Bill Mills
DPD ECA Cleanup Amend ORD
July 13, 2013
Version 17a

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 117913

AN ORDINANCE relating to environmentally critical areas, amending Sections 23.60A.156, 25.06.020, 25.06.030, 25.06.040, 25.06.050, 25.06.100, 25.06.110, 25.09.017, 25.09.020, 25.09.030, 25.09.040, 25.09.045, 25.09.055, 25.09.060, 25.09.120, 25.09.160, 25.09.180, 25.09.200, 25.09.260, 25.09.300, 25.09.320, and 25.09.520 of the Seattle Municipal Code to reconcile conflicts and discrepancies between regulations for development in floodplains in Chapter 25.06 and the regulations for flood-prone areas set forth in Chapter 25.09, and to clarify language and make minor amendments to the Regulations for Environmentally Critical Areas.

WHEREAS, the City Council has considered the best available science in adopting these amendments; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.60A.156 of the Seattle Municipal Code, adopted by Ordinance 124105, is amended as follows:

23.60A.156 Standards for environmentally critical areas in the Shoreline District

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B. Applicable regulations. Chapter 25.09, as set out in Ordinance 122050 and amended by Ordinances 122370,((~~and~~)) 122738, 124105, and by this ordinance introduced as C. B. 117913, is incorporated by reference into this Chapter 23.60A with respect to the shorelines within the Shoreline District. The designations, standards and procedures in Chapter 25.09 are modified as set out in subsections 23.60A.156.E through 23.60A.156.N for environmentally critical areas in the Shoreline District. If there are any conflicts between the standards and procedures in Chapter 25.09 incorporated into this Chapter 23.60A and other provisions of the Shoreline Master Program, the requirements most protective of ecological functions apply, except when preempted by federal or state law or where this Shoreline Master Program expressly states that these regulations do not apply.

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Section 2. Section 25.06.020 of the Seattle Municipal Code, adopted by Ordinance 114395, is amended as follows:

25.06.020 Purpose((.))

The purpose of this ((e))Chapter 25.06 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 and areas identified as flood-prone in subsection 25.09.020.B. This ((e))Chapter 25.06 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 ((e))Chapter 25.06. This ((e))Chapter 25.06 shall be administered by affected City departments and interpreted to accomplish its stated purpose.

Section 3. Section 25.06.030 of the Seattle Municipal Code, last amended by Ordinance 121115, is amended as follows:

25.06.030 Definitions((.))

Unless specifically defined below, words or phrases used in this ((e))Chapter 25.06 shall be interpreted ((~~so as~~))to give them the meaning they have in common usage. For purposes of this ((e))Chapter 25.06, the following words or phrases ((~~shall be~~))are defined as ((~~described~~))set out below:

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H. "Flood Insurance Rate Map (FIRM)" means the ((~~official map dated May 16, 1995, on which the Federal Insurance Administration~~))most current map provided by the Federal Emergency Management Agency (FEMA) for administration of the National Flood Insurance Program that has delineated both the areas of special flood hazards and the risk premium zones

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applicable to The City of Seattle, or as otherwise required by the Department of Homeland Security.

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Section 4. Section 25.06.040 of the Seattle Municipal Code, adopted by Ordinance 114395, is amended as follows:

25.06.040 Applicability((.))

This ((e))Chapter 25.06 shall apply to all areas of special flood hazards within the jurisdiction of The City of Seattle. This Chapter 25.06 shall also apply to flood-prone areas as defined in subsection 25.09.020.B that are not located within areas of special flood hazards, as provided in this Chapter 25.06 by cross reference to subsection 25.09.020.B.

Section 5. Section 25.06.050 of the Seattle Municipal Code, last amended by Ordinance121115, is amended as follows:

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~~))most current map provided by the Federal Emergency Management Agency (FEMA) for administration of the National Flood Insurance Program, which is ((~~and are~~))hereby adopted by reference and declared to be a part of this ((e))Chapter 25.06. The ((~~study and~~))map((s)) shall be maintained on file at the Department of ((~~Design, Construction and land use~~))Planning and Development 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~~)).

Section 6. Section 25.06.100 of the Seattle Municipal Code, adopted by Ordinance 114395, is amended as follows:

25.06.100 General standards((.))

In all areas of special flood hazards((,)) and in all other flood-prone areas defined in subsection 25.09.020.B, 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~~))shall be anchored to prevent flotation, collapse, or lateral movement((,)) of the structure and shall be installed using methods and practices that minimize flood damage.

