

ORDINANCE _____

AN ORDINANCE relating to environmentally critical areas, amending Sections 22.802.020, 23.47A.012, 23.47A.013, 23.54.020, 25.09.015, 25.09.020, 25.09.030, 25.09.055, and 25.09.520, and adding a new Section 25.09.110 of the Seattle Municipal Code to designate and regulate Peat Settlement-prone Geologic Hazard Areas.

WHEREAS, peat-rich soils are prone to settlement, and therefore, development in areas underlain by, or in the vicinity of peat-rich soils may impact nearby parcels, and

WHEREAS, the Department of Planning and Development (DPD) has followed the Guidelines adopted by the Washington State Department of Community Trade and Economic Development, and in consideration of the Growth Management Act, as set out in the Best Available Science Report for Peat Settlement-prone Areas, attached as Exhibit B; and

WHEREAS, DPD has prepared regulations for development in areas with peat-rich soils in consideration of the public interest, and has met with affected communities in and around mapped peat deposits. NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 22.802.020 of the Seattle Municipal Code, which Section was last amended by Ordinance 119965, is amended as follows:

22.802.020 Drainage control review and application requirements.

A. Thresholds for Drainage Control Review. Drainage control review and approval shall be required for any of the following:

1. Standard drainage control review and approval shall be required for the following:

a. Any land disturbing activity encompassing an area of seven hundred fifty (750) square feet or more;

b. Applications for either a master use permit or building permit that includes the cumulative addition of seven hundred fifty (750) square feet or more of land disturbing activity and new and replaced impervious surface;

c. Applications for which a grading permit or approval is required;

1 d. Applications for street use permits for the cumulative addition of seven
2 hundred fifty (750) square feet or more of new and replaced impervious surface and land
3 disturbing activity after the effective date of the ordinance codified in this subtitle;

4 e. City public works project or construction contracts, including contracts
5 for day labor and other public works purchasing agreements, for the cumulative addition of
6 seven hundred fifty (750) square feet or more of new and replaced impervious surface and land
7 disturbing activity to the site after the effective date of the ordinance codified in this subtitle,
8 except for projects in a City-owned right-of-way and except for work performed for the
9 operation and maintenance of park lands under the control or jurisdiction of the Department of
10 Parks and Recreation;

11 f. Permit approvals and contracts that include any new or replaced
12 impervious surface on a site deemed a potentially hazardous location, as specified in Section
13 22.800.050; ~~(or)~~

14 g. Permit approvals that include any new impervious surface in a Category
15 I peat settlement-prone area delineated pursuant to Section 25.09.020; or

16 ~~((g))~~h. Whenever an exception to a requirement set forth in this subtitle or
17 in a rule promulgated under this subtitle is desired, whether or not review and approval would
18 otherwise be required, including but not limited to, alteration of natural drainage patterns or the
19 obstruction of watercourses.

20 2. Large project drainage control review and approval shall be required for
21 projects that include:

22 a. Five thousand (5,000) square feet or more of new or replaced
23 impervious surface; or

24 b. One (1) acre or more of land disturbing activity.

1 (b) A residential use is located on a street-level, street
2 facing facade, and the first floor of the structure at or above grade is at least four (4) feet above
3 sidewalk grade; and

4 (2) The additional height allowed for the structure will not allow
5 an additional story beyond the number that could be built under the otherwise applicable height
6 limit.

7 b. The height of a structure may exceed the otherwise applicable limit by
8 up to seven (7) feet, subject to subsection A1c of this section, provided all of the following
9 conditions are met:

10 (1) Residential and multipurpose retail sales uses are located in the
11 same structure;

12 (2) The total gross floor area of at least one (1) multi-purpose retail
13 sales use exceeds twelve thousand (12,000) square feet;

14 (3) A floor-to-floor height of sixteen (16) feet or more is provided
15 for the multi-purpose retail sales use at street level;

16 (4) The additional height allowed for the structure will not allow
17 an additional story beyond the number that could be built under the otherwise applicable height
18 limit if a sixteen (16) foot floor-to-floor height were not provided at street level; and

19 (5) The structure is not allowed additional height under subsection
20 A1a of this section.

