Examiner issues a decision on the appeal of the certificate of approval.

D. The Hearing Examiner may reverse or modify an action of the Commission only if the Hearing Examiner finds that:

1. Such action of the Commission violates the terms of this chapter or rules, regulations or guidelines adopted pursuant to the authority of this chapter; or

2. Such action of the Commission is based upon a recommendation made in violation of the procedures set forth in this chapter or procedures established by rules, regulations or guidelines adopted pursuant to the authority of this chapter and such procedural violation operates unfairly against the applicant.

E. The Hearing Examiner shall issue a decision not later than ninety (90) days after the last of the appeals of related permit decisions is filed, or, if the applicant chooses to proceed immediately with the appeal of the certificate of approval, as provided in subsection C, then not later than ninety (90) days from the filing of that appeal. The time period to consider and decide the appeal of a certificate of approval shall be exempt from the deadlines for review and decision on both the certificate of approval and any related permit applications.

F. The Hearing Examiner's decision shall be final. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.
(Ord. 121276 § 35, 2003; Ord. 120157 § 20, 2000; Ord. 119121 § 18, 1998; Ord. 118012 § 141, 1996: Ord. 115958 § 38, 1991: Ord. 109125 § 8(part), 1980: Ord. 106985 § 7(part), 1977: Ord. 106309 § 1(part), 1977: Ord. 104658 § 1(part), 1975: Ord. 100475 § 6(part), 1971.)

25.24.085 Requests for interpretation.

A. An applicant for a certificate of approval may request an interpretation of the meaning of any part of this chapter as it relates to the requested certificate of approval. An interpretation shall not have any effect on certificates of approval that have already been granted.

B. An interpretation shall be requested in writing, specify the section of the code to be interpreted, and specify the question to be addressed. Requests shall be submitted to the Historic Preservation Officer.

C. If the requested interpretation relates to a certificate of approval for which an application has been filed, then the request for an interpretation cannot be made any later than fourteen (14) days after the application for the certificate of approval was submitted. Provided, however, that a request for an interpretation may be sought by the applicant at a later time if the

applicant agrees in writing to suspend the time frames for review of the certificate of approval, and the time frames applicable to any related permits that are under review, until the interpretation is issued.

D. Interpretations shall be made in writing by the Historic Preservation Officer, and shall be issued within twenty-five (25) days of submission of the request. The interpretation decision shall be served on the requesting party, and notice of the decision shall be mailed to parties of record and interest persons of record.

E. A fee shall be charged for interpretations in the amount provided in the Permit Fee Subtitle of the Seattle Municipal Code, Chapter 22.901E, Table 6, Land Use Fees, and shall be collected by the Department of Neighborhoods.

F. An interpretation may be appealed by the applicant if the certificate of approval that the interpretation addresses is denied and the applicant is appealing the denial, or if the interpretation relates to conditions placed on the certificate of approval that the applicant is appealing. An appeal of an interpretation shall be filed at the same time as appeal of the related certificate of approval, and shall be consolidated with the appeal of the related certificate of approval. Appeal of the interpretation shall proceed according to the same procedures and time frames provided in Section 25.24.080 for appeal of a certificate of approval, including the provisions for consolidation with appeals of any related permit decisions.

G. The Hearing Examiner shall give substantial weight to the Historic Preservation Officer's interpretation. The appellant shall have the burden of establishing that the interpretation is erroneous.

H. The Hearing Examiner may affirm, reverse, or modify the Historic Preservation Officer's interpretation, in whole or in part. The Hearing Examiner may also remand the interpretation to the Historic Preservation Officer for further consideration.

I. The decision of the Hearing Examiner shall be final. The Hearing Examiner's decision shall be binding upon the Historic Preservation Officer and the Commission, as well as all parties of record to the proceeding. Copies of the Hearing Examiner's decision shall be mailed to the Historic Preservation Officer and to all parties of record before the Hearing Examiner. Judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.
(Ord. 120157 § 21, 2000; Ord. 118012 § 142, 1996.)

25.24.090 Enforcement.

The provisions of this chapter shall be enforced by the Director of Planning and Development.
(Ord. No. 121276 § 37, 2003; Ord. 109125 § 9(part), 1980: Ord. 100475 § 7, 1971.)

25.24.100 Violation--Penalty.

Anyone failing to comply with any provisions of this chapter shall upon conviction thereof be subject to the penalties as provided by the laws of the City for failure to obtain a use permit from the Director of Planning and Development.
(Ord. No. 121276 § 37, 2003; Ord. 109125 § 9(part), 1980: Ord. 100475 § 8, 1971.)