B. Construction ((~~M~~))materials and ((~~M~~))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 or minimize infiltration of floodwaters into the system.((:))

2. New and replacement sanitary sewage systems shall be designed to ((~~minimize or~~))eliminate or minimize infiltration of floodwaters into the systems and discharge from the systems into floodwaters.((; ~~and~~))

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3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision ((~~P~~))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~~))minimize exposure to flood damage.((~~; and~~))

4. ((~~Where~~))If 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~~))that contain at least ((~~fifty (~~))50((~~)~~)) lots or five(((~~5~~))) acres, ((~~(~~))whichever is less((~~)~~)).

E. ((~~Where~~))If elevation data is not available either through the ((~~Flood Insurance Study~~))most current map provided by the Federal Emergency Management Agency (FEMA) for administration of the National Flood Insurance Program or from another authoritative source, proposed construction shall be made 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~~))if available.

Section 7. Section 25.06.110 of the Seattle Municipal Code, last amended by Ordinance 121828, is amended as follows:

25.06.110 Standards involving base flood elevations((~~.~~))

((~~In all areas of special flood hazards where~~))If base flood elevation data has been provided under Section 25.06.050 or subsection 25.06.090.C((~~of Section 25.06.090, the~~

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~~following are required:~~)), the standards of subsections 25.06.110.A through 25.06.110.E apply to areas of special flood hazards and to flood-prone areas defined in subsection 25.09.020.B.

A. Residential ((~~C~~))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 are required to be certified by a registered professional civil engineer or architect or ((~~must~~))are required to 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; and

c. Openings may be equipped with screens, louvers or other coverings or devices ((~~provided that~~))if they permit the automatic entry and exit of floodwaters.

B. Non-residential and ((~~L~~))live-work ((~~U~~))unit ((~~C~~))construction. New construction and substantial improvement of any commercial, industrial or other non-residential structure, ((~~(~~))including a structure with one or more live-work units,((~~)~~)) shall either have the lowest floor, including basement, elevated to ((~~two~~))2 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~~))2 feet ((~~(2')~~))above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

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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 25.06.110.B based on ((~~their~~))the civil engineer's 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.~~))

Non-residential structures or structures with one (((~~1~~)))or more live-work units that are elevated, not floodproofed, ((~~must~~))shall meet the same standards for space below the lowest floor as ((~~described~~))set out in subsection 25.06.110.A.2 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 ((~~F~~))facilities. Construction of new critical facilities shall be located outside the limits of the areas of special flood hazard and outside the limits of all other flood-prone areas as defined in Chapter 25.09 where possible. Construction of new critical facilities shall be permissible within areas of special flood hazard and all other flood-prone areas as defined in Chapter 25.09 if no feasible alternative site is available. Critical facilities constructed within areas of special flood hazard and all other flood-prone areas as defined in Chapter 25.09 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~~))shall be taken ((~~to ensure~~))so 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 ((~~H~~))homes. All manufactured homes within Zones A1-30, AH, and AE on the FIRM or within all other flood-prone areas as defined in Chapter 25.09 shall be

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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 ((~~S~~))subsection 25.06.100.A.

E. Recreational ((~~V~~))vehicles. Recreational vehicles placed on sites within areas of special flood hazard shall ((~~either~~))be:

(((~~(1) be a~~))1. On the site for fewer than ((~~one hundred eighty (~~))180((~~)~~)) consecutive days;

(((~~(2) be f~~))2. 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) m~~))3. Meet the requirements for manufactured homes specified in ((~~S~~))subsection 25.06.110.D, above.

Section 8. Section 25.09.017 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

25.09.017 Administration((~~,~~))

A. The Director shall administer and interpret the provisions of this ((~~e~~))Chapter 25.09, except as specifically provided.

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

C. The Director shall review and analyze all applications for all permits or approvals subject to this ((~~e~~))Chapter 25.09 that are issued by the Department of Planning and

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Development. Such applications shall be approved only after the Director is satisfied the applications comply with this ((e))Chapter 25.09.

D. Every other City department issuing a permit or other approval for development on parcels containing an environmentally critical area or its buffer or for altering vegetation, trees, or habitat in the areas set out in subsection 25.09.015.B shall require the use of best management practices to prevent impacts to environmentally critical areas and their buffers and to meet the intent of this ((e))Chapter 25.09. Departments shall require mitigation to address unavoidable impacts. All such City departments shall maintain records documenting compliance with this subsection 25.09.017.D.

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

Section 9. Section 25.09.020 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

25.09.020 Environmentally critical areas definitions

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

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B. Flood-prone ((A))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 flood event, or that

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would have a one percent (((~~1%~~)))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~~))defined as ((~~flood-prone on the Seattle Floodplain Development Ordinance or on FEMA maps, and streams identified by the Washington State Department of Fisheries Catalog of Washington Streams,~~))areas of special flood hazard in Section 25.06.030 and areas ((~~with stormwater runoff problems known to Seattle Public Utilities~~))mapped by Seattle Public Utilities.

