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.)

25.06.020Purpose.

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.)

25.06.030Definitions.

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 percent (1%) 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 percent (1%) 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.

F. "Director" means the Director of the Department of Construction and Land Use. As used in this chapter, the term includes authorized representatives of the Director of the Department of 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 preliminary map dated September 23, 1988, 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 preliminary report, entitled "The Flood Insurance Study for King County, Washington and Incorporated Areas," dated September 23, 1988, 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 non-elevation 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. "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.

P. "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.

Q. 1. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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. 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.

25.06.040Applicability.

This chapter shall apply to all areas of special

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flood hazards within the jurisdiction of The City of Seattle.
(Ord. 114395 § 1(part), 1989.)

25.06.050Identification 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 preliminary report entitled "The Flood Insurance Study for King County, Washington and Incorporated Areas," dated September 23, 1988, 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 Construction and Land Use and the Seattle Engineering Department and may be maintained on file at the Seattle Park Department, the Seattle-King County Department of Public Health, and other City offices.
(Ord. 114395 § 1(part), 1989.)

25.06.060Floodplain 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.)

25.06.070Application 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.)

25.06.080Designation 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.)

25.06.090Functions 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;

I. On or about January 31st of each calendar year, provide to the Director a report of all floodplain development approvals issued by such Administrator during the preceding calendar year. Such annual report shall include the address or location of each approved development, the nature of the approved development and the date of each approval.

(Ord. 114395 § 1(part), 1989.)

25.06.100General 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 feet (2′) or more above base flood elevation, or as otherwise approved by the Director of the Department of Construction and Land Use in consultation with the Director of Engineering.

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 foot (1′) 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 Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to two feet (2′) or more above the level of the base flood elevation, or as otherwise approved by the Director of the Department of Construction and Land Use in consultation with the Director of Engineering; 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 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 feet (3′) 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 to be placed or substantially improved 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 feet (2′) or more above the base flood elevation, or as otherwise approved by the Director of the Department of Construction and Land Use in consultation with the Director of Engineering; and shall be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 25.06.100 A. This subsection applies to manufactured homes to be placed or substantially improved in an expansion to an existing manufactured home park or subdivision. This subsection does not apply to manufactured homes to be placed or substantially improved in an existing manufac

tured home park or subdivision except where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before repair, reconstruction or improvement has commenced.
(Ord. 116255 § 1, 1992; Ord. 114395 § 1(part), 1989.)

25.06.120Standards 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 or architect is provided demonstrating that encroachment shall 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 percent (50%) 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 shall not be included in the fifty percent (50%) requirement.

C. If the certification of subsection A above is obtained, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.
(Ord. 114395 § 1(part), 1989.)

25.06.130Standards 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 foot (1′) or more above the depth number specified on the FIRM, or if no depth number is specified, at least two feet (2′).

B. New construction and substantial improvements of nonresidential structures within AO zones shall either (1) have the lowest floor (including basement) elevated above the highest adjacent grade of the building site one foot (1′) or more above the depth number specified on the FIRM, or if not depth number is specified, at least two feet (2′); 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. 114395 § 1(part), 1989.)

25.06.140Penalties 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.)

25.06.150Wetlands 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

25.08.010Declaration 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.)

25.08.020Findings 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.)

25.08.030Chapter 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

25.08.040Definitions 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.)

25.08.050Administrative 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.

25.08.060Administrator.

“Administrator” means the Director of the Department of Construction and Land Use or his or her authorized representative, except that the Director of the Seattle-King County Department of Public Health or his or her authorized representative shall continue to be the “Administrator”

of Subchapter VII Variances through December 31, 1993.
(Ord. 116621 § 1, 1993: Ord. 106360 § 202, 1977.)

25.08.070Commercial 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.)

25.08.080Construction.

"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.)

25.08.090dB(A).

"dB(A)" means the sound level measured in decibels, using the "A" weighting network.
(Ord. 106360 § 205, 1977.)

25.08.100Districts.

"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.)

25.08.110Emergency 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.)

25.08.120Equipment.

"Equipment" means any stationary or portable device or any part thereof capable of generating sound.
(Ord. 106360 § 208, 1977.)

25.08.130Gross 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.)

25.08.140Gross 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.)

25.08.150Impulsive 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.)

25.08.160L 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.)

25.08.170Motorcycle.

"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.)

25.08.180Motor 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.)

25.08.190Motor 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.)

25.08.210New 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.)

25.08.220Noise.

"Noise" means the intensity, duration and character of sounds from any and all sources.
(Ord. 106360 § 217, 1977.)

25.08.230Off-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.)

25.08.240Periodic 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.)

25.08.250Person.

"Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.
(Ord. 106360 § 220, 1977.)

25.08.260Property 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.)

25.08.270Public 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.)

25.08.280Public 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.)

25.08.290Pure 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.)

25.08.300Real 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.)

25.08.310Receiving property.

"Receiving property" means real property within which sound originating from sources outside the property is received.
(Ord. 106360 § 226, 1977.)

25.08.315Shoreline.

"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.)

25.08.320Sound 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.)

25.08.330Sound 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.)