GRAPHIC UNAVAILABLE: Exhibit "A"--Pike Place Market Historical District

Chapter 25.28

PIONEER SQUARE HISTORICAL DISTRICT

Sections:

Subchapter I. Historical District[1, 2]

1. Editor's Note: Historic District provisions were repealed by Ord. 110058. For provisions on the Pioneer Square Preservation District, see Chapter 23.66 of this Code.
2. A map of the Pioneer Square Historical District is included at the end of this chapter.

Cases: An order of the Pioneer Square Historic Preservation Board requiring an owner to replace a parapet, which was hazardous, did not take her property without just compensation. Buttnick v. Seattle, 105 Wn.2d 857, 719 P.2d 93 (1986).

Subchapter II. Minimum Maintenance Regulations

Severability: The several provisions of Subchapter II are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, or portion of Subchapter II, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of Subchapter II or the validity of its application to other persons or circumstances.
(Ord. 107323 § 5.02, 1978.)

Subchapter II

Minimum Maintenance Regulations

25.28.200 Short title.

This subchapter shall be known and may be cited as the "Pioneer Square Minimum Maintenance Ordinance" and is referred to herein as "this subchapter."

(Ord. 107323 § 1.01, 1978.)

25.28.210 Declaration of findings and purpose.

A. It is found and declared that historic buildings which reflect significant elements of the City's cultural, aesthetic, social, economic, political, architectural, engineering, historic and other heritage should be preserved, protected, enhanced, and perpetuated.

B. It is further found and declared that some buildings and structures located within the Pioneer Square Historic District are substandard, in danger of decay and deterioration occasioned by neglect, in danger of causing or contributing to the creation of blight adverse to the health, safety, and general welfare of the public.

C. It is further found and declared that certain conditions and circumstances endanger the preservation of the building or structure and the public safety; and it is the purpose of this subchapter to establish procedures for the correction of such conditions.

D. For the achievement of these purposes, certain minimum maintenance standards are established, and a building or structure which fails to meet such standards is identified in this subchapter as a "substandard historic building."
(Ord. 107323 § 1.02, 1978.)

25.28.220 Scope.

The subchapter shall apply to the buildings or structures within the following geographic boundaries:

> Beginning at the intersection of South King Street and Alaskan Way South, then north along the west line of Alaskan Way South to the south line of South Washington Street; then west to the inner harbor line of Elliott Bay; then north to the north line of South Washington Street; then east to the west line of Alaskan Way South; then northwest to the center line of Columbia Street; then northeast to the east line of the alley between First Avenue and Second Avenue; then southwest to the center line of Cherry Street; then northeast to the east line of the alley between Second Avenue and Third Avenue; then southeast to the north line of James Street; then northeast to the east line of Third Avenue; then southeast to the north line of Jefferson Street; then northeast to the east line of Fourth Avenue; then southeast to the north line of Terrace Street; then northeast to the center line of Fifth Avenue; then southeast and south to the south line of Yesler Way; then west to a line midblock between Fourth Avenue South and Fifth Avenue South; then south to the south line of South Washington Street; then west to the center line of Fourth Avenue South; then south to the north line of South Jackson Street, then east to the center line of Fifth Avenue South; then south to a line one hundred twenty feet south of and parallel with the production east of the south line of South King Street; then west to the production south of the west line of Third Avenue South; then north to the south side of South King Street, then west to the point of beginning;

all in Seattle, King County, Washington, and illustrated on a map attached to the ordinance from which this section derives as Exhibit "A."1
(Ord. 111874 § 1, 1984: Ord. 107323 § 1.03, 1978.)

25.28.230 Definitions.

A. For the purpose of this subchapter certain abbreviations, terms, phrases, words, and their derivations shall be construed as specified in this section. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

B. "Building" means any structure other than the Burlington Northern railroad tunnel used or intended for supporting or sheltering any use or occupancy.

C. "Hearing Examiner" means the Hearing Examiner of the City created by Ordinance 102228,[1] or his duly authorized representative.

D. "Owner" means any person who, alone or jointly or severally with others, has title or interest in any building, with or without accompanying actual possession thereof, and includes any person who as agent, or executor, administrator, trustee, or guardian of an estate has charge, care, or control of any building.

E. "Party affected" means any owner, tenant, or other person having a direct financial interest in the subject building or any adjacent property or any person whose health or safety is directly affected by the subject building, or the Pioneer Square Historic Preservation Board established by Ordinance 98852.2

F. "Permit" means any form of certificate, approval, registration, license, or other written permission which is required by law, ordinance or regulation to be obtained before engaging in any activity.