21 c. The Director shall reduce or deny the additional structure height
22 permitted by this subsection A1 if the additional height otherwise would significantly block
23 views from neighboring residential structures of any of the following: Mount Rainier, the
24 Olympic and Cascade Mountains, the downtown skyline, Green Lake, Puget Sound, Lake
25 Washington, Lake Union and the Ship Canal.

1 2. For any lot within the designated areas shown on Map 23.47A.012 A, the
2 maximum structure height in NC zones or C zones with a forty (40) foot height limit may be
3 increased to sixty-five (65) feet, provided that all portions of the structure above forty (40) feet
4 contain only residential uses, and provided that no additional height is allowed under subsection
5 A1 of this section.

6 3. Monorail transit facilities may exceed the height limit of the zone according to
7 the provisions of Section 23.80.004 or Section 15.54.020.

8 4. Within the South Lake Union Urban Center, maximum structure height shall be
9 determined according to the provisions of the Seattle Mixed Zone, Section 23.48.010.

10 5. Within the Station Area Overlay District within the University District
11 Northwest Urban Center Village, maximum structure height may be increased to one hundred
12 twenty-five (125) feet when all of the following are met:

13 a. The lot is within two (2) blocks of a planned or existing light rail
14 station;

15 b. The proposed use of the lot is functionally related to other office
16 development, permitted prior to 1971, to have over five hundred thousand (500,000) square feet
17 of gross floor area to be occupied by a single entity;

18 c. A transportation management plan for the life of the use includes
19 incentives for light rail and other transit use by the employees of the office use;

20 d. The development shall provide street level amenities for pedestrians
21 and shall be designed to promote pedestrian interest, safety, and comfort through features such as
22 landscaping, lighting and transparent facades, as determined by the Director; and

23 e. This subsection can be used only once per functionally related
24 development.

1 6. On a lot containing a peat settlement-prone environmentally critical area, the height of
2 a structure may exceed the otherwise applicable height limit and the other height allowances
3 provided by this section by up to three (3) feet. In addition, three (3) more feet of height may be
4 allowed for any wall of a structure on a sloped lot, provided that on the uphill side(s) of the
5 structure, the maximum elevation of the structure height shall be no greater than the height
6 allowed by the first sentence of this subsection A6 (Exhibit 23.47A.012 A). The Director may
7 apply the allowances in this subsection A6 only if the following conditions are met:

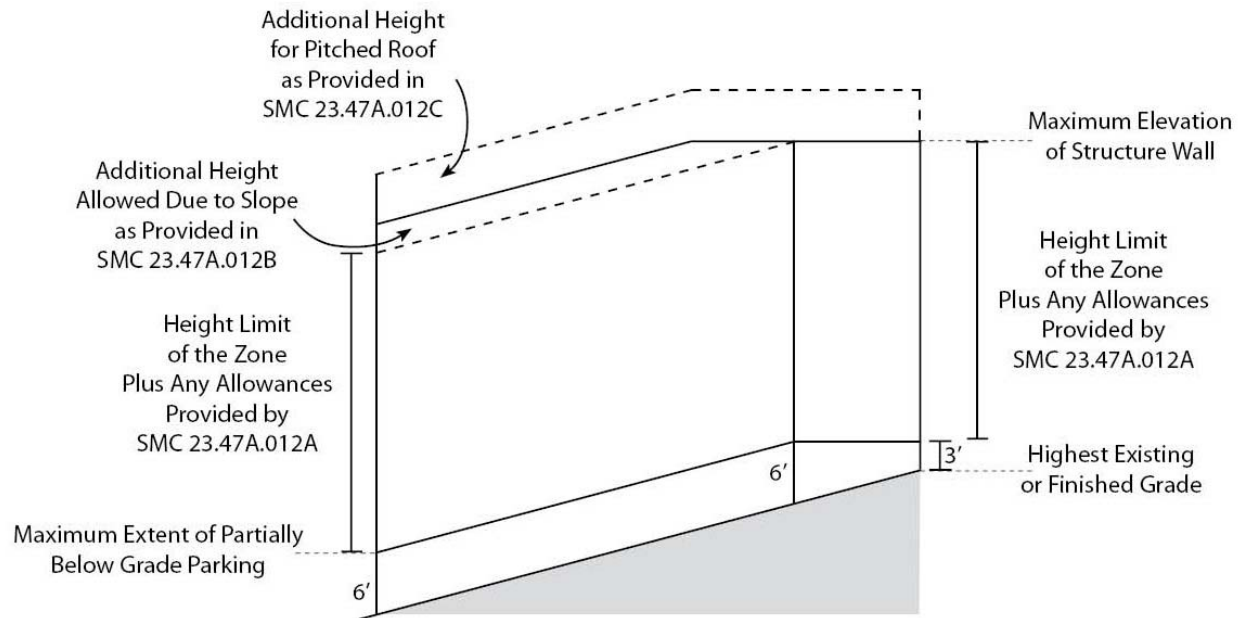
8 a. The Director finds that locating a story of parking underground is infeasible
9 due to physical site conditions such as a high water table;

10 b. The Director finds that the additional height allowed for the structure is
11 necessary to accommodate parking located partially below grade that extends no more than six
12 (6) feet above existing or finished grade and no more than three (3) feet above the highest
13 existing or finished grade along the structure footprint, whichever is lower, as measured to the
14 finished floor level above; and

15 c. Other than the additional story of parking allowed pursuant to this subsection
16 A6, the additional height allowed for the structure by this subsection A6 will not allow an
17 additional story beyond the number of stories that could be built under the otherwise applicable
18 height limit.

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Exhibit 23.47A.012A
Height Allowance on Lots Containing Peat Settlement-Prone Areas



Section 3. Subsections A and D of section 23.47A.013 of the Seattle Municipal Code, which Section was last amended by Ordinance 122311, is amended as follows:

23.47A.013 Floor area ratio.

A. Floor area ratio (FAR) limits apply to all structures and lots in all NC zones and C zones.

1. All gross floor area not exempt under subsection D of this Section is counted against the maximum gross floor area allowed by the permitted FAR.

1 finds that locating a story of parking below grade is infeasible due to physical site conditions
2 such as a high water table, if either:

3 a. the above-grade parking extends no more that six (6) feet above existing
4 or finished grade and no more than three (3) feet above the highest existing or finished grade
5 along the structure footprint, whichever is lower, as measured to the finished floor level or roof
6 above, as depicted in Exhibit 23.47A.012A; or

7 b. all of the following conditions are met:

8 (1) no above-grade parking is exempted by subsection D6a

9 (2) the parking is accessory to a residential use on the lot;

10 (3) total parking on the lot does not exceed 1 space for each
11 residential dwelling unit plus the number of spaces required by this Code for non-residential
12 uses; and

13 (4) the amount of gross floor area exempted by this subsection D6b
14 does not exceed twenty-five (25) percent of the area of the lot in zones with a height limit less
15 than sixty-five (65) feet, or fifty (50) percent of the area of the lot in zones with a height limit
16 sixty-five (65) feet or greater.

17 ***

18 Section 4. Section 23.54.020 of the Seattle Municipal Code, which section was last
19 amended by Ordinance 122311, is amended to add a new subsection K as follows:

20 **23.54.020 Parking quantity exceptions.**

21 The parking quantity exceptions set forth in this section apply in all zones except
22 downtown zones, which are regulated by Section 23.49.019, and Major Institution zones, which
23 are regulated by Section 23.54.016.