25.08.340Special 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.)

25.08.350Use.

"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.)

25.08.360Warning 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.)

25.08.370Watercraft.

"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.)

25.08.380Weekday.

"Weekday" means any day Monday through Friday which is not a legal holiday.
(Ord. 106360 § 233, 1977.)

25.08.390Weekend.

"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.)

25.08.410Maximum 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.)

25.08.420Modifications 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 p.m. (10:00 p.m.) and seven a.m. (7:00 a.m.) during weekdays, and between the hours of ten p.m. (10:00 p.m.) and nine a.m. (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.)

25.08.425Construction 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 feet (50′) from the equipment, whichever is greater, may be exceeded 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 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 feet (50′) from the equipment, whichever is greater, may exceed the maximum permissible sound levels established in subsection A of this section in any

one (1) hour period between the hours of eight a.m. (8:00 a.m.) and five p.m. (5:00 p.m.) on weekdays and nine a.m. (9:00 a.m.) and five p.m. (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 (7-½) 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 a.m. (8:00 a.m.) and five p.m. (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.)

25.08.426Plan 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 ($50.00); 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

25.08.430Sounds 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 as to exceed the following maximum permissible sound levels for the category of vehicle, as measured at a distance of fifty feet (50′) from the center of the lane of travel within the speed limits specified, by measurement procedures established by the State Commission on Equipment.

Vehicle Category	35 mph or Less (dB(A))	Over 35 mph (db(A))
Motor vehicles over 10,000 pounds GVWR (or GCWR)	86	90
Motorcycles	80	84
All other motor vehicles	76	80

(Ord. 106360 § 401, 1977.)

25.08.450Modification to motor vehicles.

It is unlawful for any person to modify or change any part of a motor vehicle or install any

device thereon in any manner that permits sound to be emitted by the motor vehicle in excess of the limits prescribed by this subchapter. It is unlawful for any person to remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle.
(Ord. 106360 § 403, 1977.)

25.08.460Tire 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.)

25.08.470Sale 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 feet (50′), 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.)

25.08.480Motor 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.)

25.08.485Watercraft.

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 feet (50′) 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 p.m. (10:00 p.m.) and sunrise will be interpreted as seven a.m. (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 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.

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

25.08.490Prohibited.

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.)

25.08.500Public 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 p.m. (10:00 p.m.) and seven a.m. (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 a.m. (10:00 a.m.) and five p.m. (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.)

25.08.510Exempted 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.)

25.08.515Public 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 feet (75′) 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 feet (75′) 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.)

25.08.520Noise 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 a 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 the Seattle Engineering Department, 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 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 the Seattle Engineering Department 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 the Seattle Engineering Department 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. 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

25.08.530Sounds 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.)

25.08.535Sound 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.)

25.08.550Sounds 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

25.08.560Application—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.

25.08.570Application—Fee.

A. Application for a variance or renewal of a variance shall be accompanied by payment of a nonrefundable fee as follows:

1. Temporary variance $100.00
2. Technical or economic variance, source in rural or residential district 100.00
   base fee, plus additional fee for actual review costs over and above $100.00.
3. Technical or economic variance, source in commercial or industrial district 250.00
   base fee, plus additional fee for actual review costs over and above $250.00.

B. In addition to the base fee the review fee for technical or economic variance shall be the actual costs associated with application review to the Health Department over and above the base fee.
(Ord. 114832 § 1, 1989: Ord. 112570 § 1, 1985: Ord. 112120 § 1, 1985: Ord. 112028 § 1, 1984: Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(b), 1977.)

25.08.580Discretion 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(c), 1977.)

25.08.590Granting 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(d), 1977.)

25.08.600Renewal 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(e), 1977.)

25.08.610Appeal 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(f), 1977.)

25.08.620Exemption.

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(g), 1977.)

25.08.630Temporary 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.)

25.08.640Technical 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.)

25.08.650Economic 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

25.08.660Authority 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 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. 114656 § 3, 1989: Ord. 110047 § 5, 1981: Ord. 106360 § 801, 1977.)

25.08.670Duties 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.

25.08.680Measurement 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.)

25.08.690Technical 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.)

25.08.700Receiving 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

25.08.710Right 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.)

25.08.730Notice 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.)

25.08.740Method 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.)

25.08.750Final 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.)

25.08.760Administrative 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.)

25.08.770Right 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.)

25.08.780Form 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.)

25.08.790Hearing 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.

25.08.800Punishment.

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 ($500.00); conduct made unlawful by Section 25.08.515 shall be punished by a civil fine or forfeiture not to exceed Fifty Dollars ($50.00).

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 ($500.00), 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.)

25.08.810Penalty 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 ($500.00) 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.)

25.08.820Penalties cumulative.

The penalties imposed by Sections 25.08.800 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. 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.)

25.09.020Environmentally 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 percent (15%) 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 feet (100′) 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 percent (40%) average slope or greater as defined by the Director. A slope must have a vertical elevation change of at least ten feet (10′) to be considered a steep slope, although the ten feet (10′) 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 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 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 feet (100′) 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 non-wetland 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 non-wetland areas created to mitigate conversion of wetlands.

