ORDINANCE No. 118539

COUNCIL BILL No. 111671

AN ORDINANCE relating to regulations for environmentally critical areas, adding new sections to Seattle Municipal Code Chapter 25.09, amending Section 3 of Ordinance 118466 which amended for 90 days Seattle Municipal Code section 23.76.355, and declaring an emergency.

(Landslides)

COMPTROLLER FILE No.

Introduced: 3-17-97	By: Pageler
Referred: MAR 17 1997	To: Business, Economic & Community Development Committee
Referred:	To:
Referred:	To:
Reported: MAR 31 1997	Second Reading: MAR 31 1997
Third Reading: MAR 31 1997	Signed: MAR 31 1997
Presented to Mayor: APR - 1 1997	Approved: APR - 1 1997
Returned to City Clerk: APR - 1 1997	Published: Full Sp
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Law 2

INDEXED

The City

Honorable President:

Your Committee on

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report that we have considered the

Full Council

SNEAD 73 YSP 17117

Law Department

The City of Seattle—Legislative Department

Date Reported and Adopted

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REPORT OF COMMITTEE

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

Full Council vote 8-1 Conroy

_____

Committee Chair

SMEAO 73 1-SP 17117

pjs: rlh
March 31, 1997
MORARPL8.DOC
(Ver. 3)

ORDINANCE 118539

AN ORDINANCE relating to regulations for environmentally critical areas, adding new sections to Seattle Municipal Code Chapter 25.09, amending Section 3 of Ordinance 118466 which amended for 90 days Seattle Municipal Code section 23.76.355, and declaring an emergency.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council hereby makes the following legislative findings and declarations of fact:

a. On January 13, 1997 the City Council declared an emergency and passed Ordinance 118466, which took effect immediately upon the Mayor's signature on January 15, 1997. Ordinance 118466 prohibited for ninety days certain development that was subject to the City's Regulations for Environmentally Critical Areas and proposed for landslide-prone areas as such areas are described in Seattle Municipal Code section 25.09.020.B.1.a.

b. On March 10, 1997, the City Council passed Resolution 29545, adopting Findings and Declarations of Fact in Support of Ordinance 118466.

c. On February 24, 1997, and March 4, 1997, the City Council conducted a public hearing, and on March 4, 1997 and March 18, 1997 City departments presented reports at meetings of the Business, Economic, and Community Development Committee. The testimony at the public hearing and the reports at the committee meetings focused both on the conditions that led the City to enact Ordinance 118466 and on the effectiveness of the City's existing Regulations for Environmentally Critical Areas at preventing damage to public and private property.

d. The City Council now concludes from the information presented to it that there is no need to declare an emergency to enact substantive changes to the City's Regulations for Environmentally

Critical Areas to take effect before the expiration of Ordinance 118466. The City will continue to monitor the effectiveness of its substantive Regulations as more information becomes available and as additional experience with the Regulations is obtained. The City also will continue to analyze the costs versus the benefits to the taxpayers of providing or repairing infrastructure improvements in landslide-prone areas to determine whether more of those costs should be borne by property owners who are benefited by such improvements.

e. The City Council does conclude, however, that procedural changes to the City's Regulations for Environmentally Critical Areas must be effective before the expiration of Ordinance 118466 in order to help prevent mistakes and omissions on the part of applicants from leading to unsafe development, and to help prevent the unsafe development that could result when slides and other significant changes in landslide-prone areas occur after the City has reviewed an application or issued a permit.

f. The City Council further concludes that the restrictions on development imposed in Section 3 of Ordinance 118466 should be modified in order to allow additional processing of permits to proceed before the expiration of Ordinance 118466.

Section 2. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.345 Permit renewals in landslide-prone areas

A. In addition to satisfying the provisions of SMC Chapter 23.76 and Section 106.9 of the Building Code, an applicant seeking to renew a building permit for new or additional development in a landslide-prone area, as described in SMC Section 25.09.020.B.1.a, must submit a Letter of Certification (LC) from the current project Engineer of Record stating that a geotechnical engineer has inspected the

site and area surrounding the proposed development within the 60 days preceding submittal of the letter; and that

1. In the project engineer's professional opinion no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the permit being renewed; or that

2. In the project engineer's professional opinion changes in conditions at the site or surrounding area have occurred that require revision to project criteria or the permit, and that in the project engineer's professional opinion all technical reports and any necessary revised drawings that account for the changed conditions have been submitted.

The Director may renew a permit for development in a landslide-prone area if, after considering the information submitted in conformance with subsections 1. or 2. above, he or she determines that there is no increased risk of damage to the proposed development, to neighboring properties, or to the drainage basin. In making such a determination the Director may impose new conditions or require the submittal of revised plans, but the Director may renew a permit with different conditions or revised plans only if the project as revised is within the scope and intent of the original Master Use Permit.

B. In the event a Letter of Certification as described in A. above is not submitted, the permit shall not be renewed.

C. An applicant for renewal also must demonstrate that any required bond or insurance still is in effect, and that the amount of such bond or insurance still is appropriate. The Director may require a bond or insurance as a condition of renewal even if such bond or insurance was not required previously.

D. From April 16, 1997 until December 31, 1998, or until such earlier time as the City Council by resolution shall inform the Director that the Council has concluded its review of the City's expenditures for infrastructure on unstable land, each applicant for renewal of a Master Use Permit or a building permit, for new development or for development that will expand the footprint of existing development, on each property located in whole or in part in a known landslide-prone area as defined in SMC Section 25.09.020.B.1.a.(1) or in an area that is both a steep slope as defined in SMC 25.09.020.B.1.a.(2)(b) and that exhibits soil characteristics identified in SMC 25.09.020.B.1.a(2)(a), shall be required to sign an acknowledgment that he or she has read the following notice:

> In view of the damage experienced in the landslides of 1996 and 1997, the City of Seattle has begun to review its policies on expenditures for infrastructure on unstable land. A range of options may be considered, including that (1) certain utility services provided by the City may not be provided under the same terms, conditions and rates that City utility services are provided in areas that are not landslide-prone, and that when the infrastructure for such utility services is paid for or built by applicants to serve their own properties, the City may not agree to repair, maintain, or own such infrastructure; and (2) any street, other than an arterial, that provides access to the proposed development and is damaged by landslides may not be repaired, rebuilt or repaved by the City, and if such street is repaired, rebuilt or repaved by the permit applicant, the City may not accept maintenance responsibility for such work. Any such changes in City policy will be adopted or approved by the City Council following a public process.

