

ORDINANCE No.

119096

COUNCIL BILL No.

112253

Law Department

Over sig The City

AN ORDINANCE relating to health and safety, land use and environmental protection to comply with Washington State Department of Ecology amendments to the State Environmental Policy Act (SEPA) Rules, Chapter 197-11 WAC, by amending, repealing and adding the following Sections to the Seattle Municipal Code: amending Sections 10.52.040, 23.12.105, 23.53.020, 23.76.004, 23.76.006, 23.76.012, 23.76.020, 23.76.022, 23.76.036, 23.76.052, 23.84.010, 25.05.055, 25.05.060, 25.05.070, 25.05.300, 25.05.305, 25.05.310, 25.05.315, 25.05.330, 25.05.340, 25.05.390, 25.05.408, 25.05.502, 25.05.508, 25.05.535, 25.05.600, 25.05.660, 25.05.675, 25.05.680, 25.05.702, 25.05.728, 25.05.747, 25.05.790, 25.05.800, 25.05.890, 25.05.900, 25.05.908, 25.05.912, 25.05.938, 25.05.948, 25.05.960, and 25.05.970; repealing Section 25.05.748; and adding Sections 25.05.164, 25.05.168, 25.05.172, 25.05.210, 25.05.250, 25.05.355, 25.05.721, 25.05.751, and 25.05.775.

Honorable President:

Your Committee on

to which was referred the within Council report that we have considered the same

BECD

8-3-98 Full

CEYCO

COMPTROLLER FILE No.

Introduced: 7-20-98	By Drayton
Referred:	To: BECD
Referred:	To:
Referred:	To:
Reported: 8-3-98	Second Reading:
Third Reading: 8-3-98	Signed: 8-3-98
Presented to Mayor: 8-3-98	Approved:
Returned to City Clerk: AUG 11 1998	Published: Full HLP
Vetted by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Department

sig

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

able President:

committee on

h was referred the within Council Bill No.

that we have considered the same and respectfully recommend that the same:

BECD Do approve 3-0

-3-98 Full Council Action - Passed 8-0
(Excused: Licata)

Committee Chair

Ordinance 119096

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4 **AN ORDINANCE** relating to health and safety, land use and environmental protection to
5 comply with Washington State Department of Ecology amendments to the State
6 Environmental Policy Act (SEPA) Rules, Chapter 197-11 WAC, by amending,
7 repealing and adding the following Sections to the Seattle Municipal Code:
8 amending Sections 10.52.040, 23.12.105, 23.53.020, 23.76.004, 23.76.006,
9 23.76.012, 23.76.020, 23.76.022, 23.76.036, 23.76.052, 23.84.010, 25.05.055,
10 25.05.060, 25.05.070, 25.05.300, 25.05.305, 25.05.310, 25.05.315, 25.05.330,
11 25.05.340, 25.05.390, 25.05.408, 25.05.502, 25.05.508, 25.05.535, 25.05.600,
12 25.05.660, 25.05.675, 25.05.680, 25.05.702, 25.05.728, 25.05.747, 25.05.790,
13 25.05.800, 25.05.890, 25.05.900, 25.05.908, 25.05.912, 25.05.938, 25.05.948,
14 25.05.960, and 25.05.970; repealing Section 25.05.748; and adding Sections
15 25.05.164, 25.05.168, 25.05.172, 25.05.210, 25.05.250, 25.05.355, 25.05.721,
16 25.05.751, and 25.05.775.

17
18 **WHEREAS**, the Washington State Department of Ecology adopted revisions to the State
19 Environmental Policy Act (SEPA) Rules, Chapter 197-11 WAC, with an effective
20 date of November 10, 1997; and

21
22 **WHEREAS**, the City of Seattle SEPA Ordinance must be amended to incorporate required
23 provisions of the State SEPA Rules and the City Council chooses to adopt certain
24 optional provisions; and

25
26 **WHEREAS**, these are procedural amendments to the City of Seattle SEPA Ordinance that
27 do not change the effect of the City's Overview Policy;

28
29 **NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SEATTLE AS**
30 **FOLLOWS:**

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32
33 **Section 1.** Subsection E of Section 10.52.040 of the Seattle Municipal Code, as
34 adopted by Ordinance 114355, is amended as follows:

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36 **10.52.040 Enforcement.**

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40 E. In identifying violations of this Chapter and in specifying corrective action
41 necessary to comply with this chapter, the Director shall take appropriate measures to ensure

1 that environmental hazards and unsafe conditions are not created in environmentally
2 ((sensitive)) critical areas and in property maintained in a wholly undeveloped and
3 unimproved state.

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8 **Section 2.** Policy 1 and Policy 3B of Section 23.12.105 of the Seattle Municipal
9 Code, as adopted by Ordinance 117929, are amended as follows:

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11 **23.12.105 Open space policies.**

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13 Policy 1: Framework Policies

14 The goal of these open space policies shall be to maintain, improve and protect the
15 existing open space system, so that the future generations can appreciate and enjoy the city's
16 outstanding natural features -- its lakes, shorelines, streams and ravines, wooded hillsides,
17 views, trees and other natural vegetation. Seattle's open space system shall also be used to
18 provide light and air, buffer residential areas from incompatible uses, and protect
19 environmentally ((sensitive)) critical areas. The system shall be maintained to: 1) promote a
20 visually pleasing, high quality, environment for workers, residents and visitors; 2) reinforce
21 desired land use patterns; 3) strengthen Seattle's neighborhoods; and 4) provide links among
22 Seattle's diverse parts. These purposes supplement and complement the important
23 recreational functions provided by our established system of park and recreation facilities.

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25 * * *

26
27 Policy 3B: Open Space Plan for Leschi

28 An open space plan for Leschi shall be developed to preserve and enhance the unique
29 wooded character of the Leschi neighborhood, a natural resource in the midst of a developed
30 urban area. The plan shall encourage maintenance of the area's natural landscaped character,
31 protection of steep slopes and other environmentally ((sensitive)) critical areas, and
32 enhancement of the area's existing open space system. The plan shall also consider use of a
33 variety of open space tools and strategies to meet the intent of this policy, such as public
34 improvements of public lands and rights-of-way, or a public involvement program to
35 maintain and enhance the neighborhood's urban forest.

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37 * * *

1 (2) Grading Requirement. When a setback is required, all
2 structures on the lot shall be designed to accommodate the grade of the future street,
3 according to the Street Improvement Manual.

4 (3) A no-protest agreement to future street improvements
5 shall be required, as authorized by RCW Chapter 35.43. The agreement shall be recorded
6 with the title to the property with the King County Department of Records and Elections.

7 2. Projects With Reduced Improvement Requirements. The following
8 types of projects are exempt from all dedication and improvement requirements of
9 subsections B, C and D of this section, but shall meet the setback, grading and no-protest
10 requirements of subsection E1b if the street right-of-way abutting the lot has less than the
11 minimum right-of-way width established in subsection A of this section or does not meet the
12 grade of future street improvements.

13 a. Structures with fewer than ten (10) artist's studio dwellings;
14 b. The following uses when they are smaller than seven hundred
15 fifty (750) square feet of gross floor area: fast-food restaurants; major and minor vehicle
16 repair uses; and multipurpose convenience stores;

17 c. Nonresidential structures which have less than four thousand
18 (4,000) square feet of gross floor area and which do not contain uses listed in subsection
19 D2b of this section which are larger than seven hundred fifty (750) square feet;

20 d. Structures containing a mix of artist's studio dwellings and
21 nonresidential uses, if there are fewer than ten (10) artist's studio dwellings, and the square
22 footage of nonresidential use is less than specified in subsections D2b and D2c of this
23 section;

24 e. Remodeling and use changes within existing structures;

25 f. Additions to existing structures which are exempt from
26 environmental review; and

27 g. Expansions of a surface parking area or open storage area of
28 less than twenty (20) percent of parking area or storage area or number of parking spaces.

29 3. Exceptions From Required Street Improvement Requirements. The
30 Director may waive or modify the requirements for paving, dedication, setbacks, grading,
31 no-protest agreements, landscaping and sidewalk and pedestrian walkway installation when
32 it is determined that one (1) or more of the following conditions are met:

33 a. Location in an environmentally ((sensitive)) critical area,
34 disruption of existing drainage patterns, or removal of natural features such as significant
35 trees makes widening and/or improving the right-of-way impractical or undesirable.

36 b. The existence of a bridge, viaduct or structure such as a
37 substantial retaining wall makes widening the right-of-way impractical or undesirable.

38 c. Widening the right-of-way and/or improving the street would
39 adversely affect the character of the street, as it is defined in an adopted neighborhood plan
40 or adopted City plan for street parks, boulevards, or other special right-of-way, or would
41 otherwise conflict with the stated goals of such a plan.

1 d. Widening and/or improving the right-of-way would make
2 building on a lot infeasible by reducing it to dimensions where development standards
3 cannot reasonably be met.

4 e. Widening and/or improving the right-of-way would eliminate
5 street access to an existing lot.

6 f. One (1) or more substantial principal structures on the same
7 side of the block as the proposed project are located in the area needed for future expansion
8 of the right-of-way and the structure(s)' condition and size make future widening of the
9 remainder of the right-of-way unlikely.

10 g. Widening and/or improving the right-of-way is impractical
11 because topography would preclude the use of the street for vehicular access to the lot, for
12 example due to an inability to meet the required twenty (20) percent maximum driveway
13 slope.

14 h. Widening and/or improving the right-of-way is not necessary
15 because it is adequate for current and potential pedestrian and vehicular traffic, for example,
16 due to the limited number of lots served by the development or because the development on
17 the street is at zoned capacity.

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20 **Section 4.** Exhibit 23.76.004A of Section 23.76.004 of the Seattle Municipal Code,
21 which Section was last amended by Ordinance 118672, is amended as follows:
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Exhibit 23.76.004 A
LAND USE DECISION FRAMEWORK
Director's and Hearing Examiner's Decisions Requiring Master Use Permits

TYPE I Director's Decision (No Administrative Appeal)	TYPE II Director's Decision (Appealable to Hearing Examiner*)	TYPE III Hearing Examiner's Decision (No Administrative Appeal)
<ul style="list-style-type: none"> • Compliance with development standards • Uses permitted outright • Temporary uses, four weeks or less • Certain street uses • Lot boundary adjustments • Modifications of features bonused under Title 24 • Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation • Temporary uses, twelve months or less, for relocation of police and fire protection • Exemptions from right-of-way improvement requirements • Special accommodation • Reasonable accommodation • Minor amendment to a Major • Phased Development Permit 	<ul style="list-style-type: none"> • Temporary uses, more than four weeks • Certain street uses • Variances • Administrative conditional uses • Shoreline decisions (*Appealable to Shorelines Hearings Board along with all related environmental appeals) • Short subdivisions • Special exceptions • Design Review • Northgate General Development Plan • The following environmental determinations: <ol style="list-style-type: none"> 1. Determination of nonsignificance (EIS not required) 2. Determination of final EIS adequacy 3. Determinations of significance based solely on historic and cultural preservation 4. A decision by the Director to approve, condition or deny a project based on SEPA Policies 5. <u>A decision by the Director that a project is consistent with a Planned Action Ordinance and EIS (no threshold determination or EIS required)</u> • Major Phased Development 	<ul style="list-style-type: none"> • Subdivisions (Preliminary Plats)

Council Land Use Decisions

TYPE IV (Quasi-Judicial)	TYPE V (Legislative)
<ul style="list-style-type: none"> • Land use map amendments (Rezones) • Public project approvals • Major institution master plans • Council conditional uses • Downtown planned community developments 	<ul style="list-style-type: none"> • Land Use Code text amendments • Rezones to implement new City Policies • Concept approval for City facilities • Major Institution designations • Waive or modify development standards for City facilities • <u>Planned Action Ordinance</u>

1 h. The following shoreline decisions (supplemental procedures
2 for shoreline decisions are established in Chapter 23.60):

- 3 (1) Shoreline substantial development permits,
4 (2) Shoreline variances,
5 (3) Shoreline conditional uses;
6 i. Northgate General Development Plan;
7 j. Major Phased Development((-)); and
8 k. Determination of project consistency with a Planned Action
9 ordinance and EIS.

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14 **Section 6.** Subsections A and C of Section 23.76.012, of the Seattle Municipal
15 Code, which Section was last amended by Ordinance 118672, are further amended as
16 follows:

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18 **23.76.012 Notice of application.**

19
20 A. Notice.

- 21 1. Type I notification. No notice shall be required for Type I decisions.
22 2. Type II and III notification. When a Master Use Permit application
23 requiring a Type II or III decision is submitted, the Director shall provide notice of
24 application and an opportunity for public comment as described in this section. Notice of
25 application for Type II and III decisions shall be provided within fourteen (14) days after a
26 determination of completeness.

27 a. Other agencies with jurisdiction. To the extent known by the
28 Director, other agencies of local, state or federal governments that may have jurisdiction
29 over some aspect of the project shall be sent notice. ~~((No notice or public comment period
30 shall be required for Type I decisions.))~~

31 b. Early Review Determination of Nonsignificance (DNS). In
32 addition to the requirement under A2a above, a copy of the Early Review DNS notice of
33 application and environmental checklist shall also be sent to the following:

- 34 (1) State Department of Ecology;
35 (2) Affected Tribes;
36 (3) Each local agency or political subdivision whose
37 public services would be changed as a result of implementation of the proposal; and
38 (4) Anyone requesting a copy of this information.

39 * * *

1 C. Contents of Notice.

2 1. The City's official notice of application shall be the notice placed in
3 the General Mailed Release, which shall include the following required elements as
4 specified in RCW 36.70B.110;

5 a. Date of application, date of notice of completion for the
6 application, and the date of the notice of application;

7 b. A description of the proposed project action and a list of the
8 project permits included in the application and, if applicable, a list of any studies requested
9 by the Director;

10 c. The identification of other permits not included in the
11 application to the extent known by the Director;

12 d. The identification of existing environmental documents that
13 evaluate the proposed project, and the location where the application and any studies can be
14 reviewed;

15 e. A statement of the public comment period and the right of any
16 person to comment on the application, request an extension of the comment period, receive
17 notice of and participate in any hearings, and request a copy of the decision once made, and
18 a statement of any administrative appeal rights;

19 f. The date, time, place and type of hearing, if applicable and if
20 scheduled at the date of notice of the application;

21 g. A statement of the preliminary determination, if one has been
22 made at the time of notice, of those development regulations that will be used for project
23 mitigation and the proposed project's consistency with development regulations; ~~((and))~~

24 h. Any other information determined appropriate by the Director;
25 and

26 i. The following additional information when the Early Review
27 DNS process is used:

28 (1) A statement that the Early Review DNS process is
29 being used and the Director expects to issue a DNS for the proposal;

30 (2) A statement that this is the only opportunity to
31 comment on the environmental impacts of the proposal;

32 (3) A statement that the proposal may include mitigation
33 measures under applicable codes, and the project review process may incorporate or require
34 mitigation measures regardless of whether an EIS is prepared; and

35 (4) A statement that a copy of the subsequent threshold
36 determination for the proposal may be obtained upon request.

37 2. All other additional forms of notice, including, but not limited to
38 environmental review and land use signs, placards and mailed notice, shall include the
39 following information: the project description, location of the project, date of application,
40 location where the complete application file may be reviewed, and a statement that persons
41 who desire to submit comments on the application or who request notification of the

1 decision may so inform the Director in writing within the comment period specified in
2 subsection D of this section. The Director may, but need not, include other information to
3 the extent known at the time of notice of application. Except for the environmental review
4 sign requirement, each notice shall also include a list of the land use decisions sought. The
5 Director shall specify detailed requirements for environmental review and land use signs.

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10 **Section 7.** Subsections B and C of Section 23.76.020, of the Seattle Municipal
11 Code, which Section was last amended by Ordinance 118012, are further amended as
12 follows:

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14 **23.76.020 Director's decisions.**

15 * * *

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18 **B. Timing of Decisions Subject to Environmental Review.**

19 1. If an EIS has been required, the Director's decision shall not be issued
20 until at least seven (7) days after publication of the final EIS, as provided by Chapter 25.05
21 SEPA Policies and Procedures.

22 2. If no EIS is required, the Director's decision shall include issuance of
23 a DNS for the project if not previously issued pursuant to 25.05.310C 2.

24 **C. Notice of Decisions.**

25 1. Type I. No notice of decision is required for Type I decisions.

26 2. Type II. The Director shall provide notice of all Type II decisions as
27 follows:

28 a. A list of all Type II decisions shall be compiled and published
29 in the City official newspaper within seven (7) days of the date the decision is made. This
30 list and the date of its publication shall also be posted in a conspicuous place in the
31 Department and shall be included in the General Mailed Release. Notice shall also be mailed
32 to the applicant and to interested persons who have requested specific notice in a timely
33 manner or who have submitted substantive comments on the proposal, and shall be
34 submitted in a timely manner to at least one (1) community newspaper in the area affected
35 by the proposal.

36 b. DNSs shall also be filed with the SEPA Public Information
37 Center.

38 c. If the Director's decision includes a mitigated DNS or other
39 DNS requiring a ((~~fifteen (15)~~)) fourteen (14) day comment period pursuant to SMC
40 Chapter 25.05, SEPA Policies and Procedures, the notice of decision shall include notice of

1 the comment period. The Director shall distribute copies of the DNS as required by SMC
2 Section 25.05.340.

3 d. Any shoreline decision in a Master Use Permit shall be filed
4 with the Department of Ecology according to the requirements contained in WAC 173-27-
5 130. A shoreline decision on limited utility extensions and bulkheads subject to Section
6 23.60.065 shall be issued within twenty-one (21) days of the last day of the comment period
7 as specified in that Section.

8 e. The notice of the Director's decision shall state the nature of
9 the applicant's proposal, a description sufficient to locate the property, and the decision of
10 the Director. The notice shall also state that the decision is subject to appeal and shall
11 describe the appropriate appeal procedure.

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14 **Section 8.** Subsection C of Section 23.76.022 of the Seattle Municipal Code, which
15 Section was last amended by Ordinance 118012, is further amended as follows:

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17 **23.76.022 Administrative appeals.**

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21 **C. Hearing Examiner Appeal Procedures.**

22 1. Consolidated Appeals. All appeals of Type II Master Use Permit
23 decisions other than shoreline decisions shall be considered together in a consolidated
24 hearing before the Hearing Examiner.

25 2. Standing. Appeals may be initiated by any person significantly
26 affected by or interested in the permit.

27 3. Filing of Appeals.

28 a. Appeals shall be filed with the Hearing Examiner by five p.m.
29 (5:00 p.m.) of the fourteenth calendar day following publication of notice of the decision;
30 provided, that when a ~~((fifteen (15)))~~ fourteen (14) day DNS comment period is required
31 pursuant to SMC Chapter 25.05, appeals may be filed until five p.m. (5:00 p.m.) of the
32 twenty-first calendar day following publication of notice of the decision. When the last day
33 of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the
34 period shall run until five p.m. (5:00 p.m.) on the next business day. The appeal shall be in
35 writing and shall clearly identify each component of a Type II Master Use Permit being
36 appealed. The appeal shall be accompanied by payment of the filing fee as set forth in SMC
37 Section 3.02.125 , Hearing Examiner filing fees. Specific objections to the Director's
38 decision and the relief sought shall be stated in the written appeal.

39 b. In form and content, the appeal shall conform with the rules of
40 the Hearing Examiner.

1 c. The Hearing Examiner shall not accept any request for an
2 interpretation included in the appeal unless it complies with the requirements of Section
3 23.88.020 C3c.

4 4. Pre-hearing Conference. At the Hearing Examiner's initiative, or at the
5 request of any party of record, the Hearing Examiner may have a conference prior to the
6 hearing in order to entertain pre-hearing motions, clarify issues, or consider other relevant
7 matters.