G. "Person" means any individual, firm, corporation, association or partnership and their agents or assigns.

H. "Superintendent" means the Director of Planning and Development and shall also include any duly authorized representative of the Director.
(Ord. 121276 § 36, 2003; Ord. 111874 § 2, 1984; Ord. 109125 § 17, 1980; Ord. 107323 §§ 3.01-3.08, 1978.)
1. Editor's Note: Ord. 102228 is codified in Chapter 3.02 of this Code.
2. Editor's Note: Ord. 98852 was repealed by Ord. 110058. For provisions on the Pioneer Square Preservation Board, see Chapter 23.66 of this Code.

25.28.240 Enforcement.

A. The Superintendent of Buildings is designated as the officer to exercise the powers assigned by this subchapter in relation to substandard historic buildings.

B. The Superintendent is authorized and directed to adopt, promulgate, amend and rescind in accordance with the Administrative Code of the City (Ordinance 102228),1 as now or hereafter amended, administrative rules consistent with this subchapter and necessary to carry out the duties of the Superintendent hereunder.
(Ord. 107323 § 2.01, 1978.)
1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.28.250 Right of entry.

A. Whenever necessary to make an inspection to enforce any of the provisions of this subchapter or whenever the Superintendent has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises a substandard historic building as defined in Section 25.28.270, and upon presentation of proper credentials, the Superintendent may with the consent of the occupant or with the consent of the owner or person in charge of an unoccupied building or pursuant to a lawfully issued warrant, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Superintendent by this subchapter.

B. No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand pursuant to a lawful warrant is made, to promptly permit entry therein by the Superintendent for the purpose of inspection and examination pursuant to this subchapter.
(Ord. 107323 § 2.02, 1978.)

25.28.260 Minimum Maintenance Historic Building Revolving Fund.

There is created in the City Treasury a special fund designated the "Minimum Maintenance Historic Building Revolving Fund," from which fund shall be paid costs and expenses incurred by the City in connection with the repair, alteration or preservation of any substandard historic building as defined by this subchapter and ordered repaired, altered or preserved, and into which fund shall be deposited:

A. Such sums as may be recovered by the City as reimbursement for costs and expenses of repair, alteration or improvement of historic buildings and structures found to be substandard;

B. Such other sums as may by ordinance be appropriated to or designated as revenue of such fund; and

C. The unencumbered balance remaining as of the effective date of the ordinance codified in this subchapter[1] in the Pioneer Square Historic District Revolving Fund created by Ordinance 98852,[2] which fund is abolished and said balance transferred; and

D. Such other sums as may by gift, bequest or grants be deposited in such fund.
(Ord. 107323 § 2.03, 1978.)
1. Editor's Note: The effective date of Ord. 107323 is May 31, 1978.
2. Editor's Note: Ord. 98852 was repealed by Ord. 110058.

25.28.270 Conditions contributing to "substandard" designation.

Any building in which there exists any of the following conditions to the degree that the preservation of the building or the safety of the public is substantially endangered is declared for the purposes of this subchapter to be a "substandard historic building":

A. Structural defects or hazards, including but not limited to the following:

1. Footing or foundations which are weakened, deteriorated, insecure, or inadequate or of insufficient size to carry imposed loads with safety,

2. Flooring or floor supports which are defective, deteriorated, or of insufficient size or strength to carry imposed loads with safety,

3. Members of walls, partitions, or other vertical supports that split, lean, list, buckle, or are of insufficient size or strength to carry imposed loads with safety,

4. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, buckle, or are of insufficient size or strength to carry imposed loads with safety,

5. Fireplaces or chimneys which list, bulge, settle or are of insufficient size or strength to carry imposed loads with safety;

B. Defective or inadequate weather protection, including but not limited to the following:

1. Crumbling, broken, loose, or falling interior wall or ceiling covering,

2. Broken or missing doors and windows,

3. Deteriorated, ineffective or lack of waterproofing of foundations or floors,

4. Deteriorated, ineffective, or lack of exterior wall covering, including lack of paint or other approved protective coating,

5. Deteriorated, ineffective, or lack of roof covering,

6. Broken, split, decayed or buckled exterior wall or roof covering;

C. Defects increasing the hazards of fire or accident, including, but not limited to the following:

1. Accumulation of rubbish and debris,

2. Any condition which could cause a fire or explosion or provide a ready fuel to augment the spread or intensity of fire or explosion arising from any cause.

(Ord. 107323 § 4.01, 1978.)

25.28.280 Determination of maintenance requirements.

A. Commencement of Proceedings. Whenever the Superintendent of Buildings has inspected or caused to be inspected any building, structure, premises, land, or portion thereof, and determines that it is a substandard historic building used or maintained in violation of this subchapter, he shall commence proceedings to cause the abatement of each violation.