Section 3. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.350 Processing applications in landslide prone areas

Prior to issuance of a permit, the Director may require an applicant to submit a Letter of Certification as authorized by Section 25.09.345 and to satisfy the standards of that section. The Director's decision to require such a letter shall be based on such factors as the presence of known slides, indications of changed conditions at the site or the surrounding area, or other indications of unstable soils.

Section 4. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.352 Issued permits in landslide-prone areas

If the Director has reasonable grounds to believe that significant changes in conditions at a project site or in the surrounding area may have occurred since a building permit was issued, the Director may by letter or other reasonable means of notification suspend the permit until the applicant has submitted a Letter of Certification as authorized by section 25.09.345 and satisfied the standards of that section for permit renewal.

Section 5. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.355 At the Director's discretion, permits for new or additional development in landslide-prone areas, as described in SMC Section 25.09.020.B.1.a, may be required to undergo third-party review as described in 25.09.080.C.

A. In addition to the criteria in Section 25.09.080.C, the Director's decision to require third-party review shall be based upon, but shall not be limited to, such factors as whether there has been incomplete submittal of data or apparently inadequate design work, whether the project is large scale, or whether the development site is complex.

B. The Director's discretion as exercised pursuant to this Section shall supersede the staged review process as described in 25.09.080.B.

Section 6. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.356 From April 16, 1997 until December 31, 1998, or until such earlier time as the City Council by resolution shall inform the Director that the Council has concluded its review of the City's expenditures for infrastructure on unstable land, each applicant for a Master Use Permit or a building permit, for new development or for development that will expand the footprint of existing development, on each property located in whole or in part in a known landslide-prone area as defined in SMC Section 25.09.020.B.1.a.(1) or in an area that is both a steep slope as defined in SMC 25.09.020.B.1.a.(2)(b) and that exhibits soil characteristics identified in SMC 25.09.020.B.1.a(2)(a), shall be required to sign an acknowledgment that he or she has read the following notice:

> In view of the damage experienced in the landslides of 1996 and 1997, the City of Seattle has begun to review its policies on expenditures for infrastructure on unstable land. A range of options may be considered, including that (1) certain utility services provided by the City may not be provided under the same terms, conditions and rates that City utility services are provided in areas that are not landslide-prone, and that when the infrastructure for such utility services is paid for or built by applicants to serve their own properties, the City may not agree to repair, maintain, or own such infrastructure; and (2) any street, other than an arterial, that provides access to the proposed development and is damaged by landslides may not be repaired, rebuilt or repaved by the City, and if such street is repaired, rebuilt or repaved by the permit applicant, the City may not accept maintenance responsibility for such work. Any such changes in City policy will be adopted or approved by the City Council following a public process.

Section 7. Section 3 of Ordinance 118466, which added new subsections D and E to Seattle Municipal Code Section 23.76.026 for ninety days or until a superseding ordinance was effective, whichever happened sooner, is amended as follows:

D. Notwithstanding any other provision of this section or this chapter, no application for a permit for development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09.020.B.1.a, shall vest during the term of this ordinance unless the Director permits the work pursuant to Subsections A, B, C, D, or E of Section 25.09.010.

E. Notwithstanding any other provision of this section or this chapter, all development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09.020.B.1.a, shall have its vested rights suspended as follows during the term of this ordinance:

1. No notice of the Director's decision on an application for a Master Use Permit shall be published <u>unless the Director is satisfied that no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the Master Use Permit;</u>

2. No building permit shall issue; and

3. No approval of the foundation and site of a building or structure, as required by Section 108.5.2 of the Seattle Building Code, shall be granted.

This suspension of vested rights shall not apply to the extent that development is permitted by the Director pursuant to Subsections A, B, C, D, or E of Section 25.09.010.

Section 8. Any acts made consistent with the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

Section 9. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 10. For the reasons cited in Section 1, the City Council finds that an emergency exists for which it is necessary for the preservation of the public health, safety, and welfare that this ordinance become effective without delay. The requirements of SMC Section 23.76.062 are hereby waived and suspended for the adoption of Section 5 of this ordinance. By reason of the facts stated in Section 1 and the emergency that is hereby declared to exist, this ordinance shall become effective immediately upon its approval by the Mayor or passage over his veto, as provided by the Charter of the City.

PASSED by three-fourths vote of all the members of the City Council the 31 day of March, 1997, and signed by me in open session in authentication of its passage this 31 day of March, 1997.

Jan Drago
President _____ of the City Council

Approved by me this 1 day of April, 1997.

Jan Drago
Mayor

Filed by me this 2 day of April, 1997.

Judith E. Pippin
City Clerk

Legislative Department
Seattle City Council
Memorandum

Date: March 31, 1997

To: Councilmembers

From: Joyce Kling and Norm Schwab, Central Staff

Subject: Landslide Prone Areas (C.B. 111671, as amended) Revised Report

C.B. 111671, as amended, will revise the regulations governing environmentally critical areas and the emergency landslide ordinance (Ord. 118466). On March 26, the Business, Economic and Community Development Committee held a hearing on the ordinance and 2 sets of amendments, one proposed by the Executive and one proposed by Councilmember Pageler.

The amended ordinance proposed by the Executive establishes procedures for review of sites in environmentally critical areas where conditions have changed significantly as a result of the recent landslides. The Department of Construction and Land Use (DCLU) will have authority to suspend permits already issued on such sites and to require additional geotechnical review and conditioning, when necessary. DCLU also will have authority to require additional review for permit renewals and for applications in process. With adoption of this ordinance, DCLU will be able to issue Master Use Permits at once (these do not allow actual construction), and building could again be authorized at the expiration of the existing moratorium on April 17. By that time, an initial assessment of changed conditions on all 250 sites for which permits were suspended during the moratorium could be completed. These amendments were adopted 3-0 by the committee.

Councilmember Pageler's amendments would require applicants for permits and renewals in landslide-prone areas to acknowledge in writing that they have been informed that the City has begun to review its policies on expenditures for infrastructure on unstable land in view of the damage caused by the recent storms. The notification would state that a range of options may be considered by the City, including that certain City-provided utility services may become available on different terms, conditions, and rates; and that, under extreme circumstances, such services might not be provided at public expense. The notification would also state that under certain circumstances, street repair, rebuilding and maintenance might not be borne by the City. The amendment passed, 2-1 (Pageler and Donaldson aye; Drago no), with the understanding that the language would be further refined by the Law Department.