8 5. Notice of Hearing. Notice of the hearing on the appeal shall be mailed
9 by the Director at least twenty (20) days prior to the scheduled hearing date to parties of
10 record and those requesting notice. Notice shall also be included in the next General Mailed
11 Release.

12 6. Scope of Review. Appeals shall be considered de novo. The Hearing
13 Examiner shall entertain issues cited in the appeal which relate to compliance with the
14 procedures for Type II decisions as required in this chapter, compliance with substantive
15 criteria, determinations of nonsignificance (DNSs), adequacy of an EIS upon which the
16 decision was made, or failure to properly approve, condition or deny a permit based on
17 disclosed adverse environmental impacts and any requests for an interpretation included in
18 the appeal or consolidated appeal pursuant to subsection 23.88.020 C3.

19 7. Standard of Review. The Director's decisions made on a Type II
20 Master Use Permit shall be given substantial weight, except for determinations on variances,
21 conditional uses, and special exceptions, which shall be given no deference.

22 8. The Record. The record shall be established at the hearing before the
23 Hearing Examiner. The Hearing Examiner shall either close the record after the hearing or
24 leave it open to a specified date for additional testimony, written argument or exhibits.

25 9. Postponement or Continuance of Hearing. The Hearing Examiner
26 shall not grant requests for postponement or continuance of an appeal hearing to allow an
27 applicant to proceed with an alternative development proposal under separate application,
28 unless all parties to the appeal agree in writing to such postponement or continuance.

29 10. Hearing Examiner's Decision. The Hearing Examiner shall issue a
30 written decision within fifteen (15) days after closing the record. The Hearing Examiner may
31 affirm, reverse, remand or modify the Director's decision. Written findings and conclusions
32 supporting the Hearing Examiner's decision shall be made. The Director and all parties of
33 record shall be bound by the terms and conditions of the Hearing Examiner's decision.

34 11. Notice of Hearing Examiner Decision. The Hearing Examiner's
35 decision shall be mailed by the Hearing Examiner on the day the decision is issued to the
36 parties of record and to all those requesting notice. If environmental issues were raised in the
37 appeal, the decision shall also be filed with the SEPA Public Information Center. The
38 decision shall contain information regarding judicial review. To the extent such information
39 is available to the Hearing Examiner, the decision shall contain the name and address of the
40 owner of the property at issue, of the applicant, and of each person who filed an appeal with

1 the Hearing Examiner, unless such person abandoned the appeal or such person's claims
2 were dismissed before the hearing.

3 12. Appeal of Hearing Examiner's Decision. The Hearing Examiner's
4 decision shall be final and conclusive unless the Hearing Examiner retains jurisdiction or the
5 decision is reversed or remanded on judicial appeal. Any judicial review must be
6 commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as
7 provided by RCW 36.70C.040.
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10 **Section 9.** Subsection B of Section 23.76.036 of the Seattle Municipal Code, which
11 Section was last amended by Ordinance 118672, is further amended as follows:
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13 **23.76.036 Council decisions required.**
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15 * * *

- 16
17 B. Council action shall be required for the following Type V land use decisions:
18 1. City-initiated amendments to the Official Land Use Map to
19 implement new land use policies;
20 2. Amendments to the text of SMC Title 23, Land Use Code;
21 3. Concept approval for the location or expansion of City facilities
22 requiring Council land use approval by SMC Title 23, Land Use Code;
23 4. Major Institution designations and revocations of Major Institution
24 designations; ~~((and))~~
25 5. Waive or modify development standards for City facilities; and
26 6. Planned Action Ordinances.
27
28

29 **Section 10.** Subsections C and D of Section 23.76.052 of the Seattle Municipal
30 Code, which Section was last amended by Ordinance 118672, are further amended as
31 follows:
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33 **23.76.052 Hearing Examiner open record predecision hearing and**
34 **recommendation**
35

36 * * *

- 37
38 C. Notice.
39 1. The Director shall give notice of the Hearing Examiner's hearing, the
40 Director's environmental determination, and of the availability of the Director's report at
41 least fifteen (15) days prior to the hearing by:

- a. General Mailed Release;
- b. Publication in the City official newspaper;
- c. Submission of the General Mailed Release to at least one (1) community newspaper in the area affected by the proposal;
- d. At least four (4) placards posted at places visible to the public, including street intersections, within three hundred feet (300') of the boundaries of the project. For hearings on Major Institution Master Plans, a minimum of ten (10) placards shall be posted;
- e. Mailed notice; and
- f. Posting in the Department.

2. DNSs shall also be filed with the SEPA Public Information Center. If the Director's decision includes a mitigated DNS or other DNS requiring a ~~((fifteen (15)))~~ fourteen (14) day comment period pursuant to SMC Section 25.05.340, the notice of DNS shall include notice of the comment period. The Director shall distribute copies of such DNSs as required by SMC Section 25.05.340.

3. The notice shall state the project description, type of land use decision under consideration, a description sufficient to locate the subject property, where the complete application file may be reviewed, and the Director's recommendation and environmental determination. The notice shall also state that the environmental determination is subject to appeal and shall describe the appeal procedure.

D. Appeal of Environmental Determination. Any person significantly interested in or affected by the Type IV decision under consideration may appeal the Director's procedural environmental determination subject to the following provisions:

1. Filing of Appeals. Appeals shall be submitted in writing to the Hearing Examiner by five p.m. (5:00 p.m.) of the fourteenth calendar day following publication of notice of the determination, provided that when a ~~((fifteen (15)))~~ fourteen (14) day DNS comment period is required pursuant to SMC Section 5.05.340, appeals may be filed until five p.m. (5:00 p.m.) of the twenty-first calendar day following publication of the notice of the determination. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five p.m. (5:00 p.m.) on the next business day. The appeal shall be in writing and shall state specific objections to the environmental determination and the relief sought. The appeal shall be accompanied by payment of the filing fee as set forth in the Seattle Municipal Code Section 3.02.125 Hearing Examiner filing fees. In form and content, the appeal shall conform with the rules of the Hearing Examiner.

2. Pre-hearing Conference. At the Hearing Examiner's initiative, or at the request of any party of record, the Hearing Examiner may have a conference prior to the hearing in order to entertain and act on motions, clarify issues, or consider other relevant matters.

3. Notice of Appeal. Notice of filing of the appeal and of the date of the consolidated hearing on the appeal and the Type IV land use decision recommendation shall

1 be promptly mailed by the Hearing Examiner to parties of record and those requesting
2 notice.

3 4. Scope of Review. Appeals shall be considered de novo. The Hearing
4 Examiner shall entertain only those issues cited in the written appeal which relate to
5 compliance with the procedures for Type IV decisions as required in this chapter and the
6 adequacy of the environmental documentation upon which the determination was made.

7 5. Standard of Review. The Director's environmental determination shall
8 be given substantial weight.

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13 **Section 11.** Section 23.84.010 of the Seattle Municipal Code, as last amended by
14 Ordinance 117430, is amended by repealing the definition for "environmentally sensitive
15 areas."

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18 **Section 12.** Subsection B of Section 25.05.055 of the Seattle Municipal Code, which
19 Section was last amended by Ordinance 114057, is amended as follows:

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21 **25.05.055 Timing of the SEPA process.**

22 * * *

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

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

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

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

38 2. A major purpose of the environmental review process is to provide
39 environmental information to governmental decisionmakers for consideration prior to
40 making their decision on any action. The actual decision to proceed with any actions may

1 involve a series of individual approvals or decisions. Agencies may also organize
2 environmental review in phases, as specified in Section 25.05.060E.

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

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

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8 * * *

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10
11 **Section 13.** Subsection E of Section 25.05.060 of the Seattle Municipal Code, which
12 Section was last amended by Ordinance 114057, is amended as follows:

13
14 **25.05.060 Content of environmental review.**

15
16 * * *

17
18 **E. Phased Review.**

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

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

27 3. Phased review is appropriate when:

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

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

33 4. Phased review is not appropriate when:

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

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

38 c. It would segment and avoid present consideration of proposals
39 and their impacts that are required to be evaluated in a single environmental document under
40 Section 25.05.060((D))C2 or Section 25.05.305 A; however, the level of detail and type of

1 environmental review may vary with the nature and timing of proposals and their component
2 parts.

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

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

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

14
15
16 **Section 14.** Subsection B of Section 25.05.070 of the Seattle Municipal Code, which
17 Section was last amended by Ordinance 114057, is amended as follows:

18
19 **25.05.070 Limitations on actions during SEPA process.**

20
21 * * *

22
23 B. In addition, certain DNS's require a (~~fifteen (15))~~ fourteen (14) day period
24 prior to agency action (Section 25.05.340B), and FEIS's require a seven (7) day period prior
25 to agency action (Section 25.05.460E).

26
27 * * *

28
29
30 **Section 15.** A new Section 25.05.164 is added to the Seattle Municipal Code to read
31 as follows:

32
33 **25.05.164 Planned Actions -- Definitions and criteria.**

34
35 Under the authority of RCW 43.21C.031, the City Council may adopt ordinances
36 designating planned actions. A planned action means one or more types of project action
37 that:

38 A. Are designated planned actions by an ordinance adopted by the City of
39 Seattle;

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

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1. A subarea or neighborhood plan adopted under Chapter 36.70A RCW; or
 2. A master planned development or phased project;
- C. Are subsequent or implementing projects for the proposals listed in subsection B of this Section;
- D. Are located within an urban growth area, as defined in RCW 36.70A.030;
- E. Are not essential public facilities, as defined in RCW 36.70A.200; and
- F. Are consistent with the Seattle Comprehensive Plan adopted under Chapter 36.70A RCW.

10
11
12 **Section 16.** A new Section 25.05.168 is added to the Seattle Municipal Code to read
13 as follows:

14
15 **25.05.168 Ordinances designating planned actions - Procedures for**
16 **adoption.**

- 17
18 A. City Council shall adopt planned actions by ordinance.
- 19 B. The ordinance shall include the following information:
- 20 1. A description of the type(s) of project action being designated as a
21 planned action;
 - 22 2. A description of how the planned action meets the criteria in Section
23 25.05.164 (including specific reference to the EIS that addresses any significant
24 environmental impacts of the planned action);
 - 25 3. A finding that the environmental impacts of the planned action have
26 been identified and adequately addressed in the EIS, subject to project review under Section
27 25.05.172; and
 - 28 4. Identification of any specific mitigation measures other than
29 applicable development regulations that must be applied to a project for it to qualify as the
30 planned action.
- 31 C. If the City has not limited the planned action to a specific time period
32 identified in the EIS, it may do so in the ordinance designating the planned action.
- 33 D. Each Planned Action ordinance may include provisions to provide for a
34 periodic review and update procedure for the planned action to monitor implementation and
35 consider changes as warranted.
- 36
37

38 **Section 17.** A new Section 25.05.172 is added to the Seattle Municipal Code to read
39 as follows:
40

1 **25.05.172 Planned actions -- Project review.**
2

3 A. Planned action project review shall include:

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

7 2. Verification that the probable significant adverse environmental
8 impacts of the project have been adequately addressed in the EIS prepared under Section
9 25.05.164B through review of an environmental checklist or other project review form as
10 specified in Section 25.05.315, filed with the project application.

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

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

25 C. Public notice for projects that qualify as planned actions shall be based on the
26 notice requirements of the underlying permit. If notice is otherwise required for the
27 underlying permit, the notice shall state that the project has qualified as a planned action.
28
29

30 **Section 18.** A new Section 25.05.210 is added to the Seattle Municipal Code to read
31 as follows:

32
33 **25.05.210 SEPA/GMA integration.**

34 (See WAC 197-11-210 through 197-11-235)
35
36

37 **Section 19.** A new Section 25.05.250 is added to the Seattle Municipal Code to read
38 as follows:

39
40 **25.05.250 SEPA/Model Toxics Control Act integration.**

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

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

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5 * * *

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7
8 **Section 22.** Section 25.05.310 of the Seattle Municipal Code, which Section was
9 last amended by Ordinance 118012, is amended as follows:

10
11 **25.05.310 Threshold determination required.**

12
13 A. A threshold determination is required for any proposal which meets the
14 definition of action and is not categorically exempt, subject to the limitations in Section
15 25.05.600C concerning proposals for which a threshold determination has already been
16 issued. A threshold determination is not required for a planned action (refer to Sections
17 25.05.164 through 25.05.172).

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

22 C. ~~((In most cases, the time to complete a threshold determination should not~~
23 ~~exceed fifteen (15) days. Threshold determinations on complex proposals, those where~~
24 ~~additional information is needed, and/or those accompanied by an inaccurate checklist may~~
25 ~~require additional time. Upon request by an applicant, the responsible official shall select a~~
26 ~~date for making the threshold determination and notify the applicant of such date in~~
27 ~~writing.)) When the City is lead agency for a project, the following timing requirements~~
28 apply:

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

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

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

40 4. The Early Review DNS process in Section 25.05.355 may be used to
41 indicate on the notice of application that the lead agency is likely to issue a DNS. If this

1 process is used, a separate comment period on the DNS shall not be required (refer to
2 Section 25.05.355D).

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4 * * *

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6
7 **Section 23.** Section 25.05.315 of the Seattle Municipal Code, which Section was
8 last amended by Ordinance 114057, is amended as follows:

9
10 **25.05.315 Environmental checklist.**

11
12 A. Agencies(~~(:~~
13 ~~1.——S))~~ shall use the environmental checklist substantially in the form
14 found in Section 25.05.960 to assist in making threshold determinations for proposals,
15 except for public proposals on which the lead agency has decided to prepare its own EIS,
16 ~~((ø))~~ proposals on which the lead agency and applicant agree an EIS will be prepared; or
17 projects which are proposed as planned actions (see subsection B of this Section).

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

22 ~~((2))~~C. Agencies ~~((M))~~ may use an environmental checklist whenever it would assist
23 in their planning and decision making, but shall ~~((not))~~ only require an applicant to prepare a
24 checklist under SEPA ~~((, unless))~~ if a checklist is required by subsection A ~~((1))~~ of this
25 Section.

26 ~~((B))~~D. The lead agency shall prepare the checklist or require an applicant to prepare
27 the checklist.

28 ~~((E))~~E. The items in the environmental checklist are not weighted. The mention of
29 one (1) or many adverse environmental impacts does not necessarily mean that the impacts
30 are significant. Conversely, a probable significant adverse impact on the environment may
31 result in the need for an EIS.

32
33
34 **Section 24.** Subsection A and C of Section 25.05.330 of the Seattle Municipal Code,
35 which Section was last amended by Ordinance 114057, are amended as follows:

36
37 **25.05.330 Threshold determination process.**

38
39 An EIS is required for proposals for legislation and other major actions significantly
40 affecting the quality of the environment. The lead agency decides whether an EIS is required
41 in the threshold determination process, as described below.

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2
3 **Section 26.** A new Section 25.05.355 is added to the Seattle Municipal Code to read
4 as follows:
5

6 **25.05.355 Early Review DNS (Optional DNS) process.**
7

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

12 B. If the lead agency uses the Early Review DNS process specified in subsection
13 A of this Section, the lead agency shall:

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

16 a. The Early Review DNS process is being used;
17 b. This will be the only opportunity to comment on the
18 environmental impacts of the proposal;

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

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

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

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

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

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

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

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

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

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

41 2. Issue a DS; or

1 DS in which to comment, unless expanded scoping is used. (~~The date of issuance for a DS~~
2 ~~is the date it is sent to the Department of Ecology and other agencies with jurisdiction, and is~~
3 ~~publicly available;))~~

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

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

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

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

12 * * *

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14
15 H. The date of issuance for a DS is the date it is sent to the Department of
16 Ecology and other agencies with jurisdiction, and is publicly available.

17
18
19 **Section 29.** Subsections C and H of Section 25.05.502 of the Seattle Municipal
20 Code, which Section was last amended by Ordinance 114057, is amended as follows:

21 **25.05.502 Inviting comment.**

22 * * *

23
24
25
26 **C. Threshold Determinations.**

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

29 2. For DNS's issued under Section 25.05.340B, agencies shall provide
30 public notice under Section 25.05.510 and receive comments on the DNS for ~~((fifteen-(15)))~~
31 fourteen (14) days.

32 * * *

33
34
35 **H. Supplements.**

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

38 2. When a DNS is issued after a DS has been withdrawn (Section
39 25.05.360D), agencies shall give notice under Section 25.05.510 and receive comments for
40 ~~((fifteen-(15)))~~ fourteen (14) days.

1
2 **25.05.535 Public hearings and meetings.**
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4 * * *

5
6 H. Public meetings held by local governments under Chapter 36.70B RCW may
7 be used to meet SEPA public hearing requirements as long as the requirements for public
8 hearings in this Section are met. A public hearing under this Section need not be an open
9 record hearing as defined in RCW 36.70B.020(3).

10
11
12 **Section 32.** Subsection C of Section 25.05.600 of the Seattle Municipal Code, which
13 Section was last amended by Ordinance 114057, is amended as follows:

14
15 **25.05.600 When to use existing environmental documents.**
16

17 * * *

18
19 C. ~~((Other agencies))~~ Any agency acting on the same proposal shall use an
20 environmental document unchanged, except in the following cases:

21 1. For DNS's, an agency with jurisdiction is dissatisfied with the DNS,
22 in which case it may assume lead agency status (Section 25.05.340B, C and Section
23 25.05.948).

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

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

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

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

38 * * *

1 **Section 33.** Subsection A of Section 25.05.660 of the Seattle Municipal Code,
2 which Section was last amended by Ordinance 114057, is amended as follows:

3
4 **25.05.660 Substantive authority and mitigation.**

5
6 A. Any governmental action on public or private proposals that are not exempt
7 may be conditioned or denied under SEPA to mitigate the environmental impact subject to
8 the following limitations:

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

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

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

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

27 5. Before requiring mitigation measures, agencies shall consider whether
28 local, state, or federal requirements and enforcement would mitigate an identified significant
29 impact.

30 6. To deny a proposal under SEPA, an agency must find that:
31 a. The proposal would be likely to result in significant adverse
32 environmental impacts identified in a final or supplemental environmental impact statement
33 prepared under this Chapter; and

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

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

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Section 34. Subsection C of Section 25.05.675 of the Seattle Municipal Code, which Section was last amended by Ordinance 118414, is amended as follows:

25.05.675 Specific environmental policies.

* * *

C. Drainage.

1. Policy Background.

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

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

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

d. Authority provided through the Grading and Drainage Control Ordinance3 and the Environmentally Critical Areas Ordinance is intended to achieve mitigation of drainage impacts in most cases, although these ordinances may not anticipate or eliminate all impacts.

2. Policies.

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

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

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

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

1 a. The following agency environmental determinations shall be
2 subject to appeal to the Hearing Examiner by any interested person as provided in this
3 subsection:

4 (1) Determination of Nonsignificance (DNS). ~~((On appeal of a DNS,~~
5 ~~a party may also challenge the preliminary determinations.))~~

6 (2) Adequacy of the Final EIS as filed in the SEPA Public
7 Information Center.

8 b. An appeal shall be commenced by filing of a notice of appeal with
9 the Office of the Hearing Examiner no later than five p.m. (5:00 p.m.) the fourteenth day
10 following the filing of the decision in the SEPA Public Information Center or publication of
11 the decision in the City official newspaper, whichever is later; provided that when a ~~((fifteen~~
12 ~~(15))~~ fourteen (14) day DNS comment period is required pursuant to this Chapter, appeals
13 may be filed no later than the twenty-first day following such filing or publication. The
14 appeal notice shall set forth in a clear and concise manner the alleged errors in the decision.
15 Upon timely notice of appeal the Hearing Examiner shall set a date for hearing and send
16 notice to the parties. Filing fees for appeals to the Hearing Examiner are established in
17 Section 3.02.125.