B. Notice and Order. The Superintendent of Buildings shall issue a written notice and order directed to the owner of the building as shown upon the records of the Department of Records and Elections of King County in the manner prescribed in Section 25.28.290, with a copy to the Pioneer Square Historic Preservation Board. The notice and order shall contain:

1. The street address when available and a legal description of real property and/or description of personal property sufficient for identification of where the violation occurred or is located;

2. A statement that the Superintendent has found the building to be in violation of this subchapter with a brief and concise description of the conditions found to be in violation;

3. A statement of the corrective action required to be taken. If the Superintendent has determined that corrective work is required, the order shall require that all required permits be secured and the work physically commenced within such time and be completed within such time as the Superintendent shall determine is reasonable under the circumstances;

4. A statement specifying the amount of any civil penalty that would be assessed on account of the violation and, if applicable, the conditions on which assessment of such civil penalty is contingent;

5. A statement informing the recipient that he must comply with required permit procedures for historic buildings, including requirements for a certificate of approval;

6. Statements advising that: (a) if any required work is not commenced or completed within the time specified, the Superintendent will proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property, if not previously paid;

7. A statement advising that the order shall become final unless no later than thirty (30) days after the notice and order are served, any party affected by the order requests in writing an appeal hearing before the Hearing Examiner.

(Ord. 107323 § 4.02, 1978.)

25.28.290 Method of service of notice and order.

Service of the notice and order shall be made upon all persons having an interest in the property in the manner provided for the service of notices in Section 5.03 of the Housing Code (Ordinance 106319);1 provided, that when personal service is obtained upon all persons having an interest in the property, it shall not be necessary to post a copy of the notice and order of the property.

(Ord. 107323 § 4.03, 1978.)

1. Editor's Note: The Housing Code is codified in Title 22 of this Code.

25.28.300 Appeals.

A. Any party affected by an order of the Superintendent shall have the right to appeal to the Hearing Examiner.

B. In order for an appeal to be perfected the following provisions must be followed:

1. The appeal must be filed with the Hearing Examiner not later than the thirtieth day following the service of the notice and order of the Superintendent;

2. The appeal must be in writing and state in a clear and concise manner the specific exceptions and objections to the notice and order of the Superintendent.

C. The Hearing Examiner shall set a date for hearing the appeal in a timely manner and shall provide no less that twenty (20) days' written notice to the parties.

D. The appeal hearing shall be conducted pursuant to the contested case provisions of the Administrative Code (Ordinance 102228, as amended).1 The Hearing Examiner is authorized to promulgate procedural rules for the appeal hearing pursuant to the Administrative Code.

E. The appeal hearing shall be a new or de novo hearing. Substantial weight shall be given to the notice and order of the Superintendent and the burden of establishing the contrary shall be upon the appealing party.

F. The Hearing Examiner shall have the authority to affirm, modify, reverse, or remand the notice and order of the Superintendent, or to grant other appropriate relief.

G. Within fourteen (14) days after the hearing, a written decision containing findings of fact and conclusions shall be transmitted to the parties.

(Ord. 107323 § 4.04, 1978.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.28.310 Final order.

A. Any order duly issued by the Superintendent pursuant to the procedures contained in this subchapter shall become final thirty (30) days after service of the notice and order unless a written request for an appeal hearing is received by the Hearing Examiner within that thirty (30) day period.

B. An order which is subject to the appeal procedures shall become final twenty-one (21) days after issuance of the Hearing Examiner's decision unless within that time period a person with standing to file a land use petition in King County Superior Court files such a petition as provided by Section 705 of Chapter 347 of the Laws of 1995.

C. Any final order shall be filed by the Superintendent with the Department of Records and Elections of King County, and the filing shall have the same effect as provided by laws for other lis pendens notices.
(Ord. 117789 § 17, 1995; Ord. 107323 § 4.05, 1978.)

25.28.320 Supplemental notice and order.

The Superintendent may at any time add to, rescind in part, or otherwise modify a notice and order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedures applicable to all notices and orders contained in this subchapter.
(Ord. 107323 § 4.06, 1978.)

25.28.330 Enforcement of final order.

A. If, after any order duly issued by the Superintendent has become final, the person to whom such order is directed fails, neglects, or refuses to obey such order, the Superintendent may:

1. Institute an action in municipal court to collect a civil penalty assessed under this subchapter; and/or

2. Abate the violation using the procedures of this subchapter.

B. Enforcement of any notice and order of the Superintendent issued pursuant to this subchapter shall be stayed during the pendency of any appeal under this subchapter, or under Ordinance 98852,1 except when the Superintendent determines that the violation will cause immediate and irreparable harm and so states in the notice and order issued.