The reasoning in favor of the Pageler amendments was that persons about to expend funds on projects in landslide-prone areas should have notice that the City is considering changes to the ways in which utility services and street repair and maintenance are provided.

The reasoning against the Pageler amendments was the uncertainty of the consequences such notices could have on all properties within critical areas whether or not said properties have ever experienced or will experience landslides.

The ordinance, including the Pageler amendments, passed the committee 3-0.

Notebooks for Monday's Council meeting will have three versions of the bill: (1) majority recommendation of the BECD committee, including the Pageler amendments (Ver. 2 - white); (2) a revised majority recommendation substituting the attached language prepared by the Law Department (Ver. 3 - pink); and (3) minority recommendation of the BECD committee, excluding the Pageler amendments (Ver. 4 - blue).

Legislative Department
Seattle City Council
Memorandum

Date: March 28, 1997

To: Councilmembers

From: Margaret Pageler

Subject: Notification to Permit Applicants in Landslide Prone Areas

Please find attached proposed language to amend Section 2(D) and Section 6 of C.B. 111671 relating to environmentally critical areas. At the direction of the Business, Economic and Community Development Committee, the Law Department has worked with Executive and Council central staff to prepare modified language on the notification procedure recommended in the majority report of the committee (Pageler and Donaldson). The attached language is acceptable to me.

Also, attached is a copy of the divided report of the BECD committee.

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An equal opportunity-affirmative action employer
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email: council@ci.seattle.wa.us

Both Sections —

D. The applicant for renewal shall be required to acknowledge in writing, on a form provided by the Director, that in view of the damage experienced in the landslides of 1996 and 1997, the City has begun to review its policies on expenditures for infrastructure on unstable land. A range of options may be considered, including that (1) certain utility services provided by the City (a) may not be provided under he same terms, conditions and rates that the City utility services are provided in areas that are not landslide-prone, and (b)may not be provided at all in extreme circumstances, and (2) any street providing access to the proposed development that is damaged by landslides may not be repaired, rebuilt, repaved by the City, and is such street is repaired, rebuilt or repaved by the permit applicant, the City may not accept maintenance responsibility for such work.

Moved Exec's Amendments. 3-0

Sunset process

Joyce, Rick, Pat to work on Margaret's Amen 4-1 JO NO. Bring back to Council

Resolution for Work program or as an attachment to Ord. 111671 C.B.

pjs: rlh
March 17, 1997
MORAREPL.DOC
(Ver. 1.)

ORDINANCE _____

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b. On March 10, 1997, the City Council passed Resolution 29545, adopting Findings and Declarations of Fact in Support of Ordinance 118466.

c. On February 24, 1997, and March 4, 1997, the City Council conducted a public hearing, and on March 4, 1997 and March 18, 1997 City departments presented reports at meetings of the Business, Economic, and Community Development Committee. The testimony at the public hearing and the reports at the committee meetings focused both on the conditions that led the City to enact Ordinance 118466 and on the effectiveness of the City's existing Regulations for Environmentally Critical Areas at preventing damage to public and private property.

d. The City Council now concludes from the information presented to it that there is no need to declare an emergency to enact substantive changes to the City's Regulations for Environmentally Critical Areas to take effect before the expiration of Ordinance 118466. The City will continue to

monitor the effectiveness of its substantive Regulations as more information becomes available and as additional experience with the Regulations is obtained.

e. The City Council does conclude, however, that procedural changes to the City's Regulations for Environmentally Critical Areas must be effective before the expiration of Ordinance 118466 in order to help prevent mistakes and omissions on the part of applicants from leading to unsafe development, and to help prevent the unsafe development that could result when slides and other significant changes in landslide-prone areas occur after the City has reviewed an application or issued a permit.

f. The City Council further concludes that the restrictions on development imposed in Section 3 of Ordinance 118466 should be modified in order to allow additional processing of permits to proceed before the expiration of Ordinance 118466.

Section 2. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.345 A. In addition to satisfying the provisions of SMC Chapter 23.76 and Section 106.9 of the Building Code, an applicant seeking to renew a building permit for new or additional development in a landslide-prone area, as described in SMC Section 25.09.020.B.1.a, must submit a Letter of Certification (LC) from the current project engineer of record stating that a geotechnical engineer has inspected the site and surrounding area of the proposed development on a specified date within the sixty (60) days preceding the submittal of the letter and that in the engineer's professional opinion no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the permit being renewed.

B. In the event that a Letter of Certification is not submitted the permit shall not be renewed unless :

1. The applicant for renewal submits supplemental technical reports and other pertinent information about the site and surrounding area that describe the changes and their effect on the project; and

2. The Director determines that the permit can be renewed without increasing the risk of damage to the proposed development itself, to neighboring properties, or to the drainage basin. In making such a determination the Director may impose new conditions or require the submittal of revised plans, but the Director may renew a permit with different conditions or revised plans only if the project as revised is within the scope and intent of the original Master Use Permit.

C. An applicant for renewal also must demonstrate that any required bond or insurance still is in effect, and that the amount of such bond or insurance still is appropriate. The Director may require a bond or insurance as a condition of renewal even if such bond or insurance was not required previously.

Section 3. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.350 If the Director has reasonable grounds to believe that significant changes in conditions at a project site or in the surrounding area may have occurred since a building permit was issued, the Director may by letter or other reasonable means of notification suspend the permit until the applicant has submitted a Letter of Certification or other supplemental information as authorized by section 25.09.345 and satisfied the standards of that section for permit renewal.

Section 4. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.355 A. At the Director's discretion, permits for new or additional development in landslide-prone areas, as described in SMC Section 25.09.020.B.1.a, may be required to undergo third-party review as described in 25.09.080.C.

B. In addition to the criteria in Section 25.09.080.C, the Director's decision to require third-party review shall be based upon, but shall not be limited to, such factors as whether there has been incomplete submittal of data or apparently inadequate design work, whether the project is large scale, or whether the development site is complex.

C. The Director's discretion as exercised pursuant to this Section shall supersede the staged review process as described in 25.09.080.B.