24 * * *

1 K. Peat Settlement-prone Environmentally Critical Areas. Except in Single-family,
2 Residential Small Lot, and Lowrise zones, the Director may reduce or waive the minimum
3 accessory off-street parking requirements to the minimum extent necessary to offset underground
4 parking potential lost to limitations set forth in Section 25.09.110 on development below the
5 annual high static groundwater level in peat settlement-prone areas. In making any such
6 reduction or waiver, the Director will assess area parking needs. The Director may require a
7 survey of on- and off-street parking availability. The Director may take into account the level of
8 transit service in the immediate area; the probable relative importance of walk-in traffic;
9 proposals by the applicant to encourage carpooling or transit use by employees; hours of
10 operation; and any other factor or factors considered relevant in determining parking impact.

11 Section 5. Subsection A of Section 25.09.015 of the Seattle Municipal Code, which
12 Section was last amended by Ordinance 122370, is amended as follows:

13 **25.09.015 Application of chapter**

14 A. This chapter applies to any development, as defined in Section 25.09.520, or platting
15 carried out by any person on publicly or privately owned parcels containing an environmentally
16 critical area or buffer, except that parcels that are solely within seismic or volcanic hazards areas,
17 as defined in Sections 25.09.020.A.~~(5)~~6 and 25.09.020.A.~~(6)~~7, and that are not liquefaction-
18 prone areas are subject only to Sections 25.09.010, 25.09.017.A, B, C and F, 25.09.020, and
19 25.09.030.

20 Section 6. Section 25.09.020 of the Seattle Municipal Code, which Section was last
21 amended by Ordinance 122370, is amended as follows:

22 **25.09.020 Environmentally critical areas definitions.**

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

1 For the purpose of this definition, a slope is measured by establishing its toe and top and
2 averaging the inclination over at least ten feet (10') of elevation difference.

3 Also for the purpose of this definition:

4 (a) The "toe" of a slope means a distinct topographic break
5 in slope that separates slopes inclined at less than forty percent (40%) from slopes inclined at
6 forty percent (40%) or more. Where no distinct break exists, the "toe" of a slope is the lower-
7 most limit of the area where the ground surface drops ten feet (10') or more vertically within a
8 horizontal distance of twenty-five feet (25'); and

9 (b) The "top" of a slope is a distinct topographic break in
10 slope that separates slopes inclined at less than forty percent (40%) from slopes inclined at forty
11 percent (40%) or more. Where no distinct break exists, the "top" of a slope is the upper-most
12 limit of the area where the ground surface drops ten feet (10') or more vertically within a
13 horizontal distance of twenty-five feet (25').

14 (6) Areas that would be covered under one of subsections (2) to
15 (5), but where the topography has been previously modified through the provision of retaining
16 walls or non-engineered cut and fill operations;

17 (7) Any slope area potentially unstable as a result of rapid stream
18 incision or stream bank erosion.

19 4. Steep Slope Areas. Steep slope areas are areas with a slope described in
20 subsection A3b(5) above; provided that when such a slope is on a parcel in a Downtown zone or
21 highrise zone, the area is designated only as a landslide prone area.

22 5. Peat Settlement-prone Areas.

23 a. Peat settlement-prone areas, which consist of Category I and Category
24 II peat settlement-prone areas, are delineated on Maps A1 through A26, Peat Settlement-prone
25 Area Boundaries Maps, codified at the end of this chapter.

1 b. The Director may, at the request of the owner of a parcel larger than
2 50,000 square feet, provide a parcel-specific delineation of the peat settlement-prone area
3 boundary on that parcel. Where a parcel-specific delineation conflicts with the Peat Settlement-
4 prone Area Boundaries Maps, the parcel-specific delineation shall apply. The parcel-specific
5 delineation is based on the location of the relevant bog or bogs identified in *City of Seattle*
6 *Identified Bogs* (Troost 2007) plus a buffer of 50 feet for Category I peat settlement-prone areas
7 or a buffer of 25 feet for Category II peat settlement-prone areas.