C. 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 stormwater 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 include those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of wetlands. ((~~The method for delineating wetlands shall follow the "Washington State Wetlands Identification and Delineation Manual" as adopted by the State Department of Ecology (Publication #96-94.)~~))Identification of wetlands and delineation of their boundaries pursuant to this Chapter 25.09 shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

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D. Fish and ((~~W~~))wildlife ((~~H~~))habitat ((~~C~~))conservation ((~~A~~))areas. The following are fish and wildlife habitat conservation areas:

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

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

3. Corridors connecting priority habitats and species areas or habitat areas for species of local importance meeting one of the following criteria:

a. WDFW or the Department's species habitat management plan identifies the parcel as part of a corridor connecting habitat areas for priority species or species of local importance;

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

c. the parcel provides fish passage between fish habitat in ((~~Type 1-5~~))Type S, F, Np and Ns waters per WAC 222-16-030 and 222-16-031 upstream and downstream of the parcel, whether that passage is in riparian watercourses, pipes or culverts.

4. Areas that provide habitat for species of local importance.

5.

a. Riparian corridors, which are the riparian watercourse and the riparian management area. The riparian watercourse is the watercourse of ((~~Type 2-5~~))Type F, Np and Ns waters defined in WAC 222-16-030 and 222-16-031 that have fish or wildlife habitat. Water in surface water ditches and stormwater conveyances, pipes, culverts, flow control facilities and water quality facilities are not regulated as riparian watercourses. The riparian management area is the area within ((~~one hundred feet (~~))100((~~')~~)) feet measured horizontally landward from the top of each bank of the watercourse, or from the ordinary high water mark of the watercourse as surveyed in the field, if the top of the bank cannot be determined. In watercourses with braided

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channels or alluvial fans, the ordinary high water mark shall be determined so as to include the entire stream feature.

b. When a pipe or culvert connecting ((~~Type 1-5~~))Type S, F, Np and Ns waters per WAC 222-16-030 and 222-16-031 that have fish habitat downstream and upstream from the pipe or culvert is daylighted, the waters formerly in the pipe or culvert will be regulated as a riparian watercourse, and the area adjacent to that watercourse will be regulated as a riparian management area, as defined in subsection 25.09.020.D.5. This subsection 25.09.020.D.5.b does not apply when the pipe or culvert is removed to provide a publicly-owned facility designed primarily for water quality treatment, flow control or stormwater conveyance.

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Section 10. Section 25.09.030 of the Seattle Municipal Code, last amended by Ordinance 122738, is amended as follows:

25.09.030 Location of environmentally critical areas and buffers((,))

A. Environmentally critical areas are defined in Section 25.09.020, and buffers are described in Sections 25.09.160((,)) and 25.09.180((~~, and 25.09.200B~~)). Environmentally critical areas are mapped whenever possible. These maps are advisory ((~~E~~))except for the maps adopted as designations for geologically hazardous areas in subsections 25.09.020.A.5, 25.09.020.A.6, and 25.09.020.A.7, the FEMA maps showing areas of special flood hazard defined in subsection 25.06.030.B, and areas mapped or designated by the Washington State Department of Fish and Wildlife (WDFW) in subsections 25.09.020.D.1 and 25.09.020.D.2((~~these maps are advisory~~)). ~~The Director may update or amend the maps by Director's Rule.~~

B. Determination of critical area or buffer location

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

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2. If an application for development is proposed on a site that the Director believes contains a critical area or critical area buffer, an applicant may request a determination that a specific parcel of property does not contain a critical area or critical area buffer or that the critical area or buffer is located differently, including whether a critical area map should be changed, by applying for an exemption pursuant to subsection 25.09.045.D.1. In making the exemption determination the Director may consider the factors set out in subsection 25.09.030.B.4.

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

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

Section 11. Section 25.09.040 of the Seattle Municipal Code, last amended by Ordinance 122050, is amended as follows:

25.09.040 Permits and approvals required((.))

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A. Prior to undertaking development or platting on a parcel containing an environmentally critical area or buffer, the ((~~person responsible~~))applicant shall (1) submit an application complying with the provisions of Section 25.09.330, unless the ((~~person~~))applicant ((~~complies with~~))applies for an approval under the provisions of Section 25.09.045, 25.09.055, or 25.09.320, and (2) obtain the Director's approval of the application. An application that includes a request for an exemption under subsection 25.09.045.D, or Sections 25.09.055 or 25.09.320, shall include a request for modification to the submittal requirements of Section 25.09.330.

B. Prior to undertaking actions under Section 25.09.045, 25.09.055, or subsection 25.09.200.A.4, the ((~~person responsible~~))applicant shall ((~~comply with provisions of~~))obtain the Director's approval of the application under the applicable section. The applicant shall also obtain approval of a modification to the submittal requirements of Section 25.09.330 as part of compliance with subsection 25.09.045.D or Sections 25.09.055 or 25.09.320.