Section 5. Section 3 of Ordinance 118466, which added new subsections D and E to Seattle Municipal Code Section 23.76.026 for ninety days or until a superseding ordinance was effective, whichever happened sooner, is amended as follows:

D. Notwithstanding any other provision of this section or this chapter, no application for a permit for development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09020.B.1.a, shall vest during the term of this ordinance unless the Director permits the work pursuant to Subsections A, B, C, D, or E of Section 25.09.010.

E. Notwithstanding any other provision of this section or this chapter, all development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09020.B.1.a, shall have its vested rights suspended as follows during the term of this ordinance:

1. No notice of the Director's decision on an application for a Master Use Permit shall be published <u>unless the Director is satisfied that no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations</u>

contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the Master Use Permit;

2. No building permit shall issue unless the Director is satisfied that no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the building permit; and

3. No approval of the foundation and site of a building or structure ,as required by Section 108.5.2 of the Seattle Building Code, shall be granted.

This suspension of vested rights shall not apply to the extent that development is permitted by the Director pursuant to Subsections A, B, C, D, or E of Section 25.09.010.

Section 6. Any acts made consistent with the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

Section 7. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 8. For the reasons cited in Section 1, the City Council finds that an emergency exists for which it is necessary for the preservation of the public health, safety, and welfare that this ordinance become effective without delay. The requirements of SMC Section 23.76.062 are hereby waived and suspended for the adoption of Section 5 of this ordinance. By reason of the facts stated in Section 1 and the emergency that is hereby declared to exist, this ordinance shall become effective immediately upon its approval by the Mayor or passage over his veto, as provided by the Charter of the City.

PASSED by three-fourths vote of all the members of the City Council the ____ day of _____, 1997, and signed by me in open session in authentication of its passage this ____ day of _____, 1997.

_____
President _____ of the City Council

Approved by me this ____ day of _____, 1997.

_____
Mayor

Filed by me this _____ day of _____, 1997.

_____
City Clerk

(Seal)

pjs: rlh
March 25, 1997
MORARPL4.DOC
(Ver. 2)

CONTAINS AMENDMENTS PROPOSED BY THE EXECUTIVE

ORDINANCE _____

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c. On February 24, 1997, and March 4, 1997, the City Council conducted a public hearing, and on March 4, 1997 and March 18, 1997 City departments presented reports at meetings of the Business, Economic, and Community Development Committee. The testimony at the public hearing and the reports at the committee meetings focused both on the conditions that led the City to enact Ordinance 118466 and on the effectiveness of the City's existing Regulations for Environmentally Critical Areas at preventing damage to public and private property.

d. The City Council now concludes from the information presented to it that there is no need to declare an emergency to enact substantive changes to the City's Regulations for Environmentally Critical Areas to take effect before the expiration of Ordinance 118466. The City will continue to

engineer has inspected the site and area surrounding ~~area of~~ the proposed development within the 60 days preceeding submittal of the letter; and that

~~on a specified date within the sixty (60) days preceding the submittal of the letter and that in the engineer'~~ 1. In the project engineer's professional opinion no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the permit being renewed~~.~~; or that

~~B. In the event that a Letter of Certification is not submitted the permit shall not be renewed unless :~~

~~1. The applicant for renewal submits supplemental technical reports and other pertinent information about the site and surrounding area that describe the changes and their effect on the project; and~~ 2. In the project engineer's professional opinion changes in conditions at the site or surrounding area have occurred that require revision to project criteria or the permit, and that in the project engineer's professional opinion all technical reports and any necessary revised drawings that account for the changed conditions have been submitted.

~~2. The Director determines that the permit can be renewed without increasing the risk of damage to the proposed development itself~~The Director may renew a permit for development in a landslide-prone area if, after considering the information submitted in conformance with subsections 1. or 2. above, he or she determines that there is no increased risk of damage to the proposed development, to neighboring properties, or to the drainage basin. In making such a determination the Director may impose new conditions or require the submittal of revised plans, but the Director may renew a permit

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25.09.355 A. ~~A~~t the Director's discretion, permits for new or additional development in landslide-prone areas, as described in SMC Section 25.09.020.B.1.a, may be required to undergo third-party review as described in 25.09.080.C.

~~B~~A. In addition to the criteria in Section 25.09.080.C, the Director's decision to require third-party review shall be based upon, but shall not be limited to, such factors as whether there has been incomplete submittal of data or apparently inadequate design work, whether the project is large scale, or whether the development site is complex.

~~C~~B. The Director's discretion as exercised pursuant to this Section shall supersede the staged review process as described in 25.09.080.B.

Section ~~5~~6. Section 3 of Ordinance 118466, which added new subsections D and E to Seattle Municipal Code Section 23.76.026 for ninety days or until a superseding ordinance was effective, whichever happened sooner, is amended as follows:

D. Notwithstanding any other provision of this section or this chapter, no application for a permit for development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09.020.B.1.a, shall vest during the term of this ordinance unless the Director permits the work pursuant to Subsections A, B, ~~or~~ C, D, or E of Section 25.09.010.

E. Notwithstanding any other provision of this section or this chapter, all development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09.020.B.1.a, shall have its vested rights suspended as follows during the term of this ordinance:

suspended for the adoption of Section 5 of this ordinance. By reason of the facts stated in Section 1 and the emergency that is hereby declared to exist, this ordinance shall become effective immediately upon its approval by the Mayor or passage over his veto, as provided by the Charter of the City.

PASSED by three-fourths vote of all the members of the City Council the ____ day of _____, 1997, and signed by me in open session in authentication of its passage this ____ day of _____, 1997.

_____
President _____ of the City Council

Approved by me this ____ day of _____, 1997.

_____
Mayor

Filed by me this _____ day of _____, 1997.