8 ((5))6. Seismic Hazard Areas. In addition to liquefaction-prone areas described
9 in subsection 2 above, seismic hazard areas are the following:

10 a. Areas of the City subject to ground shaking from seismic hazards that
11 are addressed by the Building Code (SMC Title 22).

12 b. The Seattle Fault zone as delineated in Troost et al., 2005, *The geologic*
13 *map of Seattle, a progress report, U.S. Geological Survey, Open-file report 2005-1252* or as the
14 Director determines is more accurately mapped by the U.S. Geological Survey, as set out in a
15 Director's Rule.

16 c. For tsunamis the waterbody of Lake Washington and for tsunamis and
17 tsunami inundation, the water body and land area as shown in Walsh, et al., 2003, *Tsunami*
18 *hazard map of the Elliott Bay area, Seattle, Washington: Modeled tsunami inundation from a*
19 *Seattle Fault earthquake, Washington State Department of Natural Resources and National*
20 *Oceanic and Atmospheric Administration. Washington Division of Geology and Earth Resources*
21 *Open File Report 2003-14*, or as the Director determines are more accurately mapped by the
22 National Oceanic and Atmospheric Administration, the U.S. Geological Survey or the
23 Washington State Department of Natural Resources, as set out in a Director's Rule.

24 d. The shoreline and upland areas surrounding Lake Washington are
25 classified as an unknown risk from tsunamis under WAC 365-190-080 (4)(b)(iii).

1 e. For seiches, the waterbodies of Elliot Bay, Lake Union and Lake
2 Washington.

3 f. The shoreline and upland areas surrounding the waterbodies in
4 subsection (e) are classified as an unknown risk from seiches under WAC 365-190-080
5 (4)(b)(iii)

6 ((6))7. Volcanic Hazard Areas. Volcanic hazard areas are areas subject to
7 inundation by lahars or related flooding resulting from volcanic activity on Mount Rainier, as
8 delineated by the U.S. Geological Survey in Hoblitt, et.al, 1998, *Volcano Hazards from Mount*
9 *Rainier, Washington, Revised 1998: U.S. Geological Survey Open-File Report 98-428*, or as the
10 Director determines are more accurately mapped by the U.S. Geological Survey, as set out in a
11 Director’s Rule.

12 ***

13 Section 7. Section 25.09.030 of the Seattle Municipal Code, which Section was last
14 amended by Ordinance 122370, is amended as follows:

15 **25.09.030 Location of environmentally critical areas and buffers.**

16 A. Environmentally critical areas are defined in Section 25.09.020, and buffers are
17 described in Sections 25.09.160, 25.09.180, and 25.09.200B. Environmentally critical areas are
18 mapped whenever possible. Except for the maps adopted as designations for geologically
19 hazardous areas in subsections 25.09.020.A.5 ((and)), 6, and 7, these maps are advisory. The
20 Director may update or amend the maps by Director's Rule.

21 B. The Director shall determine whether a parcel contains an environmentally critical
22 area or buffer before other provisions of this chapter are applied. In determining whether a parcel
23 contains an environmentally critical area or buffer, the Director may consider the
24 environmentally critical areas maps, site surveys, topographic maps, technical environmental
25 analysis, and any other information the Director determines necessary. In determining whether

1 development is subject to regulation under Section 25.09.110, the Director may consider only
2 whether the development will occur within an area delineated pursuant to subsection 25.09.020
3 A5.