C. Prior to altering vegetation, trees, or habitat protected by this ((~~e~~))Chapter 25.09 the person responsible shall comply with the provisions of Section 25.09.320, unless that person complies with Section 25.09.045 or 25.09.055.

Section 12. Section 25.09.045 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

25.09.045 Exemptions

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D. Development not within an environmentally critical area

1. ~~Development on property the Director determines is not within an~~ environmentally critical area or buffer is exempt from the provisions of this Chapter 25.09.

2. Development that does not temporarily or permanently encroach within, alter, or increase the impact to the environmentally critical area or buffer on the parcel where the development occurs is exempt from the provisions of this ((~~e~~))Chapter 25.09; if existing

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development that encroaches within or impacts the environmentally critical area or buffer is removed, then new development that encroaches within, alters or impacts the environmentally critical area or buffer is not exempt.

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G. Rebuilding or replacing structures that are destroyed by an act of nature is exempt from the provisions of this ((e))Chapter 25.09, provided that action toward the rebuilding or replacement is commenced within one (((~~1~~)))year of the act of nature, that the rebuilding or replacement is diligently pursued, and that the new construction or related activity does not further encroach into, or increase the impact to, or further alter an environmentally critical area or buffer and complies with((~~restrictions on flood hazard areas reconstruction~~)) applicable requirements of Chapter 25.06, Floodplain Development.

H.

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

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

b. No practicable alternative to the work with less impact on the environmentally critical area or buffer exists; and

c. The work does not pose an unreasonable threat to the public health, safety or welfare, or to the environment, on or off the ((~~parcel~~))property.

2. The Director's decision shall:

a. include the approved location and limits of the work; and

b. require specific mitigation measures for impacts to all environmentally critical areas and their buffers before, during, and after construction; and

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

3. The provisions of this subsection 25.09.045.H apply to the following activities:

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a. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 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 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 or private projects designed exclusively to enhance ecological function in the Shoreline District or to enhance riparian corridors, and wetlands and their buffers, including stormwater-related functions, that require either a Hydraulic Project Approval from the Washington Department of Fish and Wildlife or a Section 404 permit under the federal Clean Water Act from the United States Army Corps of Engineers, or any project funded by the Aquatic Habitat Matching Grant program, established by City Council Resolution 30719, and

f. Public projects ((~~where~~))if the intrusion into the environmentally critical area or buffer benefits the public, such as trails providing access to a creek or wetland area, when located and designed to keep environmental disturbance to a minimum. The applicant shall protect vegetation and trees pursuant to a tree and vegetation plan consistent with best management practices. The plan shall be prepared by a qualified expert with experience related to the type of environmentally critical area or buffer where work will occur. In landslide-prone areas ((~~of~~))the plan shall also be approved by a geotechnical engineer or geologist licensed in the

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State of Washington with experience in analyzing geological hazards related to slope stability and vegetation removal on steep slopes.

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K. Site investigative work. Minor site investigative work, such as surveys, soil logs, percolation tests, and other related activities, if such activities do not exceed grading that is exempt under the Grading Code, Chapter 22.170. In every case, impacts to the environmentally critical area and buffer shall be minimized, and disturbed areas shall be immediately restored.

Section 13. Section 25.09.055 of the Seattle Municipal Code, last amended by Ordinance 122738, is amended as follows:

25.09.055 Small project waiver((~~,~~))

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

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

2. The development does not exceed ((~~one hundred and fifty (~~))150((~~)~~)) square feet in riparian management areas or in wetland buffers, ((~~three hundred (~~))300((~~)~~)) square feet in steep slope areas or buffers, or ((~~seven hundred fifty (~~))750((~~)~~)) square feet in landslide-prone (except steep slope)((~~, liquefaction-prone, flood-prone, and abandoned land fill~~)) areas, all ~~calculated cumulatively from October 31, 1992. When the new accessory structure or addition to~~ an existing structure is on a lot that is or has been held in common ownership with a contiguous lot and the lots are or have been used for a single principal use or for a principal use and accessory use, the limitation applies to the entire site.

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

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

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

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

B. Director's ((~~D~~))decision((~~.~~))

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

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

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

Section 14. Section 25.09.060 of the Seattle Municipal Code, last amended by Ordinance 123106, is amended as follows:

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25.09.060 General development standards

The following general development standards apply to development on parcels containing environmentally critical areas or their buffers, except as specifically provided in this ((e))Chapter 25.09:

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E. All site clearing on the lot that may impact environmentally critical areas or buffers shall be carried out in stages just prior to construction, and cleared areas shall be kept to the minimum for construction. Revegetation shall occur after the particular phase of construction is completed. When required by the Director, a tree and revegetation plan shall establish a staged vegetation removal and replacement program that keeps the amount of exposed soil during and after construction to a minimum. In ((~~driver~~))drier months, temporary surface irrigation or temporary installation of intermediate plantings may be required until weather or seasonal conditions permit installation of the permanent plantings.