_____
City Clerk

(Seal)

pjs: rlh
March 31, 1997
MORARPL5.DOC
(Ver. 2)

ORDINANCE _____

AN ORDINANCE relating to regulations for environmentally critical areas, adding new sections to Seattle Municipal Code Chapter 25.09, amending Section 3 of Ordinance 118466 which amended for 90 days Seattle Municipal Code section 23.76.355, and declaring an emergency.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council hereby makes the following legislative findings and declarations of fact:

a. On January 13, 1997 the City Council declared an emergency and passed Ordinance 118466, which took effect immediately upon the Mayor's signature on January 15, 1997. Ordinance 118466 prohibited for ninety days certain development that was subject to the City's Regulations for Environmentally Critical Areas and proposed for landslide-prone areas as such areas are described in Seattle Municipal Code section 25.09.020.B.1.a.

b. On March 10, 1997, the City Council passed Resolution 29545, adopting Findings and Declarations of Fact in Support of Ordinance 118466.

c. On February 24, 1997, and March 4, 1997, the City Council conducted a public hearing, and on March 4, 1997 and March 18, 1997 City departments presented reports at meetings of the Business, Economic, and Community Development Committee. The testimony at the public hearing and the reports at the committee meetings focused both on the conditions that led the City to enact Ordinance 118466 and on the effectiveness of the City's existing Regulations for Environmentally Critical Areas at preventing damage to public and private property.

d. The City Council now concludes from the information presented to it that there is no need to declare an emergency to enact substantive changes to the City's Regulations for Environmentally Critical Areas to take effect before the expiration of Ordinance 118466. The City will continue to monitor the effectiveness of its substantive Regulations as more information becomes available and as additional experience with the Regulations is obtained. The City also will continue to analyze the costs versus the benefits to the taxpayers of providing or repairing infrastructure improvements in landslide-prone areas to determine whether more of those costs should be borne by property owners who are benefited by such improvements.

e. The City Council does conclude, however, that procedural changes to the City's Regulations for Environmentally Critical Areas must be effective before the expiration of Ordinance 118466 in order to help prevent mistakes and omissions on the part of applicants from leading to unsafe development, and to help prevent the unsafe development that could result when slides and other significant changes in landslide-prone areas occur after the City has reviewed an application or issued a permit.

f. The City Council further concludes that the restrictions on development imposed in Section 3 of Ordinance 118466 should be modified in order to allow additional processing of permits to proceed before the expiration of Ordinance 118466.

Section 2. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.345 Permit renewals in landslide-prone areas

A. In addition to satisfying the provisions of SMC Chapter 23.76 and Section 106.9 of the Building Code, an applicant seeking to renew a building permit for new or additional development in a landslide-prone area, as described in SMC Section 25.09.020.B.1.a, must submit a Letter of Certification (LC) from the current project Engineer of Record stating that a geotechnical engineer has inspected the site and area surrounding the proposed development within the 60 days preceding submittal of the letter; and that

1. In the project engineer's professional opinion no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the permit being renewed; or that

2. In the project engineer's professional opinion changes in conditions at the site or surrounding area have occurred that require revision to project criteria or the permit, and that in the project engineer's professional opinion all technical reports and any necessary revised drawings that account for the changed conditions have been submitted.

The Director may renew a permit for development in a landslide-prone area if, after considering the information submitted in conformance with subsections 1. or 2. above, he or she determines that there is no increased risk of damage to the proposed development, to neighboring properties, or to the drainage basin. In making such a determination the Director may impose new conditions or require the submittal of revised plans, but the Director may renew a permit with different conditions or revised plans only if the project as revised is within the scope and intent of the original Master Use Permit.

B. In the event a Letter of Certification as described in A. above is not submitted, the permit shall not be renewed.

C. An applicant for renewal also must demonstrate that any required bond or insurance still is in effect, and that the amount of such bond or insurance still is appropriate. The Director may require a bond or insurance as a condition of renewal even if such bond or insurance was not required previously.

D. The applicant for renewal shall be required to acknowledge in writing, on a form provided by the Director, that in view of the damage experienced in the landslides of 1996 and 1997, the City has begun to review its policies on expenditures for infrastructure on unstable land. A range of options may be considered, including that (1) certain utility services provided by the City (a) may not be provided under the same terms, conditions and rates that City utility services are provided in areas that are not landslide-prone, and (b) may not be provided at all in extreme circumstances, and (2) any street providing access to the proposed development that is damaged by landslides may not be repaired, rebuilt, repaved by the City, and if such street is repaired, rebuilt or repaved by the permit applicant, the City may not accept maintenance responsibility for such work.

Section 3. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.350 Processing applications in landslide prone areas

Prior to issuance of a permit, the Director may require an applicant to submit a Letter of Certification as authorized by Section 25.09.345 and to satisfy the standards of that section. The Director's decision to require such a letter shall be based on such factors as the presence of known slides,

indications of changed conditions at the site or the surrounding area, or other indications of unstable soils.

Section 4. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.352 Issued permits in landslide-prone areas

If the Director has reasonable grounds to believe that significant changes in conditions at a project site or in the surrounding area may have occurred since a building permit was issued, the Director may by letter or other reasonable means of notification suspend the permit until the applicant has submitted a Letter of Certification as authorized by section 25.09.345 and satisfied the standards of that section for permit renewal.

Section 5. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.355 At the Director's discretion, permits for new or additional development in landslide-prone areas, as described in SMC Section 25.09.020.B.1.a, may be required to undergo third-party review as described in 25.09.080.C.

A. In addition to the criteria in Section 25.09.080.C, the Director's decision to require third-party review shall be based upon, but shall not be limited to, such factors as whether there has been incomplete submittal of data or apparently inadequate design work, whether the project is large scale, or whether the development site is complex.

B. The Director's discretion as exercised pursuant to this Section shall supersede the staged review process as described in 25.09.080.B.

Section 6. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.356 All applicants for a permit for new or additional development in a landslide-prone area shall be required to acknowledge in writing, on a form provided by the Director, that in view of the damage experienced in the landslides of 1996 and 1997, the City has begun to review its policies on expenditures for infrastructure on unstable land. A range of options may be considered, including that (1) certain utility services provided by the City (a) may not be provided under the same terms, conditions and rates that City utility services are provided in areas that are not landslide-prone, and (b) may not be provided at all in extreme circumstances , and (2) any street providing access to the proposed development that is damaged by landslides may not be repaired, rebuilt or repaved by the City; and if such street is repaired, rebuilt or repaved by the permit applicant, the City may not accept maintenance responsibility for such work.

Section 7. Section 3 of Ordinance 118466, which added new subsections D and E to Seattle Municipal Code Section 23.76.026 for ninety days or until a superseding ordinance was effective, whichever happened sooner, is amended as follows:

D. Notwithstanding any other provision of this section or this chapter, no application for a permit for development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09.020.B.1.a, shall vest during the term of this ordinance unless the Director permits the work pursuant to Subsections A, B, C, D, or E of Section 25.09.010.