(The method for delineating wetlands shall follow the 1989 Federal Manual for Delineating Jurisdictional Wetlands until the Washington State Department of Ecology adopts a new manual for the delineation of wetlands in conformance with Section 11 of Chapter 382 of the Laws of 1995, in which case the method for delineating wetlands shall follow such manual; however, if prior to that time the King County Countywide Planning Policies are amended to allow use of the 1987 U.S. Corps of Engineers Wetlands Delineation Manual in conjunction with the U.S. Corps of Engineers Washington Regional Guidance on the 1987 Wetland Delineation Manual, the method for delineating wetlands shall follow such manuals of the Corps of Engineers until the Department of Ecology's manual is adopted.

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 feet (1,000′) 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. 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.

25.09.040Application 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.)

25.09.060Application 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 22.800, Stormwater, Grading and Drainage Control Code. 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.)

25.09.080Development 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 post placards on the site. 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 feet (4′) and the bottom of the proposed excavation shall be below a one-hundred percent (100%) slope line (forty-five degrees (45°) 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. 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.)

25.09.120Development 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 Engineering.
(Ord. 116253 § 1(part), 1992.)

25.09.140Development 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.)

25.09.160Development 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.)

25.09.200Development 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.)

25.09.220Development 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.)

25.09.240Short 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 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 building height 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 percent (40%) shall be subject to the landslide-prone area provisions of this Chapter, Section 25.09.080.

(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 percent (25%) 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 feet (5′) 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.)

25.09.300Environmentally 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 inch (6″) caliper or greater, measured three feet (3′) above the ground; or

2. Any combination of trees over one and one-half inch (1.5″) caliper, measured three feet (3′) 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 inches (6″); 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.)

25.09.340Administration.

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.)

25.09.360State 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.)

25.09.380Compliance 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.)

25.09.400Violations 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 ($500.00) 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 inches (12″) caliper; or

c. Any six foot (6′) 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.)

25.09.420Definitions.

"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 Construction and Land Use 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.

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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. 116976 § 15, 1993; Ord. 116253 § 1(part), 1992.)

25.09.440Construction.

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

25.10.100Purpose.

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.)

25.10.110Applicability.

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 Building 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

25.10.200Administrative Code.

"Administrative Code" means the Admin-istrative Code of The City of Seattle, Chapter 3.02 of the Seattle Municipal Code, as now or hereafter amended.

(Ord. 116057 §1(part), 1992.)

25.10.205Administrator.

"Administrator" means the Director of the Seattle-King County Department of Public Health or the Director's authorized representative.

(Ord. 116057 §1(part), 1992.)

25.10.210Antenna.

"Antenna" means a system of electrical conductors that emit or receive radio frequency waves.

(Ord. 116057 §1(part), 1992.)

25.10.215Communication 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 §1(part), 1992.)

25.10.220Communication 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 §1(part), 1992.)

25.10.225Earth 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 §1(part), 1992.)

25.10.230Effective 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 §1(part), 1992.)

25.10.235Frequency.

"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 §1(part), 1992.)

25.10.240General 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 §1(part), 1992.)

25.10.245Hertz (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 §1(part), 1992.)

25.10.250Nonionizing electromagnetic radiation.

"Nonionizing electromagnetic radiation" means electromagnetic radiation of low-photon energy unable to cause ionization (i.e., removing electrons from atoms).
(Ord. 116057 §1(part), 1992.)

25.10.255Radiofrequency 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 §1(part), 1992.)

25.10.260Receive-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 §1(part), 1992.)

25.10.265Satellite 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 §1(part), 1992.)

25.10.270Transmission 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 §1(part), 1992.)

25.10.275Transmitter.

"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 §1(part), 1992.)

Subchapter III Radiofrequency Radiation Standards

25.10.300Radiofrequency 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^2/m^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 ($180/f^2$)	0.025 ($180/f^2$)	$180,000/f^2$
30 to 300	800	0.005	200
300 to 1,500	4,000 (f/1,500)	0.025 (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/cm^2 for frequencies between three hundred (300) MHz and six thousand (6,000) MHz, (f/1.5) uW/cm^2 for frequencies between six thousand (6,000) MHz and thirty thousand (30,000) MHz, and twenty thousand (20,000) uW/cm^2 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 §1(part), 1992.)

25.10.310Calculations 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 §1(part), 1992.)

25.10.320Radiofrequency 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 §1(part), 1992.)

25.10.325Establishment 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 §1(part), 1992.)

25.10.330Retroactivity.

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 §1(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

25.10.400Facilities 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 §1(part), 1992.)

25.10.410Contents 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 §1(part), 1992.)

25.10.420Post-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 §1(part), 1992.)

Subchapter V Monitoring and Enforcement

25.10.500Monitoring 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 §1(part), 1992.)

25.10.510Notice 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 radiofrequency 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 §1(part), 1992.)

25.10.520Method 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 §1(part), 1992.)

25.10.530Final 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 §1(part), 1992.)

25.10.540Appeals.

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 §1(part), 1992.)

25.10.550Civil 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 §1(part), 1992.)