18 ~~((c. The Hearing Examiner shall notify the parties of the receipt of~~
19 ~~the appeal but shall not set a date for hearing of the appeal until:~~

20 (1) ~~For projects requiring a Master Use Permit, the close~~
21 ~~of the appeal period following notice of the decision on the Master Use Permit, or the receipt~~
22 ~~of an appeal of the Master Use Permit decision, whichever is earlier;~~

23 (2) ~~For projects requiring a Type IV Council Land Use~~
24 ~~Decision: A recommendation is received from the Director at which time the Hearing~~
25 ~~Examiner shall schedule the hearing on the appeal to be consolidated with the predecision~~
26 ~~hearing.~~

27 d. ~~In all other respects, the appeals shall be handled in the same~~
28 ~~manner as appeals related to Master Use Permits, Chapter 23.76.~~

29 B. ~~((Appeal to Hearing Examiner of))~~ Decisions Not Related to Master Use Permits
30 or Council Land Use Decisions.

31 1. The following agency decisions on proposals not requiring a Master
32 Use Permit shall be subject to appeal to the Hearing Examiner by any interested person as
33 provided in this subsection:

34 a. Determination of Nonsignificance. ~~((On appeal of a threshold~~
35 ~~determination, a party may also challenge the preliminary determinations.~~

36 b. Adequacy of the final EIS as Filed in the SEPA Public
37 Information Center. Notice of all decisions described in this subsection shall be filed
38 promptly by the responsible official in the City's SEPA Public Information Center.

39 2. An appeal shall be commenced by the filing of a notice of appeal with
40 the office of the Hearing Examiner no later than the fifteenth day following the filing of the
41 decision in the SEPA Public Information Center or publication of the decision in the City

1 official newspaper, whichever is later; provided that when a fourteen (14) day DNS
2 comment period is required pursuant to this Chapter, appeals may be filed no later than the
3 twenty-first day following such filing or publication. The appeal notice shall set forth in a
4 clear and concise manner the alleged errors in the decision. Upon timely notice of appeal
5 the Hearing Examiner shall set a date for hearing and send notice to the parties. Filing fees
6 for appeals to the Hearing Examiner are established in Section 3.02.125.

7 3. Appeals shall be considered de novo and limited to the issues cited in
8 the notice of appeal. The determination appealed from shall be accorded substantial weight
9 and the burden of establishing the contrary shall be upon the appealing party. The Hearing
10 Examiner shall have authority to affirm or reverse the administrative decisions below, to
11 remand cases to the appropriate department with directions for further proceedings, and to
12 grant other appropriate relief in the circumstances. Within fifteen (15) days after the hearing,
13 the Hearing Examiner shall file and transmit to the parties written findings of fact,
14 conclusions of law, and a decision.

15 4. The Hearing Examiner is authorized to promulgate rules and
16 procedures to implement the provisions of this Section. The rules shall be promulgated
17 pursuant to Chapter 3.02 of this code.

18 5. If the agency has made a decision on a proposed action, the Hearing
19 Examiner shall consolidate any allowed appeals of procedural and substantive
20 determinations under SEPA with any hearing or appeal on the underlying City action. For
21 example, an appeal of the adequacy of an EIS must be consolidated with a ~~((n))~~ hearing or
22 appeal on ~~((f))~~ the agency's decision or recommendation on the proposed action, if both
23 ~~((appeals))~~ proceedings are allowed by ordinance.

24 ~~((D))~~ C. Judicial Appeals.

25 1. SEPA authorizes judicial appeals of both procedural and substantive
26 compliance with SEPA.

27 2. When SEPA applies to a decision, any judicial appeal of that decision
28 potentially involves both those issues pertaining to SEPA (SEPA issues) and those which do
29 not (non-SEPA issues). If there is a time limit established by statute or ordinance for
30 appealing the underlying governmental action, then appeals (or portions thereof) raising
31 SEPA issues must be filed within such time period. If there is no time period for appealing
32 the underlying governmental action, and a notice of action under RCW 43.21C.080 is used,
33 appeals must be commenced within the time period specified by RCW 43.21C.080.

34 3. If the proposal requires more than one ~~((+))~~ governmental decision
35 that will be supported by the same SEPA documents, then RCW 43.21C.080 still only
36 allows one ~~((+))~~ judicial appeal of procedural compliance with SEPA, which must be
37 commenced within the applicable time to appeal the first governmental decision.

38 4. If there is no time limit established by statute or ordinance for appeal,
39 and the notice of action provisions are not used, then SEPA provides no time limit for
40 judicial appeals. Appeal times may still be limited, however, by general statutes of limitation
41 or the common law.

1 5. For the purposes of this subsection, "a time limit established by
2 statute or ordinance" does not include time limits established by the general statutes of
3 limitation in Chapter 4.16 RCW.

4 ~~(E)~~D. Reserved.

5 ~~(F)~~E. Official Notice of the Date and Place for Commencing a~~(n)~~ Judicial Appeal.

6 1. Official notice of the date and place for commencing an appeal must
7 be given if there is a time limit established by statute or ordinance for commencing an
8 appeal of the underlying governmental action. The notice shall include the time limit for
9 commencing an appeal, the statute or ordinance establishing the time limit and where an
10 appeal may be filed.

11 2. Notice is given by:

12 a. Delivery of written notice to the applicant, all parties to any
13 administrative appeal, and all persons who have requested notice of decisions with respect to
14 the particular proposal in question; and

15 b. Following the agency's normal methods of notice for the type
16 of governmental action taken.

17 3. Written notice containing the information required by subsection
18 ~~(F)~~E1 of this Section may be appended to the permit, decision documents, or SEPA
19 compliance documents or may be printed separately.

20 4. Official notices required by this subparagraph shall not be given prior
21 to final agency action.

22
23
24 **Section 36.** Section 25.05.702 of the Seattle Municipal Code, which Section was
25 last amended by Ordinance 114057, is amended to read as follows:

26
27 **25.05.702 Act.**

28
29 "Act" means the State Environmental Policy Act (~~(of 1971)~~), Chapter 43.21C RCW,
30 as amended, which is also referred to as "SEPA."

31
32
33 **Section 37.** A new Section 25.05.721 is added to the Seattle Municipal Code to read
34 as follows:

35
36 **25.05.721 Closed record appeal.**

37
38 "Closed record appeal" means an administrative appeal held under Chapter 36.70B
39 RCW that is on the record to a county/city body or officer, including the legislative body,
40 following an open record hearing on a project permit application when the appeal is on the

1 record with no or limited new evidence or information allowed to be submitted and only
2 appeal arguments allowed. (RCW 36.70B.020(1).)

3
4
5 **Section 38.** Section 25.05.728 of the Seattle Municipal Code, which Section was
6 last amended by Ordinance 114057, is amended as follows:
7

8 **25.05.728 County/city.**

9
10 A. "County/city" means a county, city, or town. In WAC 197-11, duties and
11 powers are assigned to a county, city, or town as a unit. The delegation of responsibilities
12 among the various departments of a county, city, or town is left to the legislative or charter
13 authority of the individual counties, cities, or towns.

14 B. A "GMA county/city" means a county, city or town planning under the
15 Growth Management Act.
16

17
18 **Section 39.** Section 25.05.747 of the Seattle Municipal Code, as adopted by
19 Ordinance 116254, is amended as follows:
20

21 **25.05.747 Environmentally critical area.**

22
23 "Environmentally critical area" means those areas designated by The City of Seattle
24 Environmentally Critical Areas Policies and regulated and mapped in SMC Chapter 25.09,
25 Regulations for Environmentally Critical Areas, and other city codes. Certain categorical
26 exemptions do not apply within the following environmentally critical areas (Sections
27 25.05.305, 25.05.908, and Subchapter IX of these rules):

28 A. Landslide-prone Areas, including, but not limited to, known landslide areas,
29 potential landslide areas, and steep slopes of forty percent (40%) average slope or greater;

30 B. Riparian Corridors;

31 C. Wetlands; and

32 D. Fish and Wildlife Habitat Conservation Areas.
33
34

35 **Section 40.** Section 25.05.748 of the Seattle Municipal Code is repealed.
36

37
38 **Section 41.** A new Section 25.05.751 is added to the Seattle Municipal code to read
39 as follows:
40

41 **25.05.751 GMA action.**

1
2 "GMA action" for purposes of SEPA only, means policies, plans and regulations
3 adopted or amended under RCW 36.70A.106 or 36.70A.210. Actions do not include
4 preliminary determinations on the scope and content of GMA actions, appeals of GMA
5 actions, actions by the Governor or by the Growth Management Hearings Boards, or the
6 application of policies to projects. "GMA" means the Growth Management Act, Chapter
7 36.70A RCW.
8
9

10 **Section 42.** A new Section 25.05.775 is added to the Seattle Municipal Code to read
11 as follows:
12

13 **25.05.775 Open record hearing.**
14

15 "Open record hearing" means a hearing held under Chapter 36.70B RCW and
16 conducted by a single hearing body or officer authorized by the county/city to conduct such
17 hearings, that creates the county's/city's record through testimony and submission of
18 evidence and information, under procedures prescribed by the county/city by ordinance. An
19 open record hearing may be held prior to a county's/city's decision on a project permit to be
20 known as an "open record predecision hearing." An open record hearing may be held on an
21 appeal, to be known as an "open record appeal hearing," if no open record predecision
22 hearing has been held on the project permit. (RCW 36.70B.020(3).)
23
24

25 **Section 43.** Section 25.05.790 of the Seattle Municipal Code, which Section was
26 last amended by Ordinance 114057, is amended as follows:
27

28 **25.05.790 SEPA.**
29

30 "SEPA" means the State Environmental Policy Act ((of 1971)) (Chapter 43.21C
31 RCW), which is also referred to as the Act. The "SEPA process" means all measures
32 necessary for compliance with the Act's requirements.
33
34

35 **Section 44.** Subsections A, F and I are amended and Subsections Z and AA are
36 added to Section 25.05.800 of the Seattle Municipal Code, which Section was last amended
37 by Ordinance 118294, as follows:
38

39 **25.05.800 Categorical exemptions.**
40

1 The proposed actions contained in this subchapter are categorically exempt from
2 threshold determination and EIS requirements, subject to the rules and limitations on
3 categorical exemptions contained in Section 25.05.305.
4

5 A. Minor New Construction -- Flexible Thresholds.

6 1. The exemptions in this subsection apply to all licenses required to
7 undertake the construction in question, except when a rezone or any license governing
8 emissions to the air or discharges to water is required. To be exempt under this section, the
9 project must be equal to or smaller than the exempt level. For a specific proposal, the
10 exempt level in subsection A2 of this section shall control. If the proposal is located in more
11 than one (1) city/county, the lower of the agencies' adopted levels shall control, regardless of
12 which agency is the lead agency.

13 2. The following types of construction shall be exempt, except when
14 undertaken wholly or partly on lands covered by water or unless undertaken in
15 environmentally ((sensitive)) critical areas (Section 25.05.908):

16 a. The construction or location of residential structures of four
17 (4) or fewer dwelling units, in all Single((-) Family zones, Residential Small Lot (RSL),
18 Lowrise Duplex/Triplex (LDT), Lowrise((-) One (L((-)1) and all Commercial zones; six
19 (6) or fewer units in Lowrise((-) Two (L((-)2) zones; eight (8) or fewer units in Lowrise
20 ((-) Three (L((-) 3) and Lowrise Four (L4) zones; and twenty (20) or fewer units in Midrise
21 (MR), Highrise (HR), Seattle Cascade Mixed (SCM) and all Downtown zones;

22 b. The construction of a barn, loafing shed, farm equipment
23 storage building, produce storage or packing structure, or similar agricultural structure,
24 covering ten thousand (10,000) square feet, and to be used only by the property owner or his
25 or her agent in the conduct of farming the property. This exemption shall not apply to feed
26 lots;

27 c. The construction of the following office, school, commercial,
28 recreational, service or storage buildings:

29 i. In Commercial((-) One (C((-)1), Commercial((-)2)
30 Two (C((-)2), Seattle Cascade Mixed (SCM), ((~~Manufacturing~~)) and Industrial zones,
31 buildings with twelve thousand (12,000) square feet of gross floor area, and with associated
32 parking facilities designed for twenty (20) automobiles,

33 ii. In all other zones, buildings with four thousand (4,000)
34 square feet of gross floor area, and with associated parking facilities designed for twenty
35 (20) automobiles;

36 d. The construction of a parking lot designed for twenty (20)
37 automobiles, as well as the addition of twenty (20) spaces to existing lots if the addition does
38 not remove the lot from an exempt class;

39 e. Any landfill or excavation of five hundred (500) cubic yards
40 throughout the total lifetime of the fill or excavation; and any fill or excavation classified as
41 a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder;

1 f. Mixed-use construction, including but not limited to projects
2 combining residential and commercial uses, is exempt if each use, when considered
3 separately, is exempt under the criteria of subsections A2a through A2d above, unless the
4 uses in combination may have a probable significant adverse environmental impact in the
5 judgment of an agency with jurisdiction (see Section 25.05.305A2b);

6 g. In zones not specifically mentioned in this subsection, the
7 construction of residential structures of four (4) or fewer dwelling units and commercial
8 structures of four thousand (4,000) or fewer square feet.

9
10 * * *

11
12 F. Minor Land Use Decisions. The following land use decisions shall be
13 exempt:

14 1. Except upon lands covered by water, the approval of short plats or
15 short subdivisions pursuant to the procedures required by RCW 58.17.060, but not including
16 further short subdivisions or short platting within a plat or subdivision previously exempted
17 under this subsection;

18 2. Granting of variances based on special circumstances, not including
19 economic hardship, applicable to the subject property, such as size, shape, topography,
20 location or surroundings and not resulting in any change in land use or density;

21 3. Classifications of land for current use taxation under Chapter 84.34
22 RCW, and classification and grading of forest land under Chapter 84.33 RCW((?));

23 4. Annexation of territory by a city or town.

24
25 * * *

26
27 I. ~~((Variances under))~~ Clean Air Act. The following actions under the Clean
28 Air Act shall be exempt:

29 1. The granting of variances under RCW 70.94.181 extending applicable
30 air pollution control requirements for (1) one year or less shall be exempt.

31 2. The issuance, renewal, reopening, or revision of an air operating
32 permit under RCW 70.94.161.

33
34 * * *

35
36 Z. Watershed restoration projects. Actions pertaining to watershed restoration
37 projects as defined in RCW 89.08.460(2) are exempt, provided, they implement a watershed
38 restoration plan which has been reviewed under SEPA (RCW 89.08.460(1)).

39 AA. Personal wireless service facilities.

- 1 1. The siting of personal wireless service facilities are exempt if the
2 facility:
3 a. Is a microcell and is to be attached to an existing structure that
4 is not a residence or school and does not contain a residence or a school;
5 b. Includes personal wireless service antennas, other than a
6 microcell, and is to be attached to an existing structure (that may be an existing tower) that is
7 not a residence or school and does not contain a residence or school, and the existing
8 structure to which it is to be attached is located in a commercial or industrial zone; or
9 c. Involves constructing a personal wireless service tower less
10 than sixty (60) feet in height that is located in a commercial or industrial zone.
11 2. For the purposes of this subsection:
12 a. "Personal wireless services" means commercial mobile
13 services, unlicensed wireless services, and common carrier wireless exchange access
14 services, as defined by federal laws and regulations.
15 b. "Personal wireless service facilities" means facilities for the
16 provision of personal wireless services.
17 c. "Microcell" means a wireless communication facility
18 consisting of an antenna that is either:
19 (1) Four (4) feet in height and with an area of not more
20 than five hundred eighty (580) square inches; or
21 (2) If a tubular antenna, no more than four (4) inches in
22 diameter and no more than six (6) feet in length.
23 3. This exemption does not apply to projects within an environmentally
24 critical area designated under GMA (RCW 36.70A.060).

25
26
27 **Section 45.** Section 25.05.890 of the Seattle Municipal Code, which Section was
28 last amended by Ordinance 114057, is amended as follows:

29
30 **25.05.890 Petitioning DOE to change exemptions.**
31 (See WAC 197-11-890)

32
33 ~~((A.— Except for Section 25.05.880, the City (see WAC 197-11-890) may create~~
34 ~~additional exemptions in these procedures only after receiving approval from the~~
35 ~~Department of Ecology under this section.~~

36 ~~B.— A petition to the Department of Ecology (DOE) to adopt additional~~
37 ~~exemptions or to delete existing exemptions must be authorized by ordinance. The petition~~
38 ~~shall state the language of the requested amendment, the City's views on the environmental~~
39 ~~impacts of the activities covered by the proposed amendment, and the approximate number~~
40 ~~of actions of this type which have come before the City over a particular period of time.~~
41 ~~DOE is to consider and decide upon a petition within thirty (30) days of receipt. If the~~

1 ~~determination is favorable, DOE is required to begin rule-making under Chapter 34.0((4))5~~
2 ~~RCW. Any resulting amendments will apply either generally or to specified classes of~~
3 ~~agencies. The City shall then amend these rules accordingly.~~

4 ~~C. The City may also petition DOE for an immediate ruling upon any request to~~
5 ~~add, delete, or change an exemption. If such a petition is granted, DOE is to notify the City,~~
6 ~~which may immediately include the change in these rules approved by DOE. DOE may~~
7 ~~thereafter begin rulemaking proceedings to amend WAC 197-11. Until WAC 197-11 is~~
8 ~~amended, any change granted under this subsection shall apply only to the City.~~

9 ~~D. DOE is to provide public notice of any proposed amendments to these rules~~
10 ~~in the manner required by the administrative procedure act, Chapter 34.04 RCW. A copy of~~
11 ~~all approvals by DOE under the preceding subsection is required to be given to any person~~
12 ~~requesting DOE for advance notice of rulemaking.))~~

13
14
15 **Section 46.** Subsection B of Section 25.05.900 of the Seattle Municipal Code, as
16 last amended by Ordinance 114507, is amended as follows:

17
18 **25.05.900 Purpose of Seattle SEPA rules sections.**

19
20 * * *

21
22 B. The City's environmentally ~~((sensitive))~~ critical areas and the categorical
23 exemptions which are inapplicable in such areas are set forth in Section
24 25.05.908.

25
26 * * *

27
28
29 **Section 47.** Section 25.05.908 of the Seattle Municipal Code, which Section was
30 last amended by Ordinance 118794, is amended as follows:

31
32 **25.05.908 Environmentally ~~((sensitive))~~ critical areas.**

33
34 A. ~~((Environmentally sensitive areas are t))~~The following environmentally
35 critical areas located in the City ~~((as designated in The City of Seattle Environmentally~~
36 ~~Critical Areas Policies))~~ and regulated and mapped in ~~((Section 25.09.020 of))~~ SMC Chapter
37 25.09, Regulations for Environmentally Critical Areas, and other City codes are subject to
38 the provisions of this Chapter:

39 1. Landslide-prone Areas, including, but not limited to, known landslide
40 areas, potential landslide areas, and steep slopes of forty percent (40%) average slope or
41 greater;

2. Riparian Corridors;
3. Wetlands; and
4. Fish and Wildlife Habitat Conservation Areas.

Within these areas, certain categorically exempt activities listed in Section 25.05.908B could have a significant adverse environmental impact, require additional environmental review to determine impacts, and may require mitigation beyond the development standards required by all applicable City codes.