E. Notwithstanding any other provision of this section or this chapter, all development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09.020.B.1.a, shall have its vested rights suspended as follows during the term of this ordinance:

1. No notice of the Director's decision on an application for a Master Use Permit shall be published unless the Director is satisfied that no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the Master Use Permit;

2. No building permit shall issue; and

3. No approval of the foundation and site of a building or structure, as required by Section 108.5.2 of the Seattle Building Code, shall be granted.

This suspension of vested rights shall not apply to the extent that development is permitted by the Director pursuant to Subsections A, B, C, D, or E of Section 25.09.010.

Section 8. Any acts made consistent with the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

Section 9. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 10. For the reasons cited in Section 1, the City Council finds that an emergency exists for which it is necessary for the preservation of the public health, safety, and welfare that this ordinance become effective without delay. The requirements of SMC Section 23.76.062 are hereby waived and suspended for the adoption of Section 5 of this ordinance. By reason of the facts stated in Section 1 and the emergency that is hereby declared to exist, this ordinance shall become effective immediately upon its approval by the Mayor or passage over his veto, as provided by the Charter of the City.

PASSED by three-fourths vote of all the members of the City Council the ____ day of _____, 1997, and signed by me in open session in authentication of its passage this ____ day of _____, 1997.

_____
President _____ of the City Council

Approved by me this ____ day of _____, 1997.

_____
Mayor

Filed by me this _____ day of _____, 1997.

_____
City Clerk

(Seal)

pjs: rlh
March 31, 1997
MORARPL7.DOC
(Ver. 3)

PINK

ORDINANCE _____

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BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

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c. On February 24, 1997, and March 4, 1997, the City Council conducted a public hearing, and on March 4, 1997 and March 18, 1997 City departments presented reports at meetings of the Business, Economic, and Community Development Committee. The testimony at the public hearing and the reports at the committee meetings focused both on the conditions that led the City to enact Ordinance 118466 and on the effectiveness of the City's existing Regulations for Environmentally Critical Areas at preventing damage to public and private property.

d. The City Council now concludes from the information presented to it that there is no need to declare an emergency to enact substantive changes to the City's Regulations for Environmentally Critical Areas to take effect before the expiration of Ordinance 118466. The City will continue to

monitor the effectiveness of its substantive Regulations as more information becomes available and as additional experience with the Regulations is obtained. The City also will continue to analyze the costs versus the benefits to the taxpayers of providing or repairing infrastructure improvements in landslide-prone areas to determine whether more of those costs should be borne by property owners who are benefited by such improvements.

e. The City Council does conclude, however, that procedural changes to the City's Regulations for Environmentally Critical Areas must be effective before the expiration of Ordinance 118466 in order to help prevent mistakes and omissions on the part of applicants from leading to unsafe development, and to help prevent the unsafe development that could result when slides and other significant changes in landslide-prone areas occur after the City has reviewed an application or issued a permit.

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A. In addition to satisfying the provisions of SMC Chapter 23.76 and Section 106.9 of the Building Code, an applicant seeking to renew a building permit for new or additional development in a landslide-prone area, as described in SMC Section 25.09.020.B.1.a, must submit a Letter of Certification (LC) from the current project Engineer of Record stating that a geotechnical engineer has inspected the site and area surrounding the proposed development within the 60 days preceding submittal of the letter; and that

1. In the project engineer's professional opinion no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the permit being renewed; or that

2. In the project engineer's professional opinion changes in conditions at the site or surrounding area have occurred that require revision to project criteria or the permit, and that in the project engineer's professional opinion all technical reports and any necessary revised drawings that account for the changed conditions have been submitted.

The Director may renew a permit for development in a landslide-prone area if, after considering the information submitted in conformance with subsections 1. or 2. above, he or she determines that there is no increased risk of damage to the proposed development, to neighboring properties, or to the drainage basin. In making such a determination the Director may impose new conditions or require the submittal of revised plans, but the Director may renew a permit with different conditions or revised plans only if the project as revised is within the scope and intent of the original Master Use Permit.

B. In the event a Letter of Certification as described in A. above is not submitted, the permit shall not be renewed.

C. An applicant for renewal also must demonstrate that any required bond or insurance still is in effect, and that the amount of such bond or insurance still is appropriate. The Director may require a bond or insurance as a condition of renewal even if such bond or insurance was not required previously.

D. From April 16, 1997 until December 31, 1998, or until such earlier time as the City Council by resolution shall inform the Director that the Council has concluded its review of the City's

expenditures for infrastructure on unstable land, each applicant for renewal of a Master Use Permit or a building permit, for new development or for development that will expand the footprint of existing development, on each property located in whole or in part in a landslide-prone area, shall be required to sign an acknowledgment that he or she has read the following notice:

> In view of the damage experienced in the landslides of 1996 and 1997, the City of Seattle has begun to review its policies on expenditures for infrastructure on unstable land. A range of options may be considered, including that (1) certain utility services provided by the City may not be provided under the same terms, conditions and rates that City utility services are provided in areas that are not landslide-prone, and that when the infrastructure for such utility services is paid for or built by applicants to serve their own properties, the City may not agree to repair, maintain, or own such infrastructure; and (2) any street, other than an arterial, that provides access to the proposed development and is damaged by landslides may not be repaired, rebuilt or repaved by the City, and if such street is repaired, rebuilt or repaved by the permit applicant, the City may not accept maintenance responsibility for such work. Any such changes in City policy will be adopted or approved by the City Council following a public process.

Section 3. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.350 Processing applications in landslide prone areas

Prior to issuance of a permit, the Director may require an applicant to submit a Letter of Certification as authorized by Section 25.09.345 and to satisfy the standards of that section. The Director's decision to require such a letter shall be based on such factors as the presence of known slides,

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25.09.352 Issued permits in landslide-prone areas

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Section 5. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.355 At the Director's discretion, permits for new or additional development in landslide-prone areas, as described in SMC Section 25.09.020.B.1.a, may be required to undergo third-party review as described in 25.09.080.C.

A. In addition to the criteria in Section 25.09.080.C, the Director's decision to require third-party review shall be based upon, but shall not be limited to, such factors as whether there has been incomplete submittal of data or apparently inadequate design work, whether the project is large scale, or whether the development site is complex.