C. In the event that the Minimum Maintenance Historic Building Revolving Fund does not contain funds and/or the Superintendent elects not to abate the violation through repair, alteration or improvement of the building in the manner specified in Section 25.28.350, he shall file a statement with the Department of Records and Elections of King County stating that there is no money currently available to fund such abatement and that the action will be held in abeyance until such time as funding is available.
(Ord. 107323 § 4.07, 1978.)

1. Editor's Note: Ord. 98852 was repealed by Ord. 110058. For provisions on the Pioneer Square Preservation

District, see Chapter 23.66 of this Code.

25.28.340 Civil penalty.

A. In addition to or as an alternative to any other judicial or administrative remedy provided in this subchapter or by law or other ordinance, any person who violates this subchapter, or rules and regulations adopted hereunder, or by any act of commission or omission procures, aids or abets such violation shall be subject to a civil penalty in an amount of Fifty Dollars ($50.00) per day for each continuous violation to be directly assessed until such violation is corrected. All civil penalties assessed shall be enforced and collected by civil action, brought in the name of the City and commenced in the municipal court, and the Superintendent of Buildings shall notify the City Attorney in writing of the name of any person subject to the penalty and the amount thereof, and the City Attorney shall, with the assistance of the Superintendent of Buildings, take appropriate action to collect the penalty.

B. The defendant in the action may show, in mitigation of liability:

1. That the violation giving rise to the action was caused by the wilful act, or neglect, or abuse of another; or

2. That correction of the violation was commenced promptly upon receipt of notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject building, or other condition or circumstances beyond the control of the defendant; and upon a showing of the above described conditions, the court may remit all or part of the accumulated penalty.

(Ord. 107323 § 4.08, 1978.)

25.28.350 Abatement.

A. In addition to or as an alternative to any other judicial or administrative remedy provided in this subchapter or by law or other ordinance, the Superintendent may order conditions which constitute a violation of this subchapter to be abated. The Superintendent may order any owner of a building in violation of this subchapter, or rules and regulations adopted hereunder, to commence corrective work and to complete the work within such time as the Superintendent determines reasonable under circumstances. If the owner fails to comply with a final order, the Superintendent, by such means and with such assistance as may be available to him, is authorized to cause such building to be repaired, altered or improved and the costs thereof shall be recovered by the City in the manner provided by law.

B. The cost of such work shall be paid from amounts appropriate for abatement purposes. Unless the amount of the costs thereof are repaid within sixty (60) days of the completion of the work, they shall be assessed against the real property as to which such costs were incurred. Upon certification by the Superintendent to the City Director of Executive Administration of the assessment amount being due and owing, the City Director of Executive Administration shall certify the amount to the county official performing the duties of the County Treasurer, who shall enter the amount of such assessment upon the tax rolls against such real

property for the current year to be collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected, shall be deposited in the General Fund and credited to the Minimum Maintenance Historic Building Fund as provided in Section 25.28.260. The assessment shall constitute a lien against the property of equal rank with state, county, and municipal taxes. (Ord. 120794 § 297, 2002; Ord. 116368 § 309, 1992; Ord. 107323 § 4.09, 1978.)

25.28.360 Remedies not exclusive.

The remedies provided for in this subchapter to accomplish preservation of substandard historic structures are not exclusive and this subchapter shall not be construed to supersede or repeal by implication the remedies available for enforcement of the Housing Code (Ordinance 106319)1 or any other ordinance of the City.
(Ord. 107323 § 4.10, 1978.)
1. Editor's Note: The Housing Code is codified in Title 22 of this Code.

GRAPHIC UNAVAILABLE: Exhibit "A"--Pioneer Square Historical District

Chapter 25.32

TABLE OF HISTORICAL LANDMARKS

The Seattle City Council has enacted ordinances imposing landmark controls on the buildings, structures and objects listed below. Alteration of any designated feature of these properties requires the approval in advance of the Landmarks Preservation Board pursuant to SMC Chapter 25.12.