4 Section 8. Subsection A of Section 25.09.055 of the Seattle Municipal Code, which
5 Section was last amended by Ordinance 122050, is amended as follows:

6 **25.09.055 Small project waiver.**

7 A. The Director may approve new accessory structures or additions to existing structures
8 in the environmentally critical areas and buffers listed in subsection A2, provided that no
9 construction occurs over or in a water course, water body, or wetland, when the applicant
10 demonstrates the proposal meets the following criteria:

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

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

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

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

1 H. In addition to requiring the information provided pursuant to Section 25.09.330 and to
2 Director's Rules, the Director may require third-party review when the professional opinions of
3 the applicant's representative and the Department's reviewers cannot be reconciled. Third-party
4 review requires the applicant's geotechnical and/or additional technical studies to be reviewed by
5 an independent third party, paid for by the applicant but hired by the Director. Third-party
6 review shall be conducted by a qualified engineering consultant.

7 I. The Director may waive compliance with some or all of the requirements of
8 subsections B - G for a project in a Category II peat settlement-prone area to the extent the
9 applicant demonstrates to the satisfaction of the Director that the project has been designed to
10 avoid adverse impacts to off-site parcels from peat settlement. Such impacts include but are not
11 limited to any adverse, off-site effect resulting from temporary dewatering during construction,
12 groundwater inflow due to normal operation and maintenance of underground structures,
13 groundwater inflow due to potential future leaks that could occur in underground structures, and
14 reduced impervious surface. Projects qualifying for a waiver under this subsection may include
15 but are not limited to the following:

16 1. Projects involving concurrent removal of all peat contained in an entire peat
17 settlement-prone area;

18 2. Concurrent development or redevelopment of the entire peat settlement-prone
19 area that is designed to minimize modification of the groundwater table and avoid impacts of
20 future settlement through design of new structures; or

21 3. Projects that are designed to minimize modification of the groundwater regime
22 and that avoid potential adverse, off-site settlement impacts by retrofitting existing structures on
23 off-site parcels within the entire peat settlement-prone area.

24 J. Standards for height and floor area ratio may be modified on lots containing a peat
25 settlement-prone environmentally critical area as provided in 23.47A.012 and 23.47A.013.

1 K. Nothing in this section (including but not limited to subsection I) limits the authority
2 of the Director pursuant to other applicable codes or regulations (including but not limited to
3 Title 22, Subtitles I and IA, the Building Code and Residential Code) to require additional
4 studies or impose additional conditions to address project-related risks arising in peat settlement-
5 prone areas.

6 Section 10. Section 25.09.520 of the Seattle Municipal Code, which Section was last
7 amended by Ordinance 122050, is amended as follows:

8 **25.09.520 Definitions.**

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10 “Annual high static groundwater level” means the highest elevation where the soil is saturated
11 with the main body of groundwater during any part of the year.

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13 “Contaminated soils” is defined in Section 21.36.012, Solid Waste Code.

14 ***

15 “Groundwater regime” means the amount, distribution, and seasonal variation of water below the
16 surface of the land.

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18 “Infiltration facility” is defined in Section 22.801.100, Stormwater, Grading and Drainage
19 Control Code.

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21 “Utility lines” means pipes, cables or other linear conveyance systems used to transport power,
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1 water, gas, oil, wastewater or similar items.

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3 Section 11. The provisions of this ordinance are declared to be separate and severable.

4 The invalidity of any particular provision shall not affect the validity of any other provision.

5 Section 12. This ordinance shall take effect and be in force thirty (30) days from and
6 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)
7 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

8
9 Passed by the City Council the ____ day of _____, 2008, and signed by me in
10 open session in authentication of its passage this ____ day of _____, 2008.

11
12 _____
13 President _____ of the City Council

14 Approved by me this ____ day of _____, 2008.

15
16 _____
17 Gregory J. Nickels, Mayor

18
19 Filed by me this ____ day of _____, 2008.

20
21 _____
22 City Clerk

23 (Seal)

24 Exhibit A: Peat Settlement-prone Areas Boundaries Maps A1 – A26

25 Exhibit B: Best Available Science Report for Peat Settlement-prone Areas