* * *

Section 15. Section 25.09.120 of the Seattle Municipal Code, last amended by Ordinance 123106, is amended as follows:

25.09.120 Development standards for flood-prone areas

((~~A. Development is prohibited 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 Chapter 25.06, Seattle Floodplain Development Ordinance.~~

~~B. Drainage Control Plan. If the site is mapped or determined to be flood-prone, the Director may require a drainage-control plan to 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. If required, the drainage-~~

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~~control plan shall provide for control of water quality and quantity in compliance with Chapters 22.800 through 22.808, the Stormwater Code, 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 no less than two feet (2') above the one-hundred (100) year flood elevation.~~))

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

Section 16. Section 25.09.160 of the Seattle Municipal Code, last amended by Ordinance 123106, is amended as follows:

25.09.160 Development standards for wetlands

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

B. Impacts to ((~~W~~))wetlands((~~.~~))

1. Development, including but not limited to grading, filling, or draining, is prohibited within or over:

a. Category I, II or III wetlands greater than ((~~one hundred (~~))100((~~)~~)) square feet;

b. Category IV wetlands ((~~one thousand (~~))1,000((~~)~~)) square feet or greater;

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c. A wetland of any category or size that is part of a larger wetland system or abuts any ((~~Type 1-5~~)) Type S, F, Np and Ns water per WAC 222-16-030 and 031.

2. Development may occur within or over Category IV wetlands less than ((~~one thousand (~~))1,000((~~)~~)) square feet, other than those wetlands described in subsection 25.09.160.B.1.c, in accordance with subsection 25.09.160.C.3.

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

a. ((~~All on or offsite runoff shall be routed away from the wetland and wetland buffer~~))Development shall comply with subsection 22.805.020.G and all other applicable sections of the Storm Water Code; and

b. Direct lighting shall be directed away from the wetland and its buffer.

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

C. Wetland ((~~B~~))buffers and ((~~M~~))mitigation((~~.~~))

* * *

4. Buffer ((~~V~~))vegetation((~~.~~))

a. In the wetland buffer, ((~~Removal of, clearing, or~~))any action detrimental to habitat, trees or vegetation((~~in the wetland buffer~~)), including but not limited to clearing or removal, is prohibited, except as provided in subsection 25.09.160.D and in Sections 23.60A.190, 25.09.055, 25.09.300, and ((~~Section~~))25.09.320.

b. Invasive plants and noxious weeds may be removed by hand. No machines or chemical removal shall be permitted without the Director's approval.

* * *

E. Avoidance and ((~~M~~))mitigation ((~~S~~))standards((~~.~~))

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1. If an exception to the standards of this Section 25.09.160 is approved under Section 25.09.300, the Director shall require application of the following ((~~The~~))standards for wetland mitigation ((~~shall be applied~~))in following order of priority:

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

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

c. mitigate unavoidable impacts to the designated uses of a wetland by replacement, enhancement, or other approved compensation methods.

2. Mitigation for grading, filling, or draining wetlands shall achieve the equivalent or better biologic functions of the existing wetland. Mitigation plans shall be consistent with ((~~the Department of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals, 1994 (#94-29)~~))Washington State Department of Ecology Publication #06-06-011b, Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1), or the most current Department of Ecology publication addressing wetland mitigation.

* * *

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

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* * *

Section 17. Section 25.09.180 of the Seattle Municipal Code, last amended by Ordinance 123106, is amended as follows:

25.09.180 Development standards for steep slope areas

A. This ((s))Section 25.09.180 and Section 25.09.080 apply to parcels containing a steep slope area or buffer.

B. Impacts on ((~~S~~))steep ((~~S~~))slope ((~~A~~))areas((~~.~~))

1. Development is prohibited on steep slope areas, unless the applicant demonstrates that the provisions of subsections 25.09.180.B.2 or 25.09.180.E apply.

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

a. Development is located where existing development is located, if the impact on the steep slope area is not altered or increased; or

b. Development is located on steep slope areas that have been created through previous legal grading activities, including rockeries or retaining walls resulting from rights of way improvements, if no adverse impact on the steep slope area will result; or

c. Development is located on steep slope areas that are less than 20 feet in vertical rise and that are 30 feet or more from other steep slope areas, if no adverse impact on the steep slope area will result; or

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d. Development is located on steep slope areas where the Director determines that application of subsection 25.09.180.B.1 would prevent necessary stabilization of a landslide-prone area.