B. The Director's discretion as exercised pursuant to this Section shall supersede the staged review process as described in 25.09.080.B.

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Section 7. Section 3 of Ordinance 118466, which added new subsections D and E to Seattle Municipal Code Section 23.76.026 for ninety days or until a superseding ordinance was effective, whichever happened sooner, is amended as follows:

D. Notwithstanding any other provision of this section or this chapter, no application for a permit for development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as

described in Section 25.09.020.B.1.a, shall vest during the term of this ordinance unless the Director permits the work pursuant to Subsections A, B, C, D, or E of Section 25.09.010.

E. Notwithstanding any other provision of this section or this chapter, all development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09.020.B.1.a, shall have its vested rights suspended as follows during the term of this ordinance:

1. No notice of the Director's decision on an application for a Master Use Permit shall be published unless the Director is satisfied that no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the Master Use Permit;

2. No building permit shall issue; and

3. No approval of the foundation and site of a building or structure, as required by Section 108.5.2 of the Seattle Building Code, shall be granted.

This suspension of vested rights shall not apply to the extent that development is permitted by the Director pursuant to Subsections A, B, C, D, or E of Section 25.09.010.

Section 8. Any acts made consistent with the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

Section 9. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 10. For the reasons cited in Section 1, the City Council finds that an emergency exists for which it is necessary for the preservation of the public health, safety, and welfare that this ordinance become effective without delay. The requirements of SMC Section 23.76.062 are hereby waived and suspended for the adoption of Section 5 of this ordinance. By reason of the facts stated in Section 1 and the emergency that is hereby declared to exist, this ordinance shall become effective immediately upon its approval by the Mayor or passage over his veto, as provided by the Charter of the City.

PASSED by three-fourths vote of all the members of the City Council the ____ day of _____, 1997, and signed by me in open session in authentication of its passage this ____ day of _____, 1997.

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President _____ of the City Council

Approved by me this _____ day of _____, 1997.

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Mayor

Filed by me this _____ day of _____, 1997.

_____
City Clerk

(Seal)

pjs: rlh
March 31, 1997
MORARPL4.DOC
(Ver. 4)

ORDINANCE _____

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d. The City Council now concludes from the information presented to it that there is no need to declare an emergency to enact substantive changes to the City's Regulations for Environmentally Critical Areas to take effect before the expiration of Ordinance 118466. The City will continue to monitor the effectiveness of its substantive Regulations as more information becomes available and as additional experience with the Regulations is obtained. The City also will continue to analyze the costs versus the benefits to the taxpayers of providing or repairing infrastructure improvements in landslide-prone areas to determine whether more of those costs should be borne by property owners who are benefited by such improvements.

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President _____ of the City Council

Approved by me this ____ day of _____, 1997.

_____
Mayor

Filed by me this _____ day of _____, 1997.

_____
City Clerk

(Seal)

pjs: rlh
March 25, 1997
MORARPL3.DOC
(Ver. 2.)

CONTAINS AMENDMENTS UNDER CONSIDERATION BY COUNCILMEMBER PAGELER

ORDINANCE _____

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a. On January 13, 1997 the City Council declared an emergency and passed Ordinance 118466, which took effect immediately upon the Mayor's signature on January 15, 1997. Ordinance 118466 prohibited for ninety days certain development that was subject to the City's Regulations for Environmentally Critical Areas and proposed for landslide-prone areas as such areas are described in Seattle Municipal Code section 25.09.020.B.1.a.

b. On March 10, 1997, the City Council passed Resolution 29545, adopting Findings and Declarations of Fact in Support of Ordinance 118466.

c. On February 24, 1997, and March 4, 1997, the City Council conducted a public hearing, and on March 4, 1997 and March 18, 1997 City departments presented reports at meetings of the Business, Economic, and Community Development Committee. The testimony at the public hearing and the reports at the committee meetings focused both on the conditions that led the City to enact Ordinance 118466 and on the effectiveness of the City's existing Regulations for Environmentally Critical Areas at preventing damage to public and private property.

d. The City Council now concludes from the information presented to it that there is no need to declare an emergency to enact substantive changes to the City's Regulations for Environmentally Critical Areas to take effect before the expiration of Ordinance 118466. The City will continue to

of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the permit being renewed.

B. In the event that a Letter of Certification is not submitted the permit shall not be renewed unless :

1. The applicant for renewal submits supplemental technical reports and other pertinent information about the site and surrounding area that describe the changes and their effect on the project; and

2. The Director determines that the permit can be renewed without increasing the risk of damage to the proposed development itself, to neighboring properties, or to the drainage basin. In making such a determination the Director may impose new conditions or require the submittal of revised plans, but the Director may renew a permit with different conditions or revised plans only if the project as revised is within the scope and intent of the original Master Use Permit.

C. An applicant for renewal also must demonstrate that any required bond or insurance still is in effect, and that the amount of such bond or insurance still is appropriate. The Director may require a bond or insurance as a condition of renewal even if such bond or insurance was not required previously.

D. The applicant for renewal shall be required to acknowledge in writing, on a form provided by the Director, that (1) certain utility services provided by the City (a) may not be provided under the same terms, conditions and rates that City utility services are provided in areas that are not landslide-prone, and (b) may not be provided at all in extreme circumstances, and (2) any street providing access to the proposed development that is damaged by landslides may not be repaired,

City utility services are provided in areas that are not landslide-prone, and (b) may not be provided at all in extreme circumstances , and (2) any street providing access to the proposed development that is damaged by landslides may not be repaired, rebuilt or repaved by the City; and if such street is repaired, rebuilt or repaved by the permit applicant, the City may not accept maintenance responsibility for such work.

Section 6. Section 3 of Ordinance 118466, which added new subsections D and E to Seattle Municipal Code Section 23.76.026 for ninety days or until a superseding ordinance was effective, whichever happened sooner, is amended as follows:

D. Notwithstanding any other provision of this section or this chapter, no application for a permit for development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09020.B.1.a, shall vest during the term of this ordinance unless the Director permits the work pursuant to Subsections A, B, C, D, or E of Section 25.09.010.