B. The scope of environmental review of actions within these environmental critical areas shall be limited to:

1. Documenting whether the proposal is consistent with the City of Seattle Regulations for Environmentally Critical Areas, SMC Chapter 25.09; and
2. Evaluating potentially significant impacts on the environmentally critical area resources not adequately addressed in the City of Seattle Environmentally Critical Areas Policies or the requirements of SMC Chapter 25.09, Regulations for Environmentally Critical Areas, including any additional mitigation measures needed to protect the environmentally critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

~~(B)~~C. The following types of development shall not be categorically exempt in designated environmentally ~~((sensitive))~~ critical areas (see Section 25.05.800), unless a development site has been determined to be exempt under the exemption provisions contained in Chapter 25.09, Regulations for Environmentally Critical Areas:

1. Minor new construction:
 - a. One (1) single-family dwelling unit exceeding nine thousand (9,000) square feet of development coverage, or two (2) or more dwelling units,
 - b. Agricultural structures,
 - c. Office, school, commercial, recreational, service and storage buildings,
 - d. Parking lots,
 - e. Landfill or excavation;
2. Other minor new construction: ~~((a-))~~Construction/installation of minor road and street improvements, transportation corridor landscaping and herbicides for weed control;
3. Minor land use decisions: ~~((a-))~~Short plats or short subdivisions;
4. Utilities: ~~((a-))~~Chemical means to maintain design condition;
5. Natural resources management: ~~((a-))~~Issuance of agricultural leases of one hundred (100) acres or less;
6. Issuance of leases for school sites;
7. Development of non-ATV recreational sites (twelve (12) campsites or less);
8. Chemical means to maintain public park or recreation land.

1 ((C))D. The Official Land Use Map of The City of Seattle contains overlays
2 identifying the general boundaries of all known environmentally critical areas within the
3 city, which reference the City of Seattle's Environmentally Critical Areas Maps to determine
4 the general boundaries of each environmentally critical area. The Environmentally Critical
5 Areas Maps specify those designated areas which are subject to SEPA pursuant to WAC
6 25.05.908. A copy of the maps shall be maintained in the SEPA Public Information Center.

7 The maps shall be used and amended as follows:

8 1. The maps shall be advisory and used by the Director of DCLU to
9 provide guidance in determining applicability of SEPA to a property. Likewise,
10 environmentally ((sensitive)) critical areas which are incorrectly mapped may be exempted
11 from SEPA by the Director of DCLU when the provisions of subsection D of Section
12 25.09.040 of the regulations for environmentally critical areas apply.

13 2. The boundaries and contents of these designated environmentally
14 ((sensitive)) critical areas maps may be amended by the Director following the
15 environmentally critical areas maps amendment process as set forth in subsection C of
16 Section 25.09.020 of the regulations for environmentally critical areas.

17 ((D))E. Proposals that will be located within environmentally ((sensitive)) critical
18 areas are to be treated no differently than other proposals under this chapter, except as stated
19 in the prior subsection. A threshold determination shall be made for all such actions, and an
20 EIS shall not be automatically required for a proposal merely because it is proposed for
21 location in an environmentally ((sensitive)) critical area.

22 ((E.—Certain categorical exemptions do not apply on lands covered by water, and
23 this remains true regardless of whether or not lands covered by water are mapped.))

24
25
26 **Section 48.** The Title of Section 25.05.912 of the Seattle Municipal Code , which
27 Section was last amended by Ordinance 114057, is amended as follows:

28
29 **25.05.912 Procedures ((en)) of consulted agencies.**

30
31 * * *

32
33
34 **Section 49.** Section 25.05.938 of the Seattle Municipal Code, which Section was
35 last amended by Ordinance 114057, is amended as follows:

36
37 **25.05.938 Lead agencies for specific proposals.**
38 (See WAC 197-11-938)
39

1 (Notwithstanding the lead agency designation criteria contained in Sections
2 ~~25.05.926 through 25.05.936~~, the lead agency for proposals within the areas listed below
3 shall be as follows:

4 A. — For all governmental actions relating to energy facilities for which
5 certification is required under Chapter 80.50 RCW, the lead agency shall be the Energy
6 Facility Site Evaluation Council (EFSEC); however, for any public project requiring such
7 certification and for which the study under RCW 80.50.175 will not be made, the lead
8 agency shall be the agency initiating the project.

9 B. — For all private projects relating to the use of geothermal resources under
10 Chapter 79.76 RCW, the lead agency shall be the Department of Natural Resources.

11 C. — For all private projects requiring a license or other approval from the Oil and
12 Gas Conservation Committee under Chapter 78.52 RCW, the lead agency shall be the
13 Department of Natural Resources; however, for projects under RCW 78.52.125, the EIS
14 shall be prepared in accordance with that section.

15 D. — For all private activity requiring a license or approval under the Forest
16 Practices Act of 1974, Chapter 76.09 RCW, the lead agency shall be the Department of
17 Natural Resources; however, for any proposal that will require a license from a county/city
18 acting under the powers enumerated in RCW 76.09.240, the lead agency shall be the
19 county/city requiring the license.

20 E. — For all private projects requiring a license or lease to use or affect state lands,
21 the lead agency shall be the state agency managing the lands in question; however, this
22 subsection shall not apply to the sale or lease of state owned tidelands, harbor areas or beds
23 of navigable waters, when such sale or lease is incidental to a larger project for which one or
24 more licenses from other state or local agencies is required.

25 F. — For all proposals which are being processed under the Environmental
26 Coordination Procedures Act of 1973 (ECPA), Chapter 90.62 RCW, the lead agency shall be
27 determined under the standards of these rules.

28 G. — For a pulp or paper mill or oil refinery not under the jurisdiction of EFSEC,
29 the lead agency shall be the Department of Ecology, when a National Pollutant Discharge
30 Elimination System (NPDES) permit is required under Section 402 of the Federal Water
31 Pollution Control Act (33 USC 1342).

32 H. — For proposals to construct a pipeline greater than six inches (6") in diameter
33 and fifty (50) miles in length, used for the transportation of crude petroleum or petroleum
34 fuels or oil or derivatives thereof, or for the transportation of synthetic or natural gas under
35 pressure not under the jurisdiction of EFSEC, the lead agency shall be the Department of
36 Ecology.

37 I. — For proposals that will result in an impoundment of water with a water
38 surface in excess of forty (40) acres, the lead agency shall be the Department of Ecology.

39 J. — For proposals to construct facilities on a single site designed for, or capable
40 of, storing a total of one million (1,000,000) or more gallons of any liquid fuel not under the
41 jurisdiction of EFSEC, the lead agency shall be the Department of Ecology.

DEPARTMENT OF CONSTRUCTION AND LAND USE

MEMORANDUM

TO: Margaret Carter, City Clerk's Office

FROM: Ken Davis, DCLU Code Development 

DATE: July 31, 1998

SUBJECT: SEPA Ordinance Version 2 - Replacement for CB #112253

I called earlier today and left you a message about this. Hope you got the message. If not, give me a call at 3-3884 or by email. Joyce Kling, Council staff, suggested I deliver this to you today.

I've enclosed with this note a paper copy and disk copy of a new version (Version 2 of CB 112253, dated July 28, 1998) of the SEPA Ordinance amendments. I believe this is up for full Council vote next Monday, August 3rd. If all goes as planned, Councilmember Donaldson will introduce this Version 2 on Monday prior to Council vote.

Please contact either Joyce Kling or me if you need more information. Thank you.



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ATTACHMENT A

25.05.960 Environmental checklist.

ENVIRONMENTAL CHECKLIST

Purpose of Checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

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Use of Checklist for Nonproject Proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." in addition, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:
2. Name of applicant:
3. Address and phone number of applicant and contact person:
4. Date checklist prepared:
5. Agency requesting checklist:
6. Proposed timing or schedule (including phasing, if applicable):
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

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9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.
10. List any government approvals or permits that will be needed for your proposal, if known.
11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)
12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

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TO BE COMPLETED BY APPLICANT

**EVALUATION FOR
AGENCY USE ONLY**

B. ENVIRONMENTAL ELEMENTS

1. Earth

- a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other _____ .
- b. What is the steepest slope on the site (approximate percent slope)?
- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.
- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.
- e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.
- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.
- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

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h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

2. Air

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

3. Water

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

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3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

b. Ground:

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

c. Water runoff (including stormwater):

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1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

2) Could waste materials enter ground or surface waters? If so, generally describe.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

4. Plants

a. Check or circle types of vegetation found on the site:

_____deciduous tree: alder, maple, aspen, other

_____evergreen tree: fir, cedar, pine, other

_____shrubs

_____grass

_____pasture

_____crop or grain

_____wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other

_____water plants: water lily, eelgrass, milfoil, other

_____other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

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- c. List threatened or endangered species known to be on or near the site.

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

5. Animals

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

birds: hawk, heron, eagle, songbirds, other: _____
mammals: deer, bear, elk, beaver, other: _____
fish: bass, salmon, trout, herring, shellfish, other: _____

- b. List any threatened or endangered species known to be on or near the site.

- c. Is the site part of a migration route? If so, explain.

- d. Proposed measures to preserve or enhance wildlife, if any:

6. Energy and Natural Resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

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b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

1) Describe special emergency services that might be required.

2) Proposed measures to reduce or control environmental health hazards, if any:

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

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3) Proposed measures to reduce or control noise impacts, if any:

8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties?
- b. Has the site been used for agriculture? If so, describe.
- c. Describe any structures on the site.
- d. Will any structures be demolished? If so, what?
- e. What is the current zoning classification of the site?
- f. What is the current comprehensive plan designation of the site?
- g. If applicable, what is the current shoreline master program designation of the site?
- h. Has any part of the site been classified as an "environmentally ((sensitive)) critical" area? If so, specify.
- i. Approximately how many people would reside or work in the completed project?

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- j. Approximately how many people would the completed project?
- k. Proposed measures to avoid or reduce displacement impacts, if any:
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.
- c. Proposed measures to reduce or control housing impacts, if any:

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

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- b. What views in the immediate vicinity would be altered or obstructed?

- c. Proposed measures to reduce or control aesthetic impacts, if any:

11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

- c. What existing off-site sources of light or glare may affect your proposal?

- d. Proposed measures to reduce or control light and glare impacts, if any:

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?

- b. Would the proposed project displace any existing recreational uses? If so, describe.

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- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

13. Historic and Cultural Preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.
- b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.
- c. Proposed measures to reduce or control impacts, if any:

14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.
- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?
- c. How many parking spaces would the completed project have? How many would the project eliminate?

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d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

g. Proposed measures to reduce or control transportation impacts, if any:

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

b. Proposed measures to reduce or control direct impacts on public services, if any.

16. Utilities

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

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b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: _____

Date Submitted: _____

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TO BE COMPLETED BY APPLICANT

**EVALUATION FOR
AGENCY USE ONLY**

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Proposed measures to avoid or reduce such increases are:

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

Proposed measures to protect or conserve energy and natural resources are:

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4. How would the proposal be likely to use or affect environmentally ((sensitive)) critical areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are:

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

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ATTACHMENT B

25.05.970 Determination of nonsignificance (DNS).

DETERMINATION OF NONSIGNIFICANCE

Description of proposal _____

Proponent _____

Location of proposal, including street address, if any _____

Lead agency _____

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

- There is no comment period for this DNS.
- This DNS is issued after using the Early Review DNS process in Section 25.05.355. There is no further comment period on the DNS.

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This DNS is issued under WAC 197-11-340 (2); the lead agency will not act on this proposal for ((15)) 14 days from the date below. Comments must be submitted by _____.

Responsible official _____

Position/title _____ Phone _____

Address _____

Date _____ Signature _____

(OPTIONAL)

You may appeal this determination to (name) _____

at (location) _____

no later than (date) _____

by (method) _____

You should be prepared to make specific factual objections.
Contact _____ to read or ask about the procedures for SEPA appeals.

There is no agency appeal.

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sepa-x1
7/7/98



City of Seattle

Paul Schell, Mayor

Department of Construction and Land Use

R. F. Krochalis, Director

MEMORANDUM

TO: Sue Donaldson, City Council President, via
Margaret Klockars, Law Department, and
Pascal St. Gerard, City Budget Office

FROM: 
Rick Krochalis, Director

DATE: July 7, 1998

SUBJECT: Recommended Amendments to the City's SEPA Ordinance

Transmittal

With this memorandum we are transmitting for City Council consideration proposed legislation amending the City's SEPA (State Environmental Policy Act) Ordinance.

Background and Summary of Recommendations

The Department of Construction and Land Use (DCLU) is proposing amendments to the City's SEPA Ordinance to comply with amended State SEPA Rules, Chapter 197-11 of the Washington Administrative Code. These amendments were approved in October 1997 by the State Department of Ecology (Ecology) as a result of state regulatory reform legislation aimed to integrate SEPA with the Growth Management Act (GMA). Local jurisdictions, like Seattle, must act to amend their local SEPA ordinances to comply with the new and revised procedural requirements found in the new State SEPA Rules.

The majority of proposed amendments are required by Ecology's new rules. However, DCLU is also recommending adoption of two optional provisions included in these new SEPA Rules: *planned actions* and an *optional determination of nonsignificance (DNS) process*. Adoption of planned actions would allow environmental review earlier in the planning process with compliance review at the project permit level. The early review DNS process would allow a single integrated comment period on the notice of application and proposal to issue a DNS when certain requirements are met. This new process would eliminate the need for a second two week comment period after the decision is published for some types of environmental reviews. Additional detail about these and other procedural amendments to the City's SEPA Ordinance are included in DCLU's Director's Report and proposed legislation.

Public review and City interdepartmental review of the draft legislation took place in May 1998. Notice was provided in the City's official newspaper, the *Daily Journal of Commerce*, in DCLU's General Mailed Release, the May issue of DCLU's INFO, and copies were mailed to interested parties. The draft Director's Report and ordinance were also available at DCLU's public information center in the Dexter Horton Building. To date, there have been no significant questions or issues raised regarding the proposed amendments to the City's SEPA Ordinance.

SEPA Environmental Review Determination

The proposed legislation amending the City's SEPA Ordinance to comply with new and revised procedural requirements from Ecology's SEPA Rule (WAC 197-11) are categorically exempt from threshold determination and EIS requirements per WAC 197-11-800(20).

Public Hearing Scheduled

A public hearing on this legislation has been scheduled before the City Council's Business, Economic, and Community Development Committee at 9:30 am, Tuesday, July 21, 1998.

Implementation Costs and Benefits (See Attached Fiscal Note Information)

- One-Time Implementation Costs: The one-time implementation costs would be approximately \$1,700. This includes the cost of preparing for and providing training at regularly scheduled staff meetings, cost of copying the approved ordinances for use by DCLU staff, and cost of printing new SEPA and Land Use Code pages by the Book Publishing Company.
- Potential Long Term Benefits/Costs: The majority of procedural amendments proposed to the SEPA Ordinance are primarily clarifications of existing processes and changes to further integrate SEPA with the GMA. For these amendments we anticipate no associated costs to DCLU other than those one-time implementation costs listed above, although these amendments should provide long term benefits as regulatory reform measures improving the SEPA process. However, the two new optional provisions that DCLU is recommending to add to the SEPA Ordinance, planned actions and the early review DNS process, may have potential long term benefits and costs as discussed below:

Planned Actions:

- **Benefits:** City Council may adopt a planned action that approves a development program for a site or area which may result in reduced

processing time for specific project permits that are part of the planned action. This is because the environmental impacts can be studied and appropriate mitigation determined prior to an applicant submitting an application for individual project review. This may provide more certainty for project applicants regarding what will be required, and more certainty to the public regarding how environmental impacts will be addressed.

- **Costs:** A disadvantage of using the planned action process is that it can be a costly up-front process for the proponent/developer (public or private). More up-front environmental analysis and review would be required when proposing a planned action and associated EIS. The City may need to pay for supplemental studies and processes depending on the circumstances. It is not possible to approximate these costs since the scope and frequency of using planned actions is not predictable at this time.

Early Review DNS Process:

- **Benefits:** The early review DNS process is intended to be used for proposed projects expected to have few or no impacts. When so determined, the initial public notice would include the department's preliminary environmental determination. This process would combine the comment period for a DNS, which now occurs when a decision is published for certain projects as defined by state law, with the comment period on the notice of application. A benefit of using this process would be to eliminate the current state-mandated second comment period, which follows DNS publication for projects that involve non-exempt grading or demolition, or involve other agencies with jurisdiction. In the long term, it is also anticipated that the early review DNS process will be beneficial to DCLU (and ultimately applicants and the public) by reducing SEPA review time for projects qualifying for this process, allowing more time to be spent on more complex projects.
- **Costs:** Implementation of this process will require changes in the SEPA review process and procedures at DCLU. Revised procedures will need to be developed to provide practical guidance for DCLU staff on how to make early determinations in advance of public comment. Due to this, DCLU is recommending a 90 day effective date for this legislation in order to complete this work before implementing the early review DNS process. Estimated costs to change existing procedures, train staff and provide public notice of this new process would be approximately \$6,000.

If you have any questions about this proposed legislation, please contact Ken Davis of my staff by email at ken.davis@ci.seattle.wa.us or by phone at (206) 233-3884.

Attachments

**Fiscal Note Information for
Amendments to Seattle's SEPA Ordinance**

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Department of Construction and Land Use	Ken Davis 233-3884	Pascal St. Gerard 684-8085

Legislation Title:

Amendments to Seattle's SEPA (State Environmental Policy Act) Ordinance.

Summary of the Legislation:

The Department of Construction and Land Use (DCLU) is proposing amendments to the City's SEPA Ordinance to comply with amended State SEPA Rules, Chapter 197-11 of the Washington Administrative Code. These amendments were approved in October 1997 by the State Department of Ecology (Ecology) as a result of state regulatory reform legislation aimed to integrate SEPA with the Growth Management Act (GMA). Local jurisdictions, like Seattle, must act to amend their local SEPA ordinances to comply with the new and revised procedural requirements found in the new State SEPA Rules.

The majority of proposed amendments are required by Ecology's new rules. However, DCLU is also recommending adoption of two optional provisions included in these new SEPA Rules: *planned actions* and an *optional determination of nonsignificance (DNS) process*. Adoption of planned actions would allow environmental review earlier in the planning process with compliance review at the project permit level. The early review DNS process would allow a single integrated comment period on the notice of application and proposal to issue a DNS when certain requirements are met. Additional detail about these and other procedural amendments to the City's SEPA Ordinance are included in DCLU's Director's Report and proposed legislation.

Background (Include justification for the legislation and funding history, if applicable):

See discussion above under "Summary of Legislation."

Sustainability Issues (related to grant awards):

Not Applicable.

Estimated Expenditure Impacts: These will be covered within existing resources.

FUND DCLU Fund 15700	1998	1999	2000
1. Usual & customary one-time costs associated with implementation of legislation, which includes costs for preparing and providing staff training, cost of copying the approved ordinances for use by staff, and cost of printing new SEPA Ordinance and Land Use Code pages by the Book Publishing Company:	<u>General Fund (75%):</u> \$1,275.00 <u>Fees (25%):</u> \$425.00 <u>Sub-total:</u> \$1,700.00		
2. Cost of changing the SEPA review process and procedures to incorporate the new early review DNS process, including preparing new and revised intake procedures, making copies for staff, staff training, and providing public notice of new procedures and process:	<u>General Fund (75%):</u> \$4,500.00 <u>Fees (25%):</u> \$1,500.00 <u>Sub-total:</u> \$6,000.00		
TOTAL:	\$7,700.00		

One-time \$7,700.00

On-going \$None

Estimated Revenue Impacts:

Not Applicable.

FUND	1998	1999	2000
TOTAL	None	None	None

One-time \$None

On-going \$None

Department of Construction and Land Use Director's Report

Amendments to Seattle SEPA Ordinance

June 22, 1998

Introduction

The State Department of Ecology (Ecology), working in conjunction with the State Department of Community, Trade and Economic Development and an advisory committee representing diverse interests, has amended State Environmental Policy Act (SEPA) Rules, Chapter 197-11 WAC. These amendments, effective on November 10, 1997, were required as a result of passage of state regulatory reform legislation (ESHB 1724 in 1995, with additional changes required by ESB 6094 in 1997). The primary purpose of the amendments is to better integrate SEPA with the Growth Management Act (GMA). Local jurisdictions, like Seattle, must act to amend their local SEPA ordinances to comply with the new and revised procedural requirements found in the new State SEPA Rules.