3. Clearing vegetation or any type of vegetation and site restoration management authorized under this Chapter 25.09 is not "development" for purposes of applying any of the provisions of subsection 25.09.180.B.2.

* * *

Section 18. Section 25.09.200 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

25.09.200 Development standards for fish and wildlife habitat conservation areas

A. Development standards for parcels with riparian corridors

1.

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

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

2. Riparian ((~~W~~))watercourse

a. Development is prohibited within or over the watercourse, except as provided in this subsection 25.09.200.A.2.a or subsection ((~~23~~))25.09.200.A.2.b. If no other

access is available to the property, the Director may approve access over the watercourse, provided that it maintains the natural channel and floodway of the watercourse and that disturbance of the riparian management area is kept to a minimum.

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

c. In the riparian watercourse ((~~Removal of, clearing, or~~))any action detrimental to habitat, trees or vegetation((~~in the riparian watercourse~~)), including but not limited to clearing or removal, is prohibited, except as provided in Section 25.09.320.

3. Riparian ((~~M~~))management ((~~A~~))area((~~.~~))

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

b. Activities in the riparian management area((~~.~~))

1) Development is prohibited in the riparian management area, except to provide access to development approved under subsection 25.09.200.A.2 and except under subsections 22.09.200.A.3.b.2, 25.09.200.A.3.c, and 25.09.200.A.3.d.

2) In the riparian management area((~~Removal of, clearing, or~~)) any action detrimental to habitat, trees or vegetation((~~in the riparian management area~~)),

including but not limited to clearing or removal, is prohibited, except as provided in subsection 25.09.200.A.3.c and Section 25.09.320.

* * *

d. In addition to subsections 25.09.200.A.3.b.2 and 25.09.200.A.3.c, development is allowed in the riparian management area on lots existing prior to May 9, 2006 if the applicant demonstrates that:

1) the development is in the limited riparian development area, which is the area in the riparian corridor but outside of the watercourse and more than 75 feet from the top of the watercourse bank for Type F ((~~2 and 3~~))waters with anadromous fish present for any part of the year, more than 50 feet from the top of the watercourse bank for Type F ((~~2 and 3~~))waters where anadromous fish are not present for any part of the year and more than 50 feet from the top of the watercourse bank for Type Np and Ns ((~~4 and 5~~))waters;

* * *

4. Daylighting ((~~W~~))water in ((~~P~~))pipes and ((~~C~~))culverts((~~.~~))

a. Pursuant to Section 25.09.200.D, the Director may require daylighting pipes and culverts that meet the definition of fish and wildlife corridors in Section 25.09.020.D.3.c.

b. The City encourages daylighting pipes and culverts connecting ((~~Type 1-5~~))Type S, F, Np and Ns waters that have fish habitat downstream and upstream from the pipe or culvert, and the Director is authorized to modify development standards as set out in subsection 25.09.200.A.4.c below when the applicant submits a plan for daylighting such a pipe or culvert that meets the following criteria:

* * *

C. Based on information provided by a qualified wildlife biologist, the Director may condition development on parcels containing wildlife habitat or corridors defined in subsection

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25.09.020.D.3 to protect fish or wildlife habitat corridors. Conditions may include, but are not limited to:

* * *

5. Preservation of the ability for fish to pass between fish habitat in ((~~Type 1-5~~))Type S, F, Np and Ns waters upstream and downstream of the parcel. The application requirements and general conditions of this ((~~e~~))Chapter 25.09, Sections 25.09.330 and 25.09.060, do not apply if the person responsible for development of the parcel has either a Hydraulic Project Approval from the Washington Department of Fish and Wildlife or a Section 404 permit under the federal Clean Water Act from the United States Army Corps of Engineers. Nothing in this subsection 25.09.200.C alters the rights of the owner of the pipe or culvert, if that person is not an applicant for a permit.

* * *

D. Designating ((~~S~~))species of ((~~L~~))local ((~~I~~))importance and their ((~~H~~))habitat

* * *

Section 19. Section 25.09.260 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

25.09.260 Environmentally critical areas administrative conditional use

A. ((~~When the~~))Application procedure

1. An application for an environmentally critical areas conditional use may be submitted under either of the following circumstances:

a. ~~If an applicant demonstrates it is not practicable to comply with the~~ requirements of subsection 25.09.240.B considering the parcel as a whole, the applicant may apply for an administrative conditional use permit, authorized under Section 23.42.042, under this Section 25.09.260 to allow the Director to count environmentally critical areas and their

buffers that would otherwise be excluded in calculating the maximum number of lots and units allowed on the parcel under subsection 25.09.240.E.

b. An applicant may also apply for an administrative conditional use permit to allow the Director to approve smaller than required lot sizes and yards, and/or more than one dwelling unit per lot.