E. Notwithstanding any other provision of this section or this chapter, all development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09020.B.1.a, shall have its vested rights suspended as follows during the term of this ordinance:

1. No notice of the Director's decision on an application for a Master Use Permit shall be published <u>unless the Director is satisfied that no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the Master Use Permit;</u>

2. No building permit shall issue <u>unless the Director is satisfied that no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the</u>

_____
President _____ of the City Council

Approved by me this ____ day of _____, 1997.

_____
Mayor

Filed by me this _____ day of _____, 1997.

_____
City Clerk

(Seal)

THIS IS THE LANGUAGE PROPOSED FOR SECTION 2, SUBSECTION D OF THE ORDINANCE. IDENTICAL LANGUAGE, EXCEPT THAT IT APPLIES TO INITIAL APPLICANTS FOR PERMITS INSTEAD OF APPLICANTS FOR RENEWAL, IS PROPOSED FOR SECTION 6.

From April 16, 1997 until December 31, 1998, or until such earlier time as the City Council by resolution shall inform the Director that the Council has concluded its review and that such notice is no longer required, the Director shall require each applicant for renewal of a Master Use Permit or a building permit, for new development or for development that will expand the footprint of existing development, on each property located in whole or in part in a landslide-prone area, to sign an acknowledgment that he or she has read the following notice:

> In view of the damage experienced in the landslides of 1996 and 1997, the City of Seattle has begun to review its policies on expenditures for infrastructure on unstable land. A range of options may be considered, including that (1) certain utility services provided by the City may not be provided under the same terms, conditions and rates that City utility services are provided in areas that are not landslide-prone, and that when the infrastructure for such utility services is paid for or built by applicants to serve their own properties, the City may not agree to repair, maintain, or own such infrastructure; and (2) any street, other than an arterial, that provides access to the proposed development and is damaged by

landslides may not be repaired, rebuilt or repaved by the City, and if such street is repaired, rebuilt or repaved by the permit applicant, the City may not accept maintenance responsibility for such work. Any such changes in City policy will be adopted or approved by the City Council following a public process.

D. From April 16, 1997 until December 31, 1998, or until such earlier time as the City Council by resolution shall inform the Director that the Council has concluded its review ~~and that such notice is no longer required, the Director shall require~~of the City's expenditures for infrastructure on unstable land, each applicant for renewal of a Master Use Permit or a building permit, for new development or for development that will expand the footprint of existing development, on each property located in whole or in part in a landslide-prone area, shall be required to sign an acknowledgment that he or she has read the following notice:

> In view of the damage experienced in the landslides of 1996 and 1997, the City of Seattle has begun to review its policies on expenditures for infrastructure on unstable land. A range of options may be considered, including that (1) certain utility services provided by the City may not be provided under the same terms, conditions and rates that City utility services are provided in areas that are not landslide-prone, and that when the infrastructure for such utility services is paid for or built by applicants to serve their own properties, the City may not agree to repair, maintain, or own such infrastructure; and (2) any street, other than an arterial, that provides access to the proposed development and is damaged by landslides may not be repaired, rebuilt or repaved by the City, and if such street is repaired, rebuilt or repaved by the permit applicant, the City may not accept maintenance responsibility for such work. Any such changes in City policy will be adopted or approved by the City Council following a public process.

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Margaret Pagler

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO:

PRESIDENT'S SIGNATURE

C.S. 20-28

STATE OF WASHINGTON - KING COUNTY

79218
City of Seattle,City Clerk

—ss.

No. ORDINANCE IN

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORD 118539

was published on

04/10/97

The amount of the fee charged for the foregoing publication is the sum of $, which amount has been paid in full.

R. Patterson

Subscribed and sworn to before me on

04/10/97

Notary Public for the State of Washington, residing in Seattle

incomplete submittal of data or apparently inadequate design work, whether the project is large scale, c

whether the development site is complex.

B. The Director's discretion as exercised pursuant to this Section shall supersede the staged review process as described in 25.09.080.B.

Section 6. A new Section is added to Seattle Municipal Code Chapter 25.09 as follows:

25.09.35n From April 14, 1997 until December 31, 1998, or until such earlier time as the City Council by resolution shall inform the Director that the Council has concluded its review of the City's expenditures for infrastructure on unstable land, each applicant for a Master Use Permit or a building permit, for new development or for development that will expand the footprint of existing development, on each property located in whole or in part in a known landslide-prone area as defined in SMC Section 25.09.020.B.1.a.(1) or in an area that is both a steep slope as defined in SMC 25.09.020.B.1.a.(2)(b) and that exhibits soil characteristics identified in SMC 25.09.020.B.1.a(2)(c), shall be required to sign an acknowledgement that he or she has read the following notice:

In view of the damage experienced in the landslides of 1996 and 1997, the City of Seattle has begun to review its policies on expenditures for infrastructure on unstable land. A range of options may be considered, including that (1) certain utility services provided by the City may not be provided under the same terms, conditions and rates that City utility services are provided in areas that are not landslide-prone, and that when the infrastructure for such utility services is paid for or built by applicants to serve their own properties, the City may not agree to repair, maintain, or own such infrastructure; and (2) any street, other than an arterial, that provides access to the proposed development and is damaged by landslides may not be repaired, rebuilt or reproved by the City, and if such street is repaired, rebuilt or reproved by the permit applicant, the City may not accept maintenance responsibility for such work. Any such changes in City policy will be adopted or approved by the City Council following a public process.

Section 7. Section 3 of Ordinance 118466, which added new subsections D and E to Seattle Municipal Code Section 23.76.026 for ninety days or until a superseding ordinance was effective, whichever happened sooner, is amended as follows:

D. Notwithstanding any other provisions of this section or this chapter, no application for a permit for development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09.020.B.1.a. shall vest during the term of this ordinance unless the Director permits the work pursuant to Subsections A, B, C, D, or E of Section 25.09.010.

E. Notwithstanding any other provision of this section or this chapter, all development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09.020.B.1.a. shall have its vested rights suspended as follows during the term of this ordinance:

1. No notice of the Director's decision on an application for a Master Use Permit shall be published unless the Director is satisfied that no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the Master Use Permit;

2. No building permit shall issue; and

3. No approval of the foundation and site of a building or structure, as required by Section 108.5.2 of the Seattle Building Code, shall be granted.

This suspension of vested rights shall not apply to the extent that development is permitted by the Director pursuant to Subsections A, B, C, D, or E of Section 25.09.010.

Section 8. Any acts made consistent with the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

Section 9. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or c