Proposed SEPA Ordinance Amendments

Ecology's new rules include optional provisions for *planned actions* and an *optional determination of nonsignificance (DNS) process*. After careful evaluation of these two new provisions, the Department of Construction and Land Use (DCLU) recommends that they be added to the City's SEPA Ordinance. The following information is provided to explain and clarify these proposals.

Planned Actions

A new feature in the State SEPA Rules is an option for local jurisdictions to designate planned actions. A planned action must be limited to a specific geographic area (not the entire city) or to certain types of development.

By adding this provision to the SEPA Ordinance, the City could identify specific types of planned actions that would undergo full environmental analysis early in the planning process. The EIS for a planned action must provide a level of environmental analysis that is similar to what would normally be required at the project level. Therefore, planned actions should only be designated when the City can reasonably analyze the significant

site-specific impacts that would likely occur. A generalized analysis of environmental impacts would not suffice.

This up-front environmental analysis may be time-consuming and costly for the City depending on the size and scope of the planned action. However, combining early environmental analysis with the planning process would likely result in a positive outcome -- reduced permit processing time for future individual projects covered by the planned action.

The planned action must be adopted by a City ordinance. The planned action ordinance would indicate where in the EIS or any associated planning documents the environmental impacts have been addressed, and should include or reference mitigation measures which would be required for a proposed project covered by a planned action. If desired, the ordinance may set a time limit for planned action designation.

Prior to ordinance adoption, an intensive level of public review for both the EIS and the proposed planned action ordinance is crucial. Since there is no threshold determination or EIS required for individual projects proposed as part of the planned action, there would be no opportunity for public review or appeal of the adequacy of the environmental documents or the threshold determination. In order to build support for adopting a planned action ordinance, public awareness is important during the early phases.

When a proposed project is submitted under a planned action, the City must verify the following:

- The proposed project is one of those covered by the planned action ordinance;
- The probable adverse environmental impacts were adequately addressed; and
- The proposed project includes any conditions or mitigation measures outlined in the planned action ordinance.

If the proposed project meets the above steps, it qualifies as a planned action project. Public notice for planned action projects would be tied to the underlying permit. If the project does not meet the requirements of the planned action ordinance, or the EIS did not address all probable significant adverse environmental impacts, the proposed project would not be covered under a planned action.

Planned actions would likely be most useful in two types of situations. First is one in which the City has a strong interest in how specific properties are developed. An example might be when the City wants to direct specific types of development within a clearly defined area around a proposed transit station. Second is for larger geographic areas, where a broader approach would help gather environmental information and determine impacts and mitigation measures up-front.

Early Review DNS Process

The new SEPA Rules also include an option for local governments to adopt what's called an optional DNS process. This process, if adopted, would allow the City to rely on an integrated comment period and dispense with the requirement for a second comment period. When the DNS is finally issued, no additional comment period would be required. If adopted by the City of Seattle, this new SEPA process would be called the *Early Review DNS Process*.

The Early Review DNS Process would be used when DCLU is reasonably certain that there are no significant impacts associated with a proposed project, or that mitigation measures will reduce impacts to a nonsignificant level.

On the notice of application, the City would state that a DNS is expected to be issued for the proposed project later in the project review process, and that this may be the only opportunity to comment on the environmental impacts of the proposed project. After the close of the comment period, the City would review any comments and would issue the DNS. However, if significant environmental impacts were identified, a DS/scoping notice would be issued.

The notice of application must contain sufficient information on the proposed project to allow other agencies and the public to understand the proposal and comment on any areas of concern. This is important because this may be the only opportunity for other agencies and the public to comment on the potential impacts of the proposed project.

Other Procedural Amendments

The majority of procedural amendments proposed to the City's SEPA Ordinance are changes required by Ecology's new rules. These include the following provisions:

- Reference to project review timing requirements;
- Reference that the City relies on its development regulations to provide adequate analysis of and mitigation for specific adverse environmental impacts of the project prior to using SEPA mitigation;
- Reference to SEPA/GMA integration and SEPA/MTCA (Model Toxic Control Act) integration;
- Reference to integrating environmental review into project review;
- Reference that directs the City to consider mitigation measures required by development regulations when making a threshold determination;
- Clarification of threshold determination requirements and addition of a new timing requirement;
- Clarification that a SEPA public hearing does not have to be considered the one open record hearing;
- Clarification of lead agency status;

- Addition of definitions for *closed record appeal* and *open record hearing*, repeal of the definition for *environmentally sensitive area*, and amend the definitions for *County/city* and *environmentally critical areas*.
- Addition of new categorical exemptions for *watershed restoration projects* and *personal wireless service facilities*;
- Change to the DNS comment period from 15 to 14 days; and
- Correction of typographical errors.

You will find more detailed information about the proposed SEPA amendments in the enclosed ordinance. To assist you with reviewing this ordinance, a section-by-section index has also been provided to guide you through the legislation.

Milestones Already Achieved in the City of Seattle

State legislation requires local jurisdiction planning under GMA to:

1. Combine the requirements of project permit review and environmental review into one integrated project review system;
2. Analyze the consistency of a proposed project with the applicable development regulations as part of the project review process;
3. Reaffirm when local development regulations or other local, state or federal requirements adequately address environmental issues, and add the concept that "adequately addressing" includes designating impacts as acceptable; and
4. Limit administrative appeals and modify the time limit for filing judicial appeals.

The City of Seattle has long had an integrated permit and environmental review process. The City's Master Use Permit (MUP) provisions of the Land Use Code (LUC) have been in place since the early 1980's. This process provided a model for state legislation aimed at combining and integrating project permit review and environmental review. Since 1995 through a series of local regulatory reform ordinances, additional modifications to the LUC and SEPA have been made to meet additional state timing and coordination requirements.

Since implementation of the City's MUP provisions, the project review process at DCLU has included consistency review, whereby all projects are analyzed for project conformance with the following four factors: type of land use; level of development; adequacy of infrastructure; and characteristics of the proposed development (or the degree to which the project conforms with specific development regulations).

It has also been part of DCLU's project review process to use City development regulations or other local, state or federal requirements to address environmental impacts related to a proposed project. SEPA conditioning authority is used only when existing

development regulations are either not adequate or do not exist to address environmental impacts.

The City's MUP and SEPA Ordinance provisions related to administrative appeals have continued to be updated based on the most recent applicable state legislation. Additional modifications to the appeals section of the City's SEPA Ordinance is included in this ordinance to bring the City's regulations up-to-date with Ecology's SEPA Rules.

How to Comment

Public Hearing:

A public hearing on the proposed legislation is scheduled before the Seattle City Council Business, Economic and Community Development (BECD) Committee at 9:30 am, Tuesday, July 21, 1998, in the City Council Chamber, 11th Floor of the Municipal Building, 600 Fourth Avenue. For those who wish to testify, a sign-up sheet will be provided outside the Council Chamber one half hour before the public hearing. Questions concerning the public hearing may be directed to Dan McGrady, Councilmember Jan Drago's office, by calling (206) 684-8801.

The City Council Chamber is accessible. Print and communications access is provided on prior request. Please contact Councilmember Jan Drago's office at (206) 684-8801 as soon as possible to request accommodations for a disability.

Written Comments:

For those unable to attend the public hearing, comments will be accepted through the date of the public hearing by Councilmember Jan Drago, Chair, BECD Committee. Written comments may be sent by email to dan.mcgrady@ci.seattle.wa.us or by mail to the following address:

City of Seattle
City Council Business, Economic and Community Development Committee
11th Floor, Municipal Building
600 Fourth Avenue
Seattle, Washington 98104
Attention: Dan McGrady

Questions concerning the proposed legislation may be directed to Ken Davis, DCLU, by email at ken.davis@ci.seattle.wa.us or by phone at (206) 233-3884.

Enclosures

Index to Proposed Amendments to City of Seattle SEPA Ordinance and Other Codes

This index provides a section-by-section guide to the attached proposed legislation amending the City's SEPA (State Environmental Policy Act) Ordinance, Land Use Code (LUC) and other City codes.

- **Section 1 (page 1):** SMC Section 10.52.040, Amendment to change "environmentally sensitive area" to "environmentally critical area" (see Ordinance Section 47 (page 37)).
- **Section 2 (page 1):** LUC Section 23.12.105, Amendment to change "environmentally sensitive area" to "environmentally critical area" (see Ordinance Section 47 (page 37)).
- **Section 3 (page 2):** LUC Section 23.53.020, Amendment to change "environmentally sensitive area" to "environmentally critical area" (see Ordinance Section 47 (page 37)).
- **Section 4 (page 5):** LUC Section 23.76.004, Amendment to Exhibit 23.76.004A to add provisions related to planned actions.
- **Section 5 (page 7):** LUC Section 23.76.006, Amendment to add a determination of project consistency with a planned action as a Type II decision.
- **Section 6 (page 8):** LUC Section 23.76.012, Amendments to clarify the difference between Type I and II decisions; and addition of notice requirements and contents for the early review DNS process.
- **Section 7 (page 10):** LUC Section 23.76.020, Amendments to reference Section 25.05.310D2 and to change the DNS comment period from 15 to 14 days.
- **Section 8 (page 11):** LUC Section 23.76.022, Amendment to change the DNS comment period from 15 to 14 days.
- **Section 9 (page 13):** LUC Section 23.76.036, Amendment to add adoption of a planned action ordinance as a Type V Council Land Use Decision.
- **Section 10 (page 13):** LUC Section 23.76.052, Amendment to change the DNS comment period from 15 to 14 days.
- **Section 11 (page 15):** LUC Section 23.84.010, Amendment to repeal the definition for "environmentally sensitive area" (see Ordinance Section 47 (page 37)).
- **Section 12 (page 15):** SEPA Section 25.05.055, Amendment to add a reference to the timing requirements for counties and cities planning under GMA.

- **Section 13 (page 16):** SEPA Section 25.05.060, Amendment to correct a typographical error in subsection E4c.
- **Section 14 (page 17):** SEPA Section 25.05.070, Amendment to change the DNS comment period from 15 to 14 days.
- **Sections 15 - 17 (pages 17 - 19):** SEPA Sections 25.05.164, 25.05.168 and 25.05.172, New Sections - "Planned Actions" - includes the following: defines planned actions using the criteria in RCW 43.21C031; adds procedures for a GMA county/city to adopt a planned action ordinance; and defines the project review process for projects proposed as planned actions.
- **Section 18 (page 19):** SEPA Section 25.05.210, New Section cross-referencing "SEPA/GMA Integration" to WACs 197-11-210 through 197-11-235.
- **Section 19 (page 19):** SEPA Section 25.05.250, New Section cross-referencing "SEPA/MTCA (Model Toxic control Act) Integration" to WACs 197-11-250 through 197-11-268).
- **Section 20 (page 20):** SEPA Section 25.05.300, Amendment to add a reference to integrating environmental review into project review.
- **Section 21 (page 20):** SEPA Section 25.05.305, Amendment to change "environmentally sensitive area" to "environmentally critical area" (see Ordinance Section 47 (page 37)).
- **Section 22 (page 21):** SEPA Section 25.05.310, Amendment to clarify threshold determination requirements and add new timing requirements.
- **Section 23 (page 22):** SEPA Section 25.05.315, Amendment to require an environmental checklist for projects proposed as planned actions, but allowing a GMA county/city to modify the checklist form after approval by Ecology.
- **Section 24 (page 22):** SEPA Section 25.05.330, Amendment to direct the responsible official to consider mitigation measures required by development regulations, comprehensive plans or other regulations when making a threshold determination; and an amendment to change "environmentally sensitive area" to "environmentally critical area" (see Ordinance Section 47 (page 37)).
- **Section 25 (page 24):** SEPA Section 25.05.340, Amendment to eliminate the comment period and notice requirements for a DNS issued under the early review DNS (optional DNS) process in 25.05.355; and changes the DNS comment period to 14 days; and an amendment to add a new subsection B1e related to SEPA/GMA integration.
- **Section 26 (page 25):** SEPA Section 25.05.355, New Section - "Early Review DNS (Optional DNS) Process" - creates an optional process allowing a GMA county/city to

use the notice of application comment period to also receive comments on environmental impacts, and then to issue a DNS without an additional comment period.

- **Section 27 (page 26):** SEPA Section 25.05.390, Amendment to change the DNS comment period from 15 to 14 days.
- **Section 28 (page 26):** SEPA Section 25.05.408, Amendment to reduce the comment period on a scoping notice to no less than 14 days if a GMA county/city combines the scoping notice with the notice of application.
- **Section 29 (page 27):** SEPA Section 25.05.502, Amendment to changes the DNS comment period from 15 to 14 days.
- **Section 30 (page 28):** SEPA Section 25.05.508, Amendment to SEPA Register section, including a change in the distribution requirements to allow other methods such as World Wide Web (Internet).
- **Section 31 (page 28):** SEPA Section 25.05.535, Amendment to clarify that a SEPA public hearing does not have to be considered the one open record hearing under RCW 36.70B.202(3).
- **Section 32 (page 29):** SEPA Section 25.05.600, Amendment to change subsection C to apply to all agencies acting on the same proposal, not just "other agencies."
- **Section 33 (page 30):** SEPA Section 25.05.660, Amendment to add a reference to RCW 43.21C.240 which allows GMA counties/cities to determine that existing environmental analysis and mitigation may be adequate for a proposed project.
- **Section 34 (page 31):** SEPA Section 25.05.675, Amendment to change "environmentally sensitive area" to "environmentally critical area."
- **Section 35 (page 32):** SEPA Section 25.05.680, Amendments to reflect statutory revisions, including the requirement for cities and counties to combine the SEPA administrative appeal with one open record hearing allowed under RCW 36.70B.050.
- **Section 36 (page 35):** SEPA Section 25.05.702, Amendment to strike ((of 1974)) from the end of State Environmental Policy Act.
- **Section 37 (page 35):** SEPA Section 25.05.721, New Section - "Closed Record Appeal" - adds the definition of a closed record appeal from RCW 36.70B.020(1).
- **Section 38 (page 36):** SEPA Section 25.05.728, Amendment to add a definition of a GMA county/city.
- **Section 39 (page 36):** SEPA Section 25.05.747, Amendment to the definition of "environmentally critical area."

- **Section 40 (page 36):** SEPA Section 25.05.748, Repeal of the definition of "environmentally sensitive area."
- **Section 41 (page 36):** SEPA Section 25.05.751, New Section - "GMA Action" - adds the definition of a GMA Action.
- **Section 42 (page 37):** SEPA Section 25.05.775, New Section - "Open Record Hearing" - adds the definition of an open record hearing from RCW 36.70B(3).
- **Section 43 (page 37):** SEPA Section 25.05.790, Amendment to strike ((of 1971)) from the end of State Environmental Policy Act.
- **Section 44 (page 37):** SEPA Section 25.05.800, Amendments to add new statutory exemptions and correct typographical errors.
- **Section 45 (page 40):** SEPA Section 25.05.890, Amendment to cross-reference this Section to WAC 197-11-890.
- **Section 46 (page 41):** SEPA Section 25.05.900, Amendment to change "environmentally sensitive area" to "environmentally critical area" (see Ordinance Section 47 (page 37)).
- **Section 47 (page 41):** SEPA Section 25.05.908, Amendments to change the title of this Section from "Environmentally Sensitive Area" to "Environmentally Critical Area" and add a new subsection that limits the scope of environmental review of actions within environmentally critical areas.
- **Section 48 (page 43):** SEPA Section 25.05.912, Amendment to correct the Title of this Section.
- **Section 49 (page 43):** SEPA Section 25.05.938, Amendment to cross-reference this Section to WAC 197-11-938.
- **Section 50 (page 45):** SEPA Section 25.05.948, Amendment to add a provision for assumption of lead agency during the comment period on the notice of application when the early review DNS (optional DNS) process under 25.05.355 is used.
- **Section 51 (page 45):** SEPA Section 25.05.960, Amendment to change "environmentally sensitive area" to "environmentally critical area" on the SEPA Checklist (see "Attachment A" following draft ordinance).
- **Section 52 (page 46):** SEPA Section 25.05.970, Amendment to add a section to indicate if the early review DNS (optional DNS) process was used on the DNS form (see "Attachment B" following draft ordinance).

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Ordinance _____

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4 **AN ORDINANCE** relating to health and safety, land use and environmental protection to
5 comply with Washington State Department of Ecology amendments to the State
6 Environmental Policy Act (SEPA) Rules, Chapter 197-11 WAC, by amending, repealing
7 and adding the following Sections to the Seattle Municipal Code: amending Sections
8 10.52.040, 23.12.105, 23.53.020, 23.76.004, 23.76.006, 23.76.012, 23.76.020, 23.76.022,
9 23.76.036, 23.76.052, 23.84.010, 25.05.055, 25.05.060, 25.05.070, 25.05.300, 25.05.305,
10 25.05.310, 25.05.315, 25.05.330, 25.05.340, 25.05.390, 25.05.408, 25.05.502, 25.05.508,
11 25.05.535, 25.05.600, 25.05.660, 25.05.675, 25.05.680, 25.05.702, 25.05.728, 25.05.747,
12 25.05.790, 25.05.800, 25.05.890, 25.05.900, 25.05.908, 25.05.912, 25.05.938, 25.05.948,
13 25.05.960, and 25.05.970; repealing Section 25.05.748; and adding Sections 25.05.164,
14 25.05.168, 25.05.172, 25.05.210, 25.05.250, 25.05.355, 25.05.721, 25.05.751, and
15 25.05.775.

16
17 **NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SEATTLE AS**
18 **FOLLOWS:**
19

20
21 **Section 1.** Subsection E of Section 10.52.040 of the Seattle Municipal Code, as
22 adopted by Ordinance 114355, is amended as follows:
23

24 **10.52.040 Enforcement.**

25
26 * * *

27
28 E. In identifying violations of this Chapter and in specifying corrective action
29 necessary to comply with this chapter, the Director shall take appropriate measures to ensure
30 that environmental hazards and unsafe conditions are not created in environmentally
31 ((sensitive)) critical areas and in property maintained in a wholly undeveloped and
32 unimproved state.
33

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37 **Section 2.** Policy 1 and Policy 3B of Section 23.12.105 of the Seattle Municipal
38 Code, as adopted by Ordinance 117929, are amended as follows:
39

1 right-of-way is greater than or equal to the minimum width established in subsection A of
2 this section, but the roadway width is less than the minimum established in the Street
3 Improvement Manual, the following requirements shall be met:

4 (1) All structures on the lot shall be designed to
5 accommodate the grade of the future street improvements.

6 (2) A no-protest agreement to future street improvements
7 shall be required, as authorized by RCW Chapter 35.43. The agreement shall be recorded
8 with the title to the property with the King County Department of Records and Elections.

9 (3) If there is no sidewalk, a sidewalk shall be constructed,
10 except when the following projects are proposed:

11 i. Remodeling and use changes within existing
12 structures;

13 ii. Additions to existing structures which are
14 exempt from environmental review.

15 b. Streets With Less Than the Minimum Right-of-way Width.
16 When a street with existing curbs abuts a lot and the existing right-of-way is less than the
17 minimum width established in subsection A6 of this section, the following requirements
18 shall be met:

19 (1) Setback Requirement. A setback equal to half the
20 difference between the current right-of-way width and the minimum right-of-way width
21 established in subsection A6 of this section shall be required; provided, however, that if a
22 setback has been provided under this provision, other lots on the block shall provide the
23 same setback. The area of the setback may be used to meet any development standards,
24 except that required parking may not be located in the setback. Underground structures
25 which would not prevent the future widening and improvements of the right-of-way may be
26 permitted in the required setback by the Director of Construction and Land Use after
27 consulting with the Director of Transportation.

28 (2) Grading Requirement. When a setback is required, all
29 structures on the lot shall be designed to accommodate the grade of the future street,
30 according to the Street Improvement Manual.

31 (3) A no-protest agreement to future street improvements
32 shall be required, as authorized by RCW Chapter 35.43. The agreement shall be recorded
33 with the title to the property with the King County Department of Records and Elections.

34 2. Projects With Reduced Improvement Requirements. The following
35 types of projects are exempt from all dedication and improvement requirements of
36 subsections B, C and D of this section, but shall meet the setback, grading and no-protest
37 requirements of subsection E1b if the street right-of-way abutting the lot has less than the
38 minimum right-of-way width established in subsection A of this section or does not meet the
39 grade of future street improvements.

40 a. Structures with fewer than ten (10) artist's studio dwellings;

1 b. The following uses when they are smaller than seven hundred
2 fifty (750) square feet of gross floor area: fast-food restaurants; major and minor vehicle
3 repair uses; and multipurpose convenience stores;

4 c. Nonresidential structures which have less than four thousand
5 (4,000) square feet of gross floor area and which do not contain uses listed in subsection
6 D2b of this section which are larger than seven hundred fifty (750) square feet;

7 d. Structures containing a mix of artist's studio dwellings and
8 nonresidential uses, if there are fewer than ten (10) artist's studio dwellings, and the square
9 footage of nonresidential use is less than specified in subsections D2b and D2c of this
10 section;

11 e. Remodeling and use changes within existing structures;

12 f. Additions to existing structures which are exempt from
13 environmental review; and

14 g. Expansions of a surface parking area or open storage area of
15 less than twenty (20) percent of parking area or storage area or number of parking spaces.

16 3. Exceptions From Required Street Improvement Requirements. The
17 Director may waive or modify the requirements for paving, dedication, setbacks, grading,
18 no-protest agreements, landscaping and sidewalk and pedestrian walkway installation when
19 it is determined that one (1) or more of the following conditions are met:

20 a. Location in an environmentally ((sensitive)) critical area,
21 disruption of existing drainage patterns, or removal of natural features such as significant
22 trees makes widening and/or improving the right-of-way impractical or undesirable.

23 b. The existence of a bridge, viaduct or structure such as a
24 substantial retaining wall makes widening the right-of-way impractical or undesirable.

25 c. Widening the right-of-way and/or improving the street would
26 adversely affect the character of the street, as it is defined in an adopted neighborhood plan
27 or adopted City plan for street parks, boulevards, or other special right-of-way, or would
28 otherwise conflict with the stated goals of such a plan.

29 d. Widening and/or improving the right-of-way would make
30 building on a lot infeasible by reducing it to dimensions where development standards
31 cannot reasonably be met.

32 e. Widening and/or improving the right-of-way would eliminate
33 street access to an existing lot.

34 f. One (1) or more substantial principal structures on the same
35 side of the block as the proposed project are located in the area needed for future expansion
36 of the right-of-way and the structure(s)' condition and size make future widening of the
37 remainder of the right-of-way unlikely.

38 g. Widening and/or improving the right-of-way is impractical
39 because topography would preclude the use of the street for vehicular access to the lot, for
40 example due to an inability to meet the required twenty (20) percent maximum driveway
41 slope.

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h. Widening and/or improving the right-of-way is not necessary because it is adequate for current and potential pedestrian and vehicular traffic, for example, due to the limited number of lots served by the development or because the development on the street is at zoned capacity.

Section 4. Exhibit 23.76.004A of Section 23.76.004 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, is amended as follows:

Exhibit 23.76.004 A
LAND USE DECISION FRAMEWORK
Director's and Hearing Examiner's Decisions Requiring Master Use Permits

TYPE I Director's Decision (No Administrative Appeal)	TYPE II Director's Decision (Appealable to Hearing Examiner*)	TYPE III Hearing Examiner's Decision (No Administrative Appeal)
<ul style="list-style-type: none"> • Compliance with development standards • Uses permitted outright • Temporary uses, four weeks or less • Certain street uses • Lot boundary adjustments • Modifications of features bonused under Title 24 • Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation • Temporary uses, twelve months or less, for relocation of police and fire protection • Exemptions from right-of-way improvement requirements • Special accommodation • Reasonable accommodation • Minor amendment to a Major • Phased Development Permit 	<ul style="list-style-type: none"> • Temporary uses, more than four weeks • Certain street uses • Variances • Administrative conditional uses • Shoreline decisions (*Appealable to Shorelines Hearings Board along with all related environmental appeals) • Short subdivisions • Special exceptions • Design Review • Northgate General Development Plan • The following environmental determinations: <ol style="list-style-type: none"> 1. Determination of nonsignificance (EIS not required) 2. Determination of final EIS adequacy 3. Determinations of significance based solely on historic and cultural preservation 4. A decision by the Director to approve, condition or deny a project based on SEPA Policies 5. <u>A decision by the Director that a project is consistent with a Planned Action Ordinance and EIS (no threshold determination or EIS required)</u> • Major Phased Development 	<ul style="list-style-type: none"> • Subdivisions (Preliminary Plats)

Council Land Use Decisions

TYPE IV (Quasi-Judicial)	TYPE V (Legislative)
<ul style="list-style-type: none"> • Land use map amendments (Rezoning) • Public project approvals • Major institution master plans • Council conditional uses • Downtown planned community developments 	<ul style="list-style-type: none"> • Land Use Code text amendments • Rezoning to implement new City Policies • Concept approval for City facilities • Major Institution designations • Waive or modify development standards for City facilities • <u>Planned Action Ordinance</u>

1 h. The following shoreline decisions (supplemental procedures
2 for shoreline decisions are established in Chapter 23.60):

- 3 (1) Shoreline substantial development permits,
- 4 (2) Shoreline variances,
- 5 (3) Shoreline conditional uses;

6 i. Northgate General Development Plan;

7 j. Major Phased Development((-)); and

8 k. Determination of project consistency with a Planned Action
9 ordinance and EIS.

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14 **Section 6.** Subsections A and C of Section 23.76.012, of the Seattle Municipal
15 Code, which Section was last amended by Ordinance 118672, are further amended as
16 follows:

17
18 **23.76.012 Notice of application.**

19
20 A. Notice.

21 1. Type I notification. No notice shall be required for Type I decisions.

22 2. Type II and III notification. When a Master Use Permit application
23 requiring a Type II or III decision is submitted, the Director shall provide notice of
24 application and an opportunity for public comment as described in this section. Notice of
25 application for Type II and III decisions shall be provided within fourteen (14) days after a
26 determination of completeness.

27 a. Other agencies with jurisdiction. To the extent known by the
28 Director, other agencies of local, state or federal governments that may have jurisdiction
29 over some aspect of the project shall be sent notice. ~~((No notice or public comment period
30 shall be required for Type I decisions.))~~

31 b. Early Review Determination of Nonsignificance (DNS). In
32 addition to the requirement under A2a above, a copy of the Early Review DNS notice of
33 application and environmental checklist shall also be sent to the following:

- 34 (1) State Department of Ecology;
- 35 (2) Affected Tribes;
- 36 (3) Each local agency or political subdivision whose
37 public services would be changed as a result of implementation of the proposal; and
- 38 (4) Anyone requesting a copy of this information.

39
40 * * *

1 C. Contents of Notice.

2 1. The City's official notice of application shall be the notice placed in
3 the General Mailed Release, which shall include the following required elements as
4 specified in RCW 36.70B.110;

5 a. Date of application, date of notice of completion for the
6 application, and the date of the notice of application;

7 b. A description of the proposed project action and a list of the
8 project permits included in the application and, if applicable, a list of any studies requested
9 by the Director;

10 c. The identification of other permits not included in the
11 application to the extent known by the Director;

12 d. The identification of existing environmental documents that
13 evaluate the proposed project, and the location where the application and any studies can be
14 reviewed;

15 e. A statement of the public comment period and the right of any
16 person to comment on the application, request an extension of the comment period, receive
17 notice of and participate in any hearings, and request a copy of the decision once made, and
18 a statement of any administrative appeal rights;

19 f. The date, time, place and type of hearing, if applicable and if
20 scheduled at the date of notice of the application;

21 g. A statement of the preliminary determination, if one has been
22 made at the time of notice, of those development regulations that will be used for project
23 mitigation and the proposed project's consistency with development regulations; ((and))

24 h. Any other information determined appropriate by the Director;
25 and

26 i. The following additional information when the Early Review
27 DNS process is used:

28 (1) A statement that the Early Review DNS process is
29 being used and the Director expects to issue a DNS for the proposal;

30 (2) A statement that this is the only opportunity to
31 comment on the environmental impacts of the proposal;

32 (3) A statement that the proposal may include mitigation
33 measures under applicable codes, and the project review process may incorporate or require
34 mitigation measures regardless of whether an EIS is prepared; and

35 (4) A statement that a copy of the subsequent threshold
36 determination for the proposal may be obtained upon request.

37 2. All other additional forms of notice, including, but not limited to
38 environmental review and land use signs, placards and mailed notice, shall include the
39 following information: the project description, location of the project, date of application,
40 location where the complete application file may be reviewed, and a statement that persons
41 who desire to submit comments on the application or who request notification of the

1 decision may so inform the Director in writing within the comment period specified in
2 subsection D of this section. The Director may, but need not, include other information to
3 the extent known at the time of notice of application. Except for the environmental review
4 sign requirement, each notice shall also include a list of the land use decisions sought. The
5 Director shall specify detailed requirements for environmental review and land use signs.
6

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10 **Section 7.** Subsections B and C of Section 23.76.020, of the Seattle Municipal
11 Code, which Section was last amended by Ordinance 118012, are further amended as
12 follows:
13

14 **23.76.020 Director's decisions.**

15 * * *

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17
18 **B. Timing of Decisions Subject to Environmental Review.**

19 1. If an EIS has been required, the Director's decision shall not be issued
20 until at least seven (7) days after publication of the final EIS, as provided by Chapter 25.05
21 SEPA Policies and Procedures.

22 2. If no EIS is required, the Director's decision shall include issuance of
23 a DNS for the project if not previously issued pursuant to 25.05.310C 2.

24 **C. Notice of Decisions.**

25 1. Type I. No notice of decision is required for Type I decisions.

26 2. Type II. The Director shall provide notice of all Type II decisions as

27 follows:

28 a. A list of all Type II decisions shall be compiled and published
29 in the City official newspaper within seven (7) days of the date the decision is made. This
30 list and the date of its publication shall also be posted in a conspicuous place in the
31 Department and shall be included in the General Mailed Release. Notice shall also be mailed
32 to the applicant and to interested persons who have requested specific notice in a timely
33 manner or who have submitted substantive comments on the proposal, and shall be
34 submitted in a timely manner to at least one (1) community newspaper in the area affected
35 by the proposal.

36 b. DNSs shall also be filed with the SEPA Public Information
37 Center.

38 c. If the Director's decision includes a mitigated DNS or other
39 DNS requiring a ((fifteen (15))) fourteen (14) day comment period pursuant to SMC
40 Chapter 25.05, SEPA Policies and Procedures, the notice of decision shall include notice of

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1 the comment period. The Director shall distribute copies of the DNS as required by SMC
2 Section 25.05.340.

3 d. Any shoreline decision in a Master Use Permit shall be filed
4 with the Department of Ecology according to the requirements contained in WAC 173-27-
5 130. A shoreline decision on limited utility extensions and bulkheads subject to Section
6 23.60.065 shall be issued within twenty-one (21) days of the last day of the comment period
7 as specified in that Section.

8 e. The notice of the Director's decision shall state the nature of
9 the applicant's proposal, a description sufficient to locate the property, and the decision of
10 the Director. The notice shall also state that the decision is subject to appeal and shall
11 describe the appropriate appeal procedure.

12
13
14 **Section 8.** Subsection C of Section 23.76.022 of the Seattle Municipal Code, which
15 Section was last amended by Ordinance 118012, is further amended as follows:

16
17 **23.76.022 Administrative appeals.**

18
19 * * *

20
21 **C. Hearing Examiner Appeal Procedures.**

22 1. Consolidated Appeals. All appeals of Type II Master Use Permit
23 decisions other than shoreline decisions shall be considered together in a consolidated
24 hearing before the Hearing Examiner.

25 2. Standing. Appeals may be initiated by any person significantly
26 affected by or interested in the permit.

27 3. Filing of Appeals.

28 a. Appeals shall be filed with the Hearing Examiner by five p.m.
29 (5:00 p.m.) of the fourteenth calendar day following publication of notice of the decision;
30 provided, that when a ~~((fifteen (15)))~~ fourteen (14) day DNS comment period is required
31 pursuant to SMC Chapter 25.05, appeals may be filed until five p.m. (5:00 p.m.) of the
32 twenty-first calendar day following publication of notice of the decision. When the last day
33 of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the
34 period shall run until five p.m. (5:00 p.m.) on the next business day. The appeal shall be in
35 writing and shall clearly identify each component of a Type II Master Use Permit being
36 appealed. The appeal shall be accompanied by payment of the filing fee as set forth in SMC
37 Section 3.02.125, Hearing Examiner filing fees. Specific objections to the Director's
38 decision and the relief sought shall be stated in the written appeal.

39 b. In form and content, the appeal shall conform with the rules of
40 the Hearing Examiner.

1 c. The Hearing Examiner shall not accept any request for an
2 interpretation included in the appeal unless it complies with the requirements of Section
3 23.88.020 C3c.

4 4. Pre-hearing Conference. At the Hearing Examiner's initiative, or at the
5 request of any party of record, the Hearing Examiner may have a conference prior to the
6 hearing in order to entertain pre-hearing motions, clarify issues, or consider other relevant
7 matters.

8 5. Notice of Hearing. Notice of the hearing on the appeal shall be mailed
9 by the Director at least twenty (20) days prior to the scheduled hearing date to parties of
10 record and those requesting notice. Notice shall also be included in the next General Mailed
11 Release.

12 6. Scope of Review. Appeals shall be considered de novo. The Hearing
13 Examiner shall entertain issues cited in the appeal which relate to compliance with the
14 procedures for Type II decisions as required in this chapter, compliance with substantive
15 criteria, determinations of nonsignificance (DNSs), adequacy of an EIS upon which the
16 decision was made, or failure to properly approve, condition or deny a permit based on
17 disclosed adverse environmental impacts and any requests for an interpretation included in
18 the appeal or consolidated appeal pursuant to subsection 23.88.020 C3.

19 7. Standard of Review. The Director's decisions made on a Type II
20 Master Use Permit shall be given substantial weight, except for determinations on variances,
21 conditional uses, and special exceptions, which shall be given no deference.

22 8. The Record. The record shall be established at the hearing before the
23 Hearing Examiner. The Hearing Examiner shall either close the record after the hearing or
24 leave it open to a specified date for additional testimony, written argument or exhibits.

25 9. Postponement or Continuance of Hearing. The Hearing Examiner
26 shall not grant requests for postponement or continuance of an appeal hearing to allow an
27 applicant to proceed with an alternative development proposal under separate application,
28 unless all parties to the appeal agree in writing to such postponement or continuance.

29 10. Hearing Examiner's Decision. The Hearing Examiner shall issue a
30 written decision within fifteen (15) days after closing the record. The Hearing Examiner may
31 affirm, reverse, remand or modify the Director's decision. Written findings and conclusions
32 supporting the Hearing Examiner's decision shall be made. The Director and all parties of
33 record shall be bound by the terms and conditions of the Hearing Examiner's decision.

34 11. Notice of Hearing Examiner Decision. The Hearing Examiner's
35 decision shall be mailed by the Hearing Examiner on the day the decision is issued to the
36 parties of record and to all those requesting notice. If environmental issues were raised in the
37 appeal, the decision shall also be filed with the SEPA Public Information Center. The
38 decision shall contain information regarding judicial review. To the extent such information
39 is available to the Hearing Examiner, the decision shall contain the name and address of the
40 owner of the property at issue, of the applicant, and of each person who filed an appeal with

1 the Hearing Examiner, unless such person abandoned the appeal or such person's claims
2 were dismissed before the hearing.

3 12. Appeal of Hearing Examiner's Decision. The Hearing Examiner's
4 decision shall be final and conclusive unless the Hearing Examiner retains jurisdiction or the
5 decision is reversed or remanded on judicial appeal. Any judicial review must be
6 commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as
7 provided by RCW 36.70C.040.
8
9

10 **Section 9.** Subsection B of Section 23.76.036 of the Seattle Municipal Code, which
11 Section was last amended by Ordinance 118672, is further amended as follows:
12

13 **23.76.036 Council decisions required.**

14 * * *

- 15
16
17 B. Council action shall be required for the following Type V land use decisions:
18 1. City-initiated amendments to the Official Land Use Map to
19 implement new land use policies;
20 2. Amendments to the text of SMC Title 23, Land Use Code;
21 3. Concept approval for the location or expansion of City facilities
22 requiring Council land use approval by SMC Title 23, Land Use Code;
23 4. Major Institution designations and revocations of Major Institution
24 designations; ((and))
25 5. Waive or modify development standards for City facilities; and
26 6. Planned Action Ordinances.
27
28

29 **Section 10.** Subsections C and D of Section 23.76.052 of the Seattle Municipal
30 Code, which Section was last amended by Ordinance 118672, are further amended as
31 follows:
32

33 **23.76.052 Hearing Examiner open record predecision hearing and**
34 **recommendation**

35 * * *

36
37
38 C. Notice.

- 39 1. The Director shall give notice of the Hearing Examiner's hearing, the
40 Director's environmental determination, and of the availability of the Director's report at
41 least fifteen (15) days prior to the hearing by:

- a. General Mailed Release;
- b. Publication in the City official newspaper;
- c. Submission of the General Mailed Release to at least one (1) community newspaper in the area affected by the proposal;
- d. At least four (4) placards posted at places visible to the public, including street intersections, within three hundred feet (300') of the boundaries of the project. For hearings on Major Institution Master Plans, a minimum of ten (10) placards shall be posted;
- e. Mailed notice; and
- f. Posting in the Department.

2. DNSs shall also be filed with the SEPA Public Information Center. If the Director's decision includes a mitigated DNS or other DNS requiring a ~~((fifteen (15)))~~ fourteen (14) day comment period pursuant to SMC Section 25.05.340, the notice of DNS shall include notice of the comment period. The Director shall distribute copies of such DNSs as required by SMC Section 25.05.340.

3. The notice shall state the project description, type of land use decision under consideration, a description sufficient to locate the subject property, where the complete application file may be reviewed, and the Director's recommendation and environmental determination. The notice shall also state that the environmental determination is subject to appeal and shall describe the appeal procedure.

D. Appeal of Environmental Determination. Any person significantly interested in or affected by the Type IV decision under consideration may appeal the Director's procedural environmental determination subject to the following provisions:

1. Filing of Appeals. Appeals shall be submitted in writing to the Hearing Examiner by five p.m. (5:00 p.m.) of the fourteenth calendar day following publication of notice of the determination, provided that when a ~~((fifteen (15)))~~ fourteen (14) day DNS comment period is required pursuant to SMC Section 5.05.340, appeals may be filed until five p.m. (5:00 p.m.) of the twenty-first calendar day following publication of the notice of the determination. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five p.m. (5:00 p.m.) on the next business day. The appeal shall be in writing and shall state specific objections to the environmental determination and the relief sought. The appeal shall be accompanied by payment of the filing fee as set forth in the Seattle Municipal Code Section 3.02.125 Hearing Examiner filing fees. In form and content, the appeal shall conform with the rules of the Hearing Examiner.

2. Pre-hearing Conference. At the Hearing Examiner's initiative, or at the request of any party of record, the Hearing Examiner may have a conference prior to the hearing in order to entertain and act on motions, clarify issues, or consider other relevant matters.

3. Notice of Appeal. Notice of filing of the appeal and of the date of the consolidated hearing on the appeal and the Type IV land use decision recommendation shall

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1 be promptly mailed by the Hearing Examiner to parties of record and those requesting
2 notice.

3 4. Scope of Review. Appeals shall be considered de novo. The Hearing
4 Examiner shall entertain only those issues cited in the written appeal which relate to
5 compliance with the procedures for Type IV decisions as required in this chapter and the
6 adequacy of the environmental documentation upon which the determination was made.

7 5. Standard of Review. The Director's environmental determination shall
8 be given substantial weight.

9
10 * * *

11
12
13 **Section 11.** Section 23.84.010 of the Seattle Municipal Code, as last amended by
14 Ordinance 117430, is amended by repealing the definition for "environmentally sensitive
15 areas."

16
17
18 **Section 12.** Subsection B of Section 25.05.055 of the Seattle Municipal Code, which
19 Section was last amended by Ordinance 114057, is amended as follows:

20
21 **25.05.055 Timing of the SEPA process.**

22
23 * * *

24
25 B. Timing of Review of Proposals. The lead agency shall prepare its threshold
26 determination and environmental impact statement (EIS), if required, at the earliest possible
27 point in the planning and decision making process, when the principal features of a proposal
28 and its environmental impacts can be reasonably identified.

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

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

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

38 2. A major purpose of the environmental review process is to provide
39 environmental information to governmental decisionmakers for consideration prior to
40 making their decision on any action. The actual decision to proceed with any actions may

1 involve a series of individual approvals or decisions. Agencies may also organize
2 environmental review in phases, as specified in Section 25.05.060E.

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

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

7
8 * * *

9
10
11 **Section 13.** Subsection E of Section 25.05.060 of the Seattle Municipal Code, which
12 Section was last amended by Ordinance 114057, is amended as follows:

13
14 **25.05.060 Content of environmental review.**

15
16 * * *

17
18 E. Phased Review.

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

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

27 3. Phased review is appropriate when:

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

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

33 4. Phased review is not appropriate when:

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

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

38 c. It would segment and avoid present consideration of proposals
39 and their impacts that are required to be evaluated in a single environmental document under
40 Section 25.05.060((D))C2 or Section 25.05.305 A; however, the level of detail and type of

1 environmental review may vary with the nature and timing of proposals and their component
2 parts.

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

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

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

14
15
16 **Section 14.** Subsection B of Section 25.05.070 of the Seattle Municipal Code, which
17 Section was last amended by Ordinance 114057, is amended as follows:

18
19 **25.05.070 Limitations on actions during SEPA process.**

20
21 * * *

22
23 B. In addition, certain DNS's require a (~~fifteen (15)~~) fourteen (14) day period
24 prior to agency action (Section 25.05.340B), and FEIS's require a seven (7) day period prior
25 to agency action (Section 25.05.460E).

26
27 * * *

28
29
30 **Section 15.** A new Section 25.05.164 is added to the Seattle Municipal Code to read
31 as follows:

32
33 **25.05.164 Planned Actions -- Definitions and criteria.**

34
35 Under the authority of RCW 43.21C.031, the City Council may adopt ordinances
36 designating planned actions. A planned action means one or more types of project action
37 that:

38 A. Are designated planned actions by an ordinance adopted by the City of
39 Seattle;

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

- 1
2 RCW; or
3
4 C. Are subsequent or implementing projects for the proposals listed in
5 subsection B of this Section;
6 D. Are located within an urban growth area, as defined in RCW 36.70A.030;
7 E. Are not essential public facilities, as defined in RCW 36.70A.200; and
8 F. Are consistent with the Seattle Comprehensive Plan adopted under Chapter
9 36.70A RCW.
10
11

12 **Section 16.** A new Section 25.05.168 is added to the Seattle Municipal Code to read
13 as follows:
14

15 **25.05.168 Ordinances designating planned actions - Procedures for**
16 **adoption.**
17

- 18 A. City Council shall adopt planned actions by ordinance.
19 B. The ordinance shall include the following information:
20 1. A description of the type(s) of project action being designated as a
21 planned action;
22 2. A description of how the planned action meets the criteria in Section
23 25.05.164 (including specific reference to the EIS that addresses any significant
24 environmental impacts of the planned action);
25 3. A finding that the environmental impacts of the planned action have
26 been identified and adequately addressed in the EIS, subject to project review under Section
27 25.05.172; and
28 4. Identification of any specific mitigation measures other than
29 applicable development regulations that must be applied to a project for it to qualify as the
30 planned action.
31 C. If the City has not limited the planned action to a specific time period
32 identified in the EIS, it may do so in the ordinance designating the planned action.
33 D. Each Planned Action ordinance may include provisions to provide for a
34 periodic review and update procedure for the planned action to monitor implementation and
35 consider changes as warranted.
36
37

38 **Section 17.** A new Section 25.05.172 is added to the Seattle Municipal Code to read
39 as follows:
40

1 **25.05.172 Planned actions -- Project review.**
2

3 A. Planned action project review shall include:

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

7 2. Verification that the probable significant adverse environmental
8 impacts of the project have been adequately addressed in the EIS prepared under Section
9 25.05.164B through review of an environmental checklist or other project review form as
10 specified in Section 25.05.315, filed with the project application.

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

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

25 C. Public notice for projects that qualify as planned actions shall be based on the
26 notice requirements of the underlying permit. If notice is otherwise required for the
27 underlying permit, the notice shall state that the project has qualified as a planned action.
28

29
30 **Section 18.** A new Section 25.05.210 is added to the Seattle Municipal Code to read
31 as follows:

32
33 **25.05.210 SEPA/GMA integration.**
34 (See WAC 197-11-210 through 197-11-235)
35

36
37 **Section 19.** A new Section 25.05.250 is added to the Seattle Municipal Code to read
38 as follows:

39
40 **25.05.250 SEPA/Model Toxics Control Act integration.**
41 (See WAC 197-11-250 through 197-11-268)

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

4
5 * * *

6
7
8 **Section 22.** Section 25.05.310 of the Seattle Municipal Code, which Section was
9 last amended by Ordinance 118012, is amended as follows:

10
11 **25.05.310 Threshold determination required.**

12
13 A. A threshold determination is required for any proposal which meets the
14 definition of action and is not categorically exempt, subject to the limitations in Section
15 25.05.600C concerning proposals for which a threshold determination has already been
16 issued. A threshold determination is not required for a planned action (refer to Sections
17 25.05.164 through 25.05.172).

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

22 C. ~~((In most cases, the time to complete a threshold determination should not~~
23 ~~exceed fifteen (15) days. Threshold determinations on complex proposals, those where~~
24 ~~additional information is needed, and/or those accompanied by an inaccurate checklist may~~
25 ~~require additional time. Upon request by an applicant, the responsible official shall select a~~
26 ~~date for making the threshold determination and notify the applicant of such date in~~
27 ~~writing.)) When the City is lead agency for a project, the following timing requirements~~
28 apply:

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

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

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

40 4. The Early Review DNS process in Section 25.05.355 may be used to
41 indicate on the notice of application that the lead agency is likely to issue a DNS. If this

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1 process is used, a separate comment period on the DNS shall not be required (refer to
2 Section 25.05.355D).

3
4 * * *

5
6
7 **Section 23.** Section 25.05.315 of the Seattle Municipal Code, which Section was
8 last amended by Ordinance 114057, is amended as follows:

9
10 **25.05.315 Environmental checklist.**

11 A. Agencies(~~(S)~~) shall use the environmental checklist substantially in the form
12 ~~1. — S)~~ found in Section 25.05.960 to assist in making threshold determinations for proposals,
13 except for public proposals on which the lead agency has decided to prepare its own EIS,
14 ~~((S))~~ proposals on which the lead agency and applicant agree an EIS will be prepared; or
15 projects which are proposed as planned actions (see subsection B of this Section).

16
17 B. For projects submitted as planned actions under Section 25.05.164, the City
18 shall use the existing environmental checklist or modify the environmental checklist form to
19 fulfill the purposes outlined in Section 25.05.172A, notwithstanding the requirements of
20 WAC 197-11-906(4).

21 ~~((2))~~ C. Agencies (~~(M)~~) may use an environmental checklist whenever it would assist
22 in their planning and decision making, but shall ~~((not))~~ only require an applicant to prepare a
23 checklist under SEPA(~~(, unless))~~ if a checklist is required by subsection A(~~(1))~~ of this
24 Section.

25
26 ~~((B))~~ D. The lead agency shall prepare the checklist or require an applicant to prepare
27 the checklist.

28 ~~((C))~~ E. The items in the environmental checklist are not weighted. The mention of
29 one (1) or many adverse environmental impacts does not necessarily mean that the impacts
30 are significant. Conversely, a probable significant adverse impact on the environment may
31 result in the need for an EIS.

32
33
34 **Section 24.** Subsection A and C of Section 25.05.330 of the Seattle Municipal Code,
35 which Section was last amended by Ordinance 114057, are amended as follows:

36
37 **25.05.330 Threshold determination process.**

38
39 An EIS is required for proposals for legislation and other major actions significantly
40 affecting the quality of the environment. The lead agency decides whether an EIS is required
41 in the threshold determination process, as described below.

1
2
3 **Section 26.** A new Section 25.05.355 is added to the Seattle Municipal Code to read
4 as follows:
5

6 **25.05.355 Early Review DNS (Optional DNS) process.**
7

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

12 B. If the lead agency uses the Early Review DNS process specified in subsection
13 A of this Section, the lead agency shall:

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

16 a. The Early Review DNS process is being used;
17 b. This will be the only opportunity to comment on the
18 environmental impacts of the proposal;

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

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

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

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

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

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

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

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

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

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

41 2. Issue a DS; or

1 DS in which to comment, unless expanded scoping is used. ~~((The date of issuance for a DS~~
2 ~~is the date it is sent to the Department of Ecology and other agencies with jurisdiction, and is~~
3 ~~publicly available;))~~

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

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

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

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

12 * * *

13
14
15 H. The date of issuance for a DS is the date it is sent to the Department of
16 Ecology and other agencies with jurisdiction, and is publicly available.

17
18
19 **Section 29.** Subsections C and H of Section 25.05.502 of the Seattle Municipal
20 Code, which Section was last amended by Ordinance 114057, is amended as follows:

21
22 **25.05.502 Inviting comment.**

23 * * *

24
25
26 C. **Threshold Determinations.**

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

29 2. For DNS's issued under Section 25.05.340B, agencies shall provide
30 public notice under Section 25.05.510 and receive comments on the DNS for ~~((fifteen (15)))~~
31 fourteen (14) days.

32 * * *

33
34
35 H. **Supplements.**

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

38 2. When a DNS is issued after a DS has been withdrawn (Section
39 25.05.360D), agencies shall give notice under Section 25.05.510 and receive comments for
40 ~~((fifteen (15)))~~ fourteen (14) days.

1
2 **25.05.535 Public hearings and meetings.**
3

4 * * *

5
6 H. Public meetings held by local governments under Chapter 36.70B RCW may
7 be used to meet SEPA public hearing requirements as long as the requirements for public
8 hearings in this Section are met. A public hearing under this Section need not be an open
9 record hearing as defined in RCW 36.70B.020(3).
10

11
12 **Section 32.** Subsection C of Section 25.05.600 of the Seattle Municipal Code, which
13 Section was last amended by Ordinance 114057, is amended as follows:
14

15 **25.05.600 When to use existing environmental documents.**
16

17 * * *

18
19 C. ~~((Other agencies))~~ Any agency acting on the same proposal shall use an
20 environmental document unchanged, except in the following cases:

21 1. For DNS's, an agency with jurisdiction is dissatisfied with the DNS,
22 in which case it may assume lead agency status (Section 25.05.340B, C and Section
23 25.05.948).

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

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

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

34 3. For EIS's, the agency concludes that its written comments on the
35 DEIS warrant additional discussion for purposes of its action than that found in the lead
36 agency's FEIS (in which case the agency may prepare a supplemental EIS at its own
37 expense).
38

39 * * *
40
41

1 **Section 33.** Subsection A of Section 25.05.660 of the Seattle Municipal Code,
2 which Section was last amended by Ordinance 114057, is amended as follows:

3
4 **25.05.660 Substantive authority and mitigation.**

5
6 A. Any governmental action on public or private proposals that are not exempt
7 may be conditioned or denied under SEPA to mitigate the environmental impact subject to
8 the following limitations:

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

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

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

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

27 5. Before requiring mitigation measures, agencies shall consider whether
28 local, state, or federal requirements and enforcement would mitigate an identified significant
29 impact.

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

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

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

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

Section 34. Subsection C of Section 25.05.675 of the Seattle Municipal Code, which Section was last amended by Ordinance 118414, is amended as follows:

25.05.675 Specific environmental policies.

C. Drainage.

1. Policy Background.

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

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

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

d. Authority provided through the Grading and Drainage Control Ordinance3 and the Environmentally Critical Areas Ordinance is intended to achieve mitigation of drainage impacts in most cases, although these ordinances may not anticipate or eliminate all impacts.

2. Policies.

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

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

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

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

1 a. The following agency environmental determinations shall be
2 subject to appeal to the Hearing Examiner by any interested person as provided in this
3 subsection:

4 (1) Determination of Nonsignificance (DNS). ~~((On appeal of a DNS,~~
5 ~~a party may also challenge the preliminary determinations.))~~

6 (2) Adequacy of the Final EIS as filed in the SEPA Public
7 Information Center.

8 b. An appeal shall be commenced by filing of a notice of appeal with
9 the Office of the Hearing Examiner no later than five p.m. (5:00 p.m.) the fourteenth day
10 following the filing of the decision in the SEPA Public Information Center or publication of
11 the decision in the City official newspaper, whichever is later; provided that when a ~~((fifteen~~
12 ~~(15)))~~ fourteen (14) day DNS comment period is required pursuant to this Chapter, appeals
13 may be filed no later than the twenty-first day following such filing or publication. The
14 appeal notice shall set forth in a clear and concise manner the alleged errors in the decision.
15 Upon timely notice of appeal the Hearing Examiner shall set a date for hearing and send
16 notice to the parties. Filing fees for appeals to the Hearing Examiner are established in
17 Section 3.02.125.

18 ~~((e. The Hearing Examiner shall notify the parties of the receipt of~~
19 ~~the appeal but shall not set a date for hearing of the appeal until:~~

20 (1) ~~For projects requiring a Master Use Permit, the close~~
21 ~~of the appeal period following notice of the decision on the Master Use Permit, or the receipt~~
22 ~~of an appeal of the Master Use Permit decision, whichever is earlier;~~

23 (2) ~~For projects requiring a Type IV Council Land Use~~
24 ~~Decision: A recommendation is received from the Director at which time the Hearing~~
25 ~~Examiner shall schedule the hearing on the appeal to be consolidated with the predecision~~
26 ~~hearing.~~

27 d. ~~In all other respects, the appeals shall be handled in the same~~
28 ~~manner as appeals related to Master Use Permits, Chapter 23.76.~~

29 B. ~~((Appeal to Hearing Examiner of))~~ Decisions Not Related to Master Use Permits
30 or Council Land Use Decisions.

31 1. The following agency decisions on proposals not requiring a Master
32 Use Permit shall be subject to appeal to the Hearing Examiner by any interested person as
33 provided in this subsection:

34 a. Determination of Nonsignificance. ~~((On appeal of a threshold~~
35 ~~determination, a party may also challenge the preliminary determinations.~~

36 b. Adequacy of the final EIS as Filed in the SEPA Public
37 Information Center. Notice of all decisions described in this subsection shall be filed
38 promptly by the responsible official in the City's SEPA Public Information Center.

39 2. An appeal shall be commenced by the filing of a notice of appeal with
40 the office of the Hearing Examiner no later than the fifteenth day following the filing of the
41 decision in the SEPA Public Information Center or publication of the decision in the City

1 official newspaper, whichever is later; provided that when a fourteen (14) day DNS
2 comment period is required pursuant to this Chapter, appeals may be filed no later than the
3 twenty-first day following such filing or publication. The appeal notice shall set forth in a
4 clear and concise manner the alleged errors in the decision. Upon timely notice of appeal
5 the Hearing Examiner shall set a date for hearing and send notice to the parties. Filing fees
6 for appeals to the Hearing Examiner are established in Section 3.02.125.

7 3. Appeals shall be considered de novo and limited to the issues cited in
8 the notice of appeal. The determination appealed from shall be accorded substantial weight
9 and the burden of establishing the contrary shall be upon the appealing party. The Hearing
10 Examiner shall have authority to affirm or reverse the administrative decisions below, to
11 remand cases to the appropriate department with directions for further proceedings, and to
12 grant other appropriate relief in the circumstances. Within fifteen (15) days after the hearing,
13 the Hearing Examiner shall file and transmit to the parties written findings of fact,
14 conclusions of law, and a decision.

15 4. The Hearing Examiner is authorized to promulgate rules and
16 procedures to implement the provisions of this Section. The rules shall be promulgated
17 pursuant to Chapter 3.02 of this code.

18 5. If the agency has made a decision on a proposed action, the Hearing
19 Examiner shall consolidate any allowed appeals of procedural and substantive
20 determinations under SEPA with any hearing or appeal on the underlying City action. For
21 example, an appeal of the adequacy of an EIS must be consolidated with a ~~((#))~~ hearing or
22 appeal on ~~((#))~~ the agency's decision or recommendation on the proposed action, if both
23 ~~((appeals))~~ proceedings are allowed by ordinance.

24 ~~((D))~~ C. Judicial Appeals.

25 1. SEPA authorizes judicial appeals of both procedural and substantive
26 compliance with SEPA.

27 2. When SEPA applies to a decision, any judicial appeal of that decision
28 potentially involves both those issues pertaining to SEPA (SEPA issues) and those which do
29 not (non-SEPA issues). If there is a time limit established by statute or ordinance for
30 appealing the underlying governmental action, then appeals (or portions thereof) raising
31 SEPA issues must be filed within such time period. If there is no time period for appealing
32 the underlying governmental action, and a notice of action under RCW 43.21C.080 is used,
33 appeals must be commenced within the time period specified by RCW 43.21C.080.

34 3. If the proposal requires more than one ~~((+))~~ governmental decision
35 that will be supported by the same SEPA documents, then RCW 43.21C.080 still only
36 allows one ~~((+))~~ judicial appeal of procedural compliance with SEPA, which must be
37 commenced within the applicable time to appeal the first governmental decision.

38 4. If there is no time limit established by statute or ordinance for appeal,
39 and the notice of action provisions are not used, then SEPA provides no time limit for
40 judicial appeals. Appeal times may still be limited, however, by general statutes of limitation
41 or the common law.

1 5. For the purposes of this subsection, "a time limit established by
2 statute or ordinance" does not include time limits established by the general statutes of
3 limitation in Chapter 4.16 RCW.

4 ~~((E))~~D. Reserved.

5 ~~((F))~~E. Official Notice of the Date and Place for Commencing a~~((n))~~ Judicial Appeal.

6 1. Official notice of the date and place for commencing an appeal must
7 be given if there is a time limit established by statute or ordinance for commencing an
8 appeal of the underlying governmental action. The notice shall include the time limit for
9 commencing an appeal, the statute or ordinance establishing the time limit and where an
10 appeal may be filed.

11 2. Notice is given by:

12 a. Delivery of written notice to the applicant, all parties to any
13 administrative appeal, and all persons who have requested notice of decisions with respect to
14 the particular proposal in question; and

15 b. Following the agency's normal methods of notice for the type
16 of governmental action taken.

17 3. Written notice containing the information required by subsection
18 ~~((F))~~E1 of this Section may be appended to the permit, decision documents, or SEPA
19 compliance documents or may be printed separately.

20 4. Official notices required by this subparagraph shall not be given prior
21 to final agency action.

22
23
24 **Section 36.** Section 25.05.702 of the Seattle Municipal Code, which Section was
25 last amended by Ordinance 114057, is amended to read as follows:

26
27 **25.05.702 Act.**

28
29 "Act" means the State Environmental Policy Act (~~of 1971~~), Chapter 43.21C RCW,
30 as amended, which is also referred to as "SEPA."

31
32
33 **Section 37.** A new Section 25.05.721 is added to the Seattle Municipal Code to read
34 as follows:

35
36 **25.05.721 Closed record appeal.**

37
38 "Closed record appeal" means an administrative appeal held under Chapter 36.70B
39 RCW that is on the record to a county/city body or officer, including the legislative body,
40 following an open record hearing on a project permit application when the appeal is on the

1 record with no or limited new evidence or information allowed to be submitted and only
2 appeal arguments allowed. (RCW 36.70B.020(1).)
3
4

5 **Section 38.** Section 25.05.728 of the Seattle Municipal Code, which Section was
6 last amended by Ordinance 114057, is amended as follows:
7

8 **25.05.728 County/city.**
9

10 **A.** "County/city" means a county, city, or town. In WAC 197-11, duties and
11 powers are assigned to a county, city, or town as a unit. The delegation of responsibilities
12 among the various departments of a county, city, or town is left to the legislative or charter
13 authority of the individual counties, cities, or towns.

14 **B.** A "GMA county/city" means a county, city or town planning under the
15 Growth Management Act.
16
17

18 **Section 39.** Section 25.05.747 of the Seattle Municipal Code, as adopted by
19 Ordinance 116254, is amended as follows:
20

21 **25.05.747 Environmentally critical area.**
22

23 "Environmentally critical area" means those areas designated by The City of Seattle
24 Environmentally Critical Areas Policies and regulated and mapped in SMC Chapter 25.09,
25 Regulations for Environmentally Critical Areas, and other city codes. Certain categorical
26 exemptions do not apply within the following environmentally critical areas (Sections
27 25.05.305, 25.05.908, and Subchapter IX of these rules):

28 **A.** Landslide-prone Areas, including, but not limited to, known landslide areas,
29 potential landslide areas, and steep slopes of forty percent (40%) average slope or greater;

30 **B.** Riparian Corridors;

31 **C.** Wetlands; and

32 **D.** Fish and Wildlife Habitat Conservation Areas.
33
34

35 **Section 40.** Section 25.05.748 of the Seattle Municipal Code is repealed.
36

37
38 **Section 41.** A new Section 25.05.751 is added to the Seattle Municipal code to read
39 as follows:
40

41 **25.05.751 GMA action.**

1
2 "GMA action" for purposes of SEPA only, means policies, plans and regulations
3 adopted or amended under RCW 36.70A.106 or 36.70A.210. Actions do not include
4 preliminary determinations on the scope and content of GMA actions, appeals of GMA
5 actions, actions by the Governor or by the Growth Management Hearings Boards, or the
6 application of policies to projects. "GMA" means the Growth Management Act, Chapter
7 36.70A RCW.
8

9
10 **Section 42.** A new Section 25.05.775 is added to the Seattle Municipal Code to read
11 as follows:
12

13 **25.05.775 Open record hearing.**
14

15 "Open record hearing" means a hearing held under Chapter 36.70B RCW and
16 conducted by a single hearing body or officer authorized by the county/city to conduct such
17 hearings, that creates the county's/city's record through testimony and submission of
18 evidence and information, under procedures prescribed by the county/city by ordinance. An
19 open record hearing may be held prior to a county's/city's decision on a project permit to be
20 known as an "open record predecision hearing." An open record hearing may be held on an
21 appeal, to be known as an "open record appeal hearing," if no open record predecision
22 hearing has been held on the project permit. (RCW 36.70B.020(3).)
23

24
25 **Section 43.** Section 25.05.790 of the Seattle Municipal Code, which Section was
26 last amended by Ordinance 114057, is amended as follows:
27

28 **25.05.790 SEPA.**
29

30 "SEPA" means the State Environmental Policy Act ((of 1971)) (Chapter 43.21C
31 RCW), which is also referred to as the Act. The "SEPA process" means all measures
32 necessary for compliance with the Act's requirements.
33

34
35 **Section 44.** Subsections A, F and I are amended and Subsections Z and AA are
36 added to Section 25.05.800 of the Seattle Municipal Code, which Section was last amended
37 by Ordinance 118294, as follows:
38

39 **25.05.800 Categorical exemptions.**
40

1 The proposed actions contained in this subchapter are categorically exempt from
2 threshold determination and EIS requirements, subject to the rules and limitations on
3 categorical exemptions contained in Section 25.05.305.

4
5 A. Minor New Construction -- Flexible Thresholds.

6 1. The exemptions in this subsection apply to all licenses required to
7 undertake the construction in question, except when a rezone or any license governing
8 emissions to the air or discharges to water is required. To be exempt under this section, the
9 project must be equal to or smaller than the exempt level. For a specific proposal, the
10 exempt level in subsection A2 of this section shall control. If the proposal is located in more
11 than one (1) city/county, the lower of the agencies' adopted levels shall control, regardless of
12 which agency is the lead agency.

13 2. The following types of construction shall be exempt, except when
14 undertaken wholly or partly on lands covered by water or unless undertaken in
15 environmentally ((sensitive)) critical areas (Section 25.05.908):

16 a. The construction or location of residential structures of four
17 (4) or fewer dwelling units, in all Single((-) Family zones, Residential Small Lot (RSL),
18 Lowrise Duplex/Triplex (LDT), Lowrise((-) One (L((-)1) and all Commercial zones; six
19 (6) or fewer units in Lowrise((-) Two (L((-)2) zones; eight (8) or fewer units in Lowrise
20 ((-) Three (L((-) 3) and Lowrise Four (L4) zones; and twenty (20) or fewer units in Midrise
21 (MR), Highrise (HR), Seattle Cascade Mixed (SCM) and all Downtown zones;

22 b. The construction of a barn, loafing shed, farm equipment
23 storage building, produce storage or packing structure, or similar agricultural structure,
24 covering ten thousand (10,000) square feet, and to be used only by the property owner or his
25 or her agent in the conduct of farming the property. This exemption shall not apply to feed
26 lots;

27 c. The construction of the following office, school, commercial,
28 recreational, service or storage buildings:

29 i. In Commercial((-1)) One (C((-)1), Commercial((-2))
30 Two (C((-)2), Seattle Cascade Mixed (SCM), ((~~Manufacturing~~)) and Industrial zones,
31 buildings with twelve thousand (12,000) square feet of gross floor area, and with associated
32 parking facilities designed for twenty (20) automobiles,

33 ii. In all other zones, buildings with four thousand (4,000)
34 square feet of gross floor area, and with associated parking facilities designed for twenty
35 (20) automobiles;

36 d. The construction of a parking lot designed for twenty (20)
37 automobiles, as well as the addition of twenty (20) spaces to existing lots if the addition does
38 not remove the lot from an exempt class;

39 e. Any landfill or excavation of five hundred (500) cubic yards
40 throughout the total lifetime of the fill or excavation; and any fill or excavation classified as
41 a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder;

1 f. Mixed-use construction, including but not limited to projects
2 combining residential and commercial uses, is exempt if each use, when considered
3 separately, is exempt under the criteria of subsections A2a through A2d above, unless the
4 uses in combination may have a probable significant adverse environmental impact in the
5 judgment of an agency with jurisdiction (see Section 25.05.305A2b);

6 g. In zones not specifically mentioned in this subsection, the
7 construction of residential structures of four (4) or fewer dwelling units and commercial
8 structures of four thousand (4,000) or fewer square feet.

9
10 * * *

11
12 F. Minor Land Use Decisions. The following land use decisions shall be
13 exempt:

14 1. Except upon lands covered by water, the approval of short plats or
15 short subdivisions pursuant to the procedures required by RCW 58.17.060, but not including
16 further short subdivisions or short platting within a plat or subdivision previously exempted
17 under this subsection;

18 2. Granting of variances based on special circumstances, not including
19 economic hardship, applicable to the subject property, such as size, shape, topography,
20 location or surroundings and not resulting in any change in land use or density;

21 3. Classifications of land for current use taxation under Chapter 84.34
22 RCW, and classification and grading of forest land under Chapter 84.33 RCW((-);

23 4. Annexation of territory by a city or town.

24
25 * * *

26
27 I. ~~((Variances under))~~ Clean Air Act. The following actions under the Clean
28 Air Act shall be exempt:

29 1. The granting of variances under RCW 70.94.181 extending applicable
30 air pollution control requirements for (1) one year or less shall be exempt.

31 2. The issuance, renewal, reopening, or revision of an air operating
32 permit under RCW 70.94.161.

33
34 * * *

35
36 Z. Watershed restoration projects. Actions pertaining to watershed restoration
37 projects as defined in RCW 89.08.460(2) are exempt, provided, they implement a watershed
38 restoration plan which has been reviewed under SEPA (RCW 89.08.460(1)).

39 AA. Personal wireless service facilities.

1 1. The siting of personal wireless service facilities are exempt if the
2 facility:

3 a. Is a microcell and is to be attached to an existing structure that
4 is not a residence or school and does not contain a residence or a school;

5 b. Includes personal wireless service antennas, other than a
6 microcell, and is to be attached to an existing structure (that may be an existing tower) that is
7 not a residence or school and does not contain a residence or school, and the existing
8 structure to which it is to be attached is located in a commercial or industrial zone; or

9 c. Involves constructing a personal wireless service tower less
10 than sixty (60) feet in height that is located in a commercial or industrial zone.

11 2. For the purposes of this subsection:

12 a. "Personal wireless services" means commercial mobile
13 services, unlicensed wireless services, and common carrier wireless exchange access
14 services, as defined by federal laws and regulations.

15 b. "Personal wireless service facilities" means facilities for the
16 provision of personal wireless services.

17 c. "Microcell" means a wireless communication facility
18 consisting of an antenna that is either:

19 (1) Four (4) feet in height and with an area of not more
20 than five hundred eighty (580) square inches; or

21 (2) If a tubular antenna, no more than four (4) inches in
22 diameter and no more than six (6) feet in length.

23 3. This exemption does not apply to projects within an environmentally
24 critical area designated under GMA (RCW 36.70A.060).

25
26
27 **Section 45.** Section 25.05.890 of the Seattle Municipal Code, which Section was
28 last amended by Ordinance 114057, is amended as follows:

29
30 **25.05.890 Petitioning DOE to change exemptions.**

31 (See WAC 197-11-890)

32
33 ((A. — Except for Section 25.05.880, the City (see WAC 197-11-890) may create
34 additional exemptions in these procedures only after receiving approval from the
35 Department of Ecology under this section.

36 B. — A petition to the Department of Ecology (DOE) to adopt additional
37 exemptions or to delete existing exemptions must be authorized by ordinance. The petition
38 shall state the language of the requested amendment, the City's views on the environmental
39 impacts of the activities covered by the proposed amendment, and the approximate number
40 of actions of this type which have come before the City over a particular period of time.
41 DOE is to consider and decide upon a petition within thirty (30) days of receipt. If the

1 ~~determination is favorable, DOE is required to begin rule-making under Chapter 34.0((4))5~~
2 ~~RCW. Any resulting amendments will apply either generally or to specified classes of~~
3 ~~agencies. The City shall then amend these rules accordingly.~~

4 ~~C. The City may also petition DOE for an immediate ruling upon any request to~~
5 ~~add, delete, or change an exemption. If such a petition is granted, DOE is to notify the City,~~
6 ~~which may immediately include the change in these rules approved by DOE. DOE may~~
7 ~~thereafter begin rulemaking proceedings to amend WAC 197-11. Until WAC 197-11 is~~
8 ~~amended, any change granted under this subsection shall apply only to the City.~~

9 ~~D. DOE is to provide public notice of any proposed amendments to these rules~~
10 ~~in the manner required by the administrative procedure act, Chapter 34.04 RCW. A copy of~~
11 ~~all approvals by DOE under the preceding subsection is required to be given to any person~~
12 ~~requesting DOE for advance notice of rulemaking.))~~

13
14
15 **Section 46.** Subsection B of Section 25.05.900 of the Seattle Municipal Code, as
16 last amended by Ordinance 114507, is amended as follows:

17
18 **25.05.900 Purpose of Seattle SEPA rules sections.**

19
20 * * *

21
22 B. The City's environmentally ~~((sensitive))~~ critical areas and the categorical
23 exemptions which are inapplicable in such areas are set forth in Section
24 25.05.908.

25
26 * * *

27
28
29 **Section 47.** Section 25.05.908 of the Seattle Municipal Code, which Section was
30 last amended by Ordinance 118794, is amended as follows:

31
32 **25.05.908 Environmentally ~~((sensitive))~~ critical areas.**

33
34 A. ~~((Environmentally sensitive areas are t))~~ The following environmentally
35 critical areas located in the City ~~((as designated in The City of Seattle Environmentally~~
36 ~~Critical Areas Policies))~~ and regulated and mapped in ~~((Section 25.09.020 of))~~ SMC Chapter
37 25.09, Regulations for Environmentally Critical Areas, and other City codes are subject to
38 the provisions of this Chapter:

39 1. Landslide-prone Areas, including, but not limited to, known landslide
40 areas, potential landslide areas, and steep slopes of forty percent (40%) average slope or
41 greater;

2. Riparian Corridors;
3. Wetlands; and
4. Fish and Wildlife Habitat Conservation Areas.

Within these areas, certain categorically exempt activities listed in Section 25.05.908B could have a significant adverse environmental impact, require additional environmental review to determine impacts, and may require mitigation beyond the development standards required by all applicable City codes.

B. The scope of environmental review of actions within these environmental critical areas shall be limited to:

1. Documenting whether the proposal is consistent with the City of Seattle Regulations for Environmentally Critical Areas, SMC Chapter 25.09; and
2. Evaluating potentially significant impacts on the environmentally critical area resources not adequately addressed in the City of Seattle Environmentally Critical Areas Policies or the requirements of SMC Chapter 25.09, Regulations for Environmentally Critical Areas, including any additional mitigation measures needed to protect the environmentally critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

~~(B)~~C. The following types of development shall not be categorically exempt in designated environmentally ~~((sensitive))~~ critical areas (see Section 25.05.800), unless a development site has been determined to be exempt under the exemption provisions contained in Chapter 25.09, Regulations for Environmentally Critical Areas:

1. Minor new construction:
 - a. One (1) single-family dwelling unit exceeding nine thousand (9,000) square feet of development coverage, or two (2) or more dwelling units,
 - b. Agricultural structures,
 - c. Office, school, commercial, recreational, service and storage buildings,
 - d. Parking lots,
 - e. Landfill or excavation;
2. Other minor new construction: ~~((a.))~~Construction/installation of minor road and street improvements, transportation corridor landscaping and herbicides for weed control;
3. Minor land use decisions: ~~((a.))~~Short plats or short subdivisions;
4. Utilities: ~~((a.))~~Chemical means to maintain design condition;
5. Natural resources management: ~~((a.))~~Issuance of agricultural leases of one hundred (100) acres or less;
6. Issuance of leases for school sites;
7. Development of non-ATV recreational sites (twelve (12) campsites or less);
8. Chemical means to maintain public park or recreation land.

1 ((C))D. The Official Land Use Map of The City of Seattle contains overlays
2 identifying the general boundaries of all known environmentally critical areas within the
3 city, which reference the City of Seattle's Environmentally Critical Areas Maps to determine
4 the general boundaries of each environmentally critical area. The Environmentally Critical
5 Areas Maps specify those designated areas which are subject to SEPA pursuant to WAC
6 25.05.908. A copy of the maps shall be maintained in the SEPA Public Information Center.

7 The maps shall be used and amended as follows:

8 1. The maps shall be advisory and used by the Director of DCLU to
9 provide guidance in determining applicability of SEPA to a property. Likewise,
10 environmentally ((sensitive)) critical areas which are incorrectly mapped may be exempted
11 from SEPA by the Director of DCLU when the provisions of subsection D of Section
12 25.09.040 of the regulations for environmentally critical areas apply.

13 2. The boundaries and contents of these designated environmentally
14 ((sensitive)) critical areas maps may be amended by the Director following the
15 environmentally critical areas maps amendment process as set forth in subsection C of
16 Section 25.09.020 of the regulations for environmentally critical areas.

17 ((D))E. Proposals that will be located within environmentally ((sensitive)) critical
18 areas are to be treated no differently than other proposals under this chapter, except as stated
19 in the prior subsection. A threshold determination shall be made for all such actions, and an
20 EIS shall not be automatically required for a proposal merely because it is proposed for
21 location in an environmentally ((sensitive)) critical area.

22 ((E. ~~Certain categorical exemptions do not apply on lands covered by water, and~~
23 ~~this remains true regardless of whether or not lands covered by water are mapped.~~))

24
25
26 **Section 48.** The Title of Section 25.05.912 of the Seattle Municipal Code , which
27 Section was last amended by Ordinance 114057, is amended as follows:

28
29 **25.05.912 Procedures ((on)) of consulted agencies.**

30
31 * * *

32
33
34 **Section 49.** Section 25.05.938 of the Seattle Municipal Code, which Section was
35 last amended by Ordinance 114057, is amended as follows:

36
37 **25.05.938 Lead agencies for specific proposals.**
38 (See WAC 197-11-938)
39

1 ((Notwithstanding the lead agency designation criteria contained in Sections
2 25.05.926 through 25.05.936, the lead agency for proposals within the areas listed below
3 shall be as follows:

4 A. — For all governmental actions relating to energy facilities for which
5 certification is required under Chapter 80.50 RCW, the lead agency shall be the Energy
6 Facility Site Evaluation Council (EFSEC); however, for any public project requiring such
7 certification and for which the study under RCW 80.50.175 will not be made, the lead
8 agency shall be the agency initiating the project.

9 B. — For all private projects relating to the use of geothermal resources under
10 Chapter 79.76 RCW, the lead agency shall be the Department of Natural Resources.

11 C. — For all private projects requiring a license or other approval from the Oil and
12 Gas Conservation Committee under Chapter 78.52 RCW, the lead agency shall be the
13 Department of Natural Resources; however, for projects under RCW 78.52.125, the EIS
14 shall be prepared in accordance with that section.

15 D. — For all private activity requiring a license or approval under the Forest
16 Practices Act of 1974, Chapter 76.09 RCW, the lead agency shall be the Department of
17 Natural Resources; however, for any proposal that will require a license from a county/city
18 acting under the powers enumerated in RCW 76.09.240, the lead agency shall be the
19 county/city requiring the license.

20 E. — For all private projects requiring a license or lease to use or affect state lands,
21 the lead agency shall be the state agency managing the lands in question; however, this
22 subsection shall not apply to the sale or lease of state owned tidelands, harbor areas or beds
23 of navigable waters, when such sale or lease is incidental to a larger project for which one or
24 more licenses from other state or local agencies is required.

25 F. — For all proposals which are being processed under the Environmental
26 Coordination Procedures Act of 1973 (ECPA), Chapter 90.62 RCW, the lead agency shall be
27 determined under the standards of these rules.

28 G. — For a pulp or paper mill or oil refinery not under the jurisdiction of EFSEC,
29 the lead agency shall be the Department of Ecology, when a National Pollutant Discharge
30 Elimination System (NPDES) permit is required under Section 402 of the Federal Water
31 Pollution Control Act (33 USC 1342).

32 H. — For proposals to construct a pipeline greater than six inches (6") in diameter
33 and fifty (50) miles in length, used for the transportation of crude petroleum or petroleum
34 fuels or oil or derivatives thereof, or for the transportation of synthetic or natural gas under
35 pressure not under the jurisdiction of EFSEC, the lead agency shall be the Department of
36 Ecology.

37 I. — For proposals that will result in an impoundment of water with a water
38 surface in excess of forty (40) acres, the lead agency shall be the Department of Ecology.

39 J. — For proposals to construct facilities on a single site designed for, or capable
40 of, storing a total of one million (1,000,000) or more gallons of any liquid fuel not under the
41 jurisdiction of EFSEC, the lead agency shall be the Department of Ecology.