2. If an administrative conditional use application includes an application to authorize development in a critical area or buffer, then the application is not required to include an application for the variances allowed under subsections 25.09.180.E or Section 25.09.280.

B. Standards. The ((~~Director may approve an administrative conditional use for smaller than required lot sizes and yards, and/or more than one dwelling unit per lot if the~~))applicant shall demonstrate((s)) that the proposal meets the following((~~standards~~)):

1. Environmental impacts on critical areas

a. No development is in a riparian corridor, wetland, or wetland buffer.

b. No riparian management area or wetland buffer is reduced.

c. No development is on a steep slope area or its buffer unless the property being divided or, if no property is being divided, the property that is the subject of the administrative conditional use permit is predominantly characterized by steep slope areas, or unless approved by the Director under ((~~S~~))subsections 25.09.180.B.2.a, 25.09.180.B.2.b, or 25.09.180.B.2.c.

((~~f~~))1) The preference is to cluster units away from steep slope areas and buffers.

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

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

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

((~~f~~))c) areas designated by the Washington Department of Fish and Wildlife as urban natural open space habitat areas with significant tree cover providing valuable wildlife habitat.

* * *

C. Conditions((~~.~~))

1. In authorizing an administrative conditional use, the Director ((~~may~~))shall mitigate adverse negative impacts by imposing requirements and conditions necessary to protect riparian corridors, wetlands and their buffers, ((~~shoreline habitats and their buffers,~~))and steep slope areas and their buffers, and may impose additional conditions to protect other properties in the zone or vicinity in which the property is located.

2. In addition to any conditions imposed under subsection 25.09.260.C.1, the following conditions apply to all administrative conditional uses approved under this ((~~sub~~))Section 25.09.260:

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

b. Where new lots are created, the following standards apply: ((~~provisions of Section 23.22.062, Unit lot subdivisions, or Section 23.24.045, Unit lot subdivisions, apply, regardless of whether the proposal is a unit lot subdivision, so that subsequent development on a single lot does not result in the development standards of this chapter being exceeded for the short subdivision or subdivision as a whole.~~))

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

2) If new lots are created under Sections 25.09.240 and 25.09.260, development on individual lots may be nonconforming as to some or all of the development standards, except that private usable open space or private amenity areas for each dwelling unit shall be provided on the same lot as the dwelling unit it serves.

3) Subsequent platting actions or additions or modifications to structures may not create or increase any nonconformity of the development as a whole to this Chapter 25.09, and this shall be noted on the document creating the new lots that is recorded with the Director of the King County Department of Records and Elections.

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

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

* * *

~~Section 20. Section 25.09.300 of the Seattle Municipal Code, last amended by Ordinance~~ 122050, is amended as follows:

25.09.300 Environmentally critical area exception((.))

A. Types of exceptions

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

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

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

b. The facility or utility is located, designed, and constructed:

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

2) to minimize adverse impacts; and

3) to mitigate impacts to critical area disturbance to the maximum extent feasible;

c. All requirements of subsections 25.09.300.A.1, 25.09.300.B, 25.09.300.E, and 25.09.300.F apply; and

SEA CITY CLERK

d. In granting an exception to the development standards in Section 25.09.160, Wetlands, the Director shall apply the avoidance and mitigation standards in subsection 25.09.160.E when imposing any conditions.

* * *

Section 21. Section 25.09.320 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

25.09.320 Trees and vegetation

A.

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

* * *

Section 22. Section 25.09.520 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

25.09.520 Definitions

* * *

"Parcel" means a lot, unplatted property or combination thereof, whether public or private property, in the City of Seattle, including City right of way.

* * *

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

* * *

Section 23.

A. This ordinance, except for Sections 1, 9, 12, 18, 19 and 22, shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

B. Sections 1, 9, 12, 18, 19 and 22 of this ordinance shall take effect and be in force on:

1. The date immediately after the effective date of Ordinance 124105; and after that occurs,

2. The later of: the effective date of its approval by the Department of Ecology or 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

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Passed by the City Council the ____ day of _____, 2013, and signed by me in open session in authentication of its passage this _____ day of _____, 2013.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2013.

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2013.

_____

Monica Martinez Simmons, City Clerk

(Seal)

SEA CITY CLERK

Bill Mills
DPD ECA Cleanup Amend FISC
March 26, 2013
Version #1

Form revised: December 12, 2012

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Planning and Development	Bill Mills 684-8738	Melissa Lawrie 684-5805

Legislation Title: An ordinance relating to environmentally critical areas, amending Sections 23.60A.156, 25.06.020, 25.06.030, 25.06.040, 25.06.050, 25.06.100, 25.06.110, 25.09.017, 25.09.020, 25.09.030, 25.09.040, 25.09.045, 25.09.055, 25.09.060, 25.09.120, 25.09.160, 25.09.180, 25.09.200, 25.09.260, 25.09.300, 25.09.320, and 25.09.520 of the Seattle Municipal Code to reconcile conflicts and discrepancies between regulations for development in floodplains in Chapter 25.06 and the regulations for flood-prone areas set forth in Chapter 25.09, and to clarify language and make minor amendments to the Regulations for Environmentally Critical Areas.