I	Residences
II	Buildings
III	Churches
IV	Schools
V	Firehouses
VI	Bridges and Waterways
VII	Boats
VIII	Libraries
IX	Miscellaneous

TABLE OF CITY LANDMARKS

I Residences	**Address**	**Ord. No.**
Anhalt Apartments	1005 East Roy	108731
Anhalt Apartments	1014 East Roy	108227
C.H. Black House and Gardens	615 West Lee Street	115036
Black Property	1319 12th Avenue South	110353
Belltown Cottages	2512, 2512A and 2516 Elliott Avenue	121220
Bowen/Huston Bungalow	715 West Prospect Street	111887
Boyer/Lambert Residence	1617 Boyer Avenue East	111021
Brace/Moriarty Residence	170 Prospect Street	109586

Brehm Brothers Houses	219 and 221-36th Avenue East	108734
Charles Bussell House	1630 36th Avenue	108212
Bystrom House	1022 Summit Avenue East	108214
Chelsea Apartments	620 West Olympic Place	107755
Cotterill House	2501 Westview Drive West	107751
Del a Mar Apartments	115 West Olympic Place	107752
Drake House	6414 22nd Avenue N.W.	111025
El Rio Apartments	1922-28 9th Avenue	121219
P.P. Ferry Mansion (St. Mark's Deanery)	1531 10th Avenue East	108213
Fisher/Howell House	2819 Franklin Avenue East	111885
Gibbs House	1000 Warren Avenue North	121426
Hainsworth/Gordon House and Grounds	2657 37th Avenue Southwest	109734
Handschy/Kistler House	2433 9th Avenue West	111024
Harvard Mansion	2706 Harvard Avenue East	116053
Ballard Howe House	22 West Highland Drive	108226
Samuel Hyde House	3726 East Madison Street	117097
Italianate Victorian Pair	208 and 210 13th Avenue South	108225
Kraus/Andersson House	2812 South Mount St. Helens Place	110492
Maryland Apartments	626 13th Avenue East	114995
McFee/Klockzien Residence	524 West Highland Drive	109318
James A. Moore Mansion and its site	811 14th Avenue East	116971
Nelson/Steinbrueck House	2622 Franklin Avenue East	111023
New Pacific Apartments	2600-04 1st Avenue	108517
Norvell House	3306 Northwest 71st Street	108210
Myron Ogden Residence	702 35th Avenue	107522
Parker-Fersen House	1409 East Prospect Street	113423
Parsons/Gerrard Residence	618 West Highland Drive	109317
Ramsing House	540 Northeast 80th Avenue	113261
Rosen House	9017 Loyal Avenue Northwest	121215
San Remo Apartment Building	606 East Thomas Street	113988
Satterlee House	4866 Beach Drive Southwest	111022
Henry Owen Shuey House	5218 16th Avenue Northeast	121274
Stimson-Green House	1204 Minor Avenue	106068
Ellsworth Storey Cottages Group	1706, 1710, 1710- 1/2, 1800, 1804, 1808, 1810, 1814, and 1816 Lake Washington Boulevard South, and 1725 and 1729-36th Avenue South	108733
Ellsworth Storey Houses	260, 270 Dorffel Drive East	106071
Stuart/Balcom House and Gardens	619 West Comstock	111886
Thompson/La Turner House	3119 South Day Street	107613
23rd Avenue Rowhouse Group	812-828 23rd Avenue	108732
Victorian Group	2000, 2006, 2010, 2014	108211

	and2016 14th Avenue West	
The Victorian Row Apartments	1236 38th South King Street	108224
Ward House	1423 Boren Avenue	106067
James W. Washington, Jr., Home and Studio	1816 26th Avenue	116052
H. L. Yesler's First Addition, Block 32, Lots 12, 13 & 14	103, 107 and 109 23rd Avenue	118983
II Buildings	**Address**	**Ord. No.**
Admiral Theater	2343 California Avenue S.W.	116972
Arctic Building	700 Third Avenue/306 Cherry Street	116969
Barnes Building	2320 1st Avenue	107754
Austin A. Bell Building	2320-2326 1st Avenue	107753
Black Manufacturing Building	1130 Rainier Avenue South	113601
Brooklyn Building	1222 Second Avenue	113088
Camlin Hotel and site	1619 9th Avenue	119470
Coliseum Theater	5th Avenue and Pike Street	107526
Colman Building	801-821 First Avenue	114993
Decatur Building	1521 Sixth Avenue	112275
Dexter Horton Building	710 Second Avenue	116970
Eagles Temple Building	1416 Seventh Avenue	112272
Eastern Hotel	506- 1/2-510 Maynard Avenue South	107750
84 Union Building (U.S. Immigration Building)	84 Union Street	113990
Exchange Building	821 Second Avenue	115038
Fir Lodge/Alki Homestead Restaurant	2717 61st Avenue S.W.	118235
First Avenue Groups/Waterfront Center Project	First Avenue, Spring Street, and Western Avenue	111058
Flatiron Building (Triangle Hotel)	551 1st Avenue South	106141
Ford Assembly Plant Building and site	1155 Valley Street	119114
Fort Lawton Landmark District		114011
Administrative Building		
Band and Barracks		
Civil Employees' Quarters		
Guard House		Post Exchange and Gymnasium Building
Quartermaster's Stable		
Frederick & Nelson Building	500 Pine Street	118716
Fremont Hotel	3421 - 3429 Fremont Avenue North	107993
Georgetown Steam Plant		111884
Good Shepherd Center	4647 Sunnyside North	111882
Golden Gardens Bath House	8001 Seaview Avenue Northwest	121716
J. S. Graham Store/Doyle	119 Pine Street	113987

Building		
Guiry Hotel	2101 - 2105- 1/2 First Avenue	113422
Hillcrest Apartment Building	1616 East Howell Street	109733
Hoge Building	705 Second Avenue	111889
Holyoke Building	107 Spring Street	107521
Langston Hughes Cultural Arts Center	104 17th Avenue South	110354
Hull Building	2401 - 05 1st Avenue	108518
Jolly Roger Roadhouse	8721 Lake City Way Northeast	108730
Lake Union Steam Plant and Hydro House and its site	1179 Eastlake Avenue East	117251
Leamington Hotel and Apartments	317 Marion Street	117398
Liggett Building	1424 Fourth Avenue	113426
Log House Museum	3003 61st Avenue S.W.	118237
Louisa Building	5220 20th Avenue Northwest	113424
Lyon Building	607 Third Avenue	118236
Mann Building	1411 Third Avenue	115037
New Richmond Laundry Building	224 Pontius Avenue North	121216
Old Georgetown City Hall	6202 13th Avenue South	111302
Olympic Tower/United Shopping Tower	217 Pine Street	113425
Olympic Warehouse and Cold Storage Building	1203 - 1207 Western Avenue	113429
Pacific Medical Center/U.S. Marine Hospital	1200 12th Avenue South	116055
Paramount Theater	901 Pine Street	117507
Providence 1910 Building	528 17th Avenue	121588
Puget Sound Bank (Bank of California)	815 Second Avenue	113602
Rainier Cold Storage and Ice/Seattle Brewing and MaltingCompany Building and its site	6000 - 6004 Airport Way South	116973
Schillestad Building	2111 First Avenue	113460
Seattle Empire Laundry Building	2301 Western Avenue/66 Bell Street	119352
Seattle Times Building	1120 John Street	118046
Shafer Building	515 Pine Street	113430
L. C. Smith Building (Smith Tower)	502 - 508 Second Avenue	113427
Times Square Building	414 Olive Way	111883
Troy Laundry Building	311 - 329 Fairview Avenue North (also known as 307 Fairview Avenue North)	118047
United States Assay Office/German House	613 Ninth Avenue	111712
Van Vorst Building	413 421 Boren Avenue North	121218
Wintonia Hotel	1431 Minor Avenue	118048
YMCA Central Branch (South Building)	909 Fourth Avenue	116056

III Churches	Address	Ord. No.
Beacon Hill First Baptist Church	1607 South Forest Street	110349
Bethany Presbyterian Church	1818 Queen Anne Avenue North	112801
Capitol Hill United Methodist Church	128 16th Avenue East	106144
Church of the Blessed Sacrament,Rectory and Grounds	5041 9th Avenue Northeast	
Epiphany Chapel	3719 East Denny Way	107756
Fauntleroy Community Church	9260 California Avenue Southwest	110348
First African Methodist Episcopal Church	1522 14th Avenue	111928
First Church of Christ, Scientist	1519 East Denny Way	106145
First Covenant Church	1500 Bellevue Avenue	112425
Immaculate Conception Church	820 18th Avenue	106142
Immanuel Lutheran Church	1215 Thomas Street	
New Age Christian Church	1763 Northwest 62nd Street	110352
St. James Cathedral, Rectory and site	Ninth Avenue and Marion Streets	111579
St. Nicholas Cathedral	1714 13th Avenue	106098
St. Spiridon Cathedral	402 Yale North	106099
Seattle Buddhist Church	4277 South Main Street	106100
Seattle First Baptist Church	1121 Harvard Avenue	110351
Seattle Hebrew Academy	1617 Interlaken Drive East	108519
Temple de Hirsch Sinai; Old Sanctuary	15th Avenue and East Union Street	109731
Trinity Parish Episcopal Church	609 8th Avenue	106087
University Methodist Episcopal Church	4142 and 4138 Brooklyn Avenue Northeast	110350
University Presbyterian Church "Inn"	4555 16th Avenue Northeast	112089
IV Schools	**Address**	**Ord. No.**
Bryant Elementary School	3311 Northeast 60th Street	120916
Cooper Elementary School	4408 Delridge Way SW	121866
Grover Cleveland High School	5511 15th Avenue South	121275
Concord Elementary School	723 South Concord Street	120918
Dunlap Elementary School	8621 48th Avenue South	120917
Emerson Elementary School	9709 60th Avenue South	120919
Martha Washington School	6612 65th Avenue South	114074
Old Broadway High School	Block bounded by Broadway, East Pine Street, Harvard Avenue and East Olive Street	103459
Old Main Street School	307 6th Avenue	106147
Queen Anne High School	215 Galer Street	112274
St. Nicholas/Lakeside School	1501 10th Avenue East	111881
Summit School/Northwest School	1415 Summit Avenue	114994

West Queen Anne Elementary School	515 West Galer	106146
V Firehouses	**Address**	**Ord. No.**
Fire Station #2	2318 Fourth Avenue	113089
Old Firehouse #3	301 Terry Avenue	106051
Old Firehouse #18	5429 Russell Northwest	106052
Old Firehouse #23	722 18th Avenue	106050
Old Firehouse #25	1400 Harvard Avenue	106054
Old Firehouse #33	Rainier Beach	106053
Wallingford Fire and Police Station	1629 North 45th Street	111888
VI Bridges and Waterways	**Address**	**Ord. No.**
Arboretum Aqueduct	Lake Washington Boulevard	106070
Cowan Park Bridge	15th Avenue Northeast between Northeast 62nd Street and Cowan Park Northeast	110344
Fremont Bridge	Fremont Avenue North over Lake Washington Ship Canal	110347
Montlake Bridge and Montlake Cut	24th East and Montlake Boulevard	107995
Lacey V. Murrow Bridge, West Plaza, Mt. Baker Tunnels, and East Tunnel Portals (Mercer Island Floating Bridge)		108270
North Queen Anne Drive Bridge	North Queen Anne Drive overWolf Creek Canyon	110343
Salmon Bay Burlington Northern Bridge, Bridge No. 4	Between West Commodore Way and Northwest 54th Street	109738
Schmitz Park Bridge	Admiral Way over Schmitz Park Ravine	110346
20th Avenue Northeast Bridge	20th Avenue Northeast and Northeast 62nd	106143
George Washington Memorial "Aurora" Bridge	Aurora Avenue North over Lake Washington Ship Canal	110345
VII Boats		**Ord. No.**
Arthur Foss Tug		106276
Duwamish Fireboat		113428
M.V. Malibu		119419
M.V. Thea Foss		119418
Relief Lightship		106275
San Mateo Steam Ferry		106273
Virginia V Excursion Boat		106278
Wawona Schooner		106274
W.T. Preston Snagboat		106277
VIII Libraries	**Address**	**Ord. No.**
Douglass-Truth Library	2300 Yesler Way	121107
Fremont Library	731 N. 35th Street	121103
Green Lake Library	7364 Greenlake Drive N	121106
Lake City Library	12501 28th Avenue NE	121105

Magnolia Library	2801 34th Avenue West	121100
North East Library	6801 35th Avenue NE	121099
Queen Anne Library	400 W. Garfield Street	121101
University Library	5009 Roosevelt Way NE	121104
West Seattle Library	2306 42nd Avenue SW	121102
IX Miscellaneous	**Address**	**Ord. No.**
Brill Trolley #798		107621
Chinese Community Bulletin Board	511 7th Avenue South	106072
East Republican Street Stairway	Between Melrose Avenue East and Bellevue Avenue East	109320
Fort Lawton Landmark District		114011
Fremont Trolley Barn/Red HookAle Brewery	3400 Phinney Avenue North	116054
Gas Works Park		121043
Hiawatha Playfield	2700 California Avenue Southwest	113090
Jensen Block	601-611 Eastlake Avenue East	118045
Lincoln Park/Lincoln Reservoir and Bobby Morris Playfield		121042
McGraw Square (McGraw Place)	Intersection of Fifth Avenue, Westlake Avenue and Stewart Street	112271
Parsons Memorial Gardens	7th Avenue West and West Highland Drive	109319
Pier 59	1415 Alaskan Way	121270
Queen Anne Water Tank #1	1410 1st Avenue North	121217
Rainier Club	810 Fourth Avenue	113459
Seattle Monorail		121240
Space Needle	219 Fourth Avenue North	119428
Statue, "Seattle, Chief of Suquamish"	Intersection of Fifth Avenue, Denny Way and Cedar Street (Tillicum Place)	112273
West Queen Anne Walls		106069