Summary of the Legislation: The proposal would amend the Seattle Floodplain Development Ordinance and the Seattle Regulations for Environmentally Critical Areas, Chapters 25.06 and 25.09 of the Seattle Municipal Code, to reconcile conflicts and discrepancies between regulations for development in floodplains in Chapter 25.06 and the regulations for flood-prone areas set forth in Chapter 25.09, to clarify language in both chapters, and to make additional minor amendments to the Regulations for Environmentally Critical Areas intended to update references and improve administrative process. Since the last comprehensive amendments to the Regulations for Environmentally Critical Areas in 2006, a number of inconsistencies and minor errors in the regulations have been identified by City staff and external customers such as citizens and the development community. These issues are best addressed by proposing a collection of amendments that are small scale, with a limited scope of impact. In addition to the reconciling of Chapters 25.06 and 25.09, further amendments include correcting typographical errors and incorrect section references, updating outdated references to external documents cited in the regulations, and adding clarifications or corrections to existing code language. Several amendments are also intended to improve administrative process, particularly with respect to permitting and administrative remedies, but do not make substantive changes to the regulations.

Background: Seattle Municipal Code (SMC) Chapter 25.09, Regulations for Environmentally Critical Areas (ECA regulations), first became effective in 1992 and was first updated with significant amendments in 1995. The most recent comprehensive amendment of Chapter 25.09 occurred in 2006, with the adoption of Ordinance 122050. Ordinance 122050 was a response to RCW 36.70A.130 requiring that cities and counties planning under the Growth Management Act, including the City of Seattle, update their environmentally critical areas regulations to comply with the requirements of the Act, including the requirement in RCW 36.70A.172 to include the "best available science" (BAS) when developing policies and regulations that protect

the functions and values of critical areas. Amendments of more limited scope, primarily defining certain new types of critical areas (peat settlement-prone areas, seismic hazard areas, and volcanic hazard areas), were added in 2007 and 2008 with the adoption of Ordinances 122370 and 122738, and some further specialized amendments were added for stormwater, grading and drainage in 2009 under Ordinance 123106.

Please check one of the following:

__X__ **This legislation does not have any financial implications.**

____ **This legislation has financial implications.**

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
No.

b) **What is the financial cost of not implementing the legislation?**
None.

c) **Does this legislation affect any departments besides the originating department?**
No.

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
No alternatives have been identified.

e) **Is a public hearing required for this legislation?**
Yes. The City Council must hold a public hearing, to be scheduled before the Planning, Land Use, and Sustainability Committee.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
Yes. Publication of notice of the Council public hearing will be made in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin. Environmental review under the State Environmental Policy Act (SEPA) is also required for this legislation, and publication of notice of the environmental determination was made in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin on January 14, 2013.

g) **Does this legislation affect a piece of property?**
No.

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h) Other Issues: None.

List attachments to the fiscal note below:

None.

CHICAGO CITY CLERK

City of Seattle
Office of the Mayor

August 27, 2013

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that would amend the Seattle Floodplain Development Ordinance and the Seattle Regulations for Environmentally Critical Areas, Chapters 25.06 and 25.09 of the Seattle Municipal Code. This legislation would reconcile conflicts and discrepancies between regulations for development in floodplains in Chapter 25.06 and the regulations for flood-prone areas set forth in Chapter 25.09, clarify language in both chapters, and make additional minor amendments to the Regulations for Environmentally Critical Areas intended to update references and improve administrative process.

Since the last comprehensive amendments to the Regulations for Environmentally Critical Areas in 2006, a number of inconsistencies and minor errors in the regulations have been identified by City staff and external customers such as citizens and the development community. These issues are best addressed by proposing a collection of amendments that are small scale, with a limited scope of impact. The amendments include correcting typographical errors and incorrect section references, updating external documents referenced in the regulations, and adding clarifications or corrections to existing code language. Several amendments are also intended to improve administrative process, particularly with respect to permitting and administrative remedies, but do not make substantive changes to the regulations.

Thank you for your consideration of this legislation. The proposed changes will make the Seattle Floodplain Development Ordinance and Regulations for Environmentally Critical Areas both easier to understand and easier to administer. Should you have questions, please contact Bill Mills in the Department of Planning and Development at 684-8738